

SECTION: Summary of detailed audit findings

Page no.	Finding	Classification					Rating			Number of times reported in previous three years	Status of implementation of previous year(s) recommendation
		Misstatements in financial statements	Misstatements in annual performance report	Non-compliance with legislation	Internal control deficiency	Service delivery	Matters affecting the auditor's report	Other important matters	Administrative matters		
Operating leases											
	COFF 09 – Operating leases - Overpayment made on leases	x					x				In progress
	COFF 04 DBN – Vacant leased buildings	x					x				In progress
Procurement and Contract Management											
	COFF 03 HO - Competitive bidding process not followed.			x			x				In progress
	COFF 06 CPT; Incorrect procurement process followed - Award to supplier that was supposed to be disqualified			x			x				In progress
	COFF 07 CPT - Incorrect procurement process - Highest scoring bidder not awarded contract			x			x				In progress
	COFF 05 PTA - CIDB requirements not met			x			x				In progress
	COFF 02 DBN, COFF 02 JHB - Deviation reasons not justifiable			x			x				In progress
	COFF 05 CPT - Evaluation criteria applied in evaluating quotes not stipulated in the RFQ			x			x				In progress
	COFF 01 DBN - Quotations pre-qualifying criteria			x			x				In progress
	COFF 01 PTA; COFF 04 CPT - Possible splitting of Quotations			x			x				In progress
	COFF 04 PTA – Extension of time with financial impact.			x			x				In progress
	COFF 02 PTA, COFF 03 DBN - Publication of awards on the eTender publication portal and government tender bulletin			x			x				In progress

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	COFF 03 PTA - Limitation of Scope - Procurement and contract management			x			x				In progress
	COFF 03 CPT - Partial information not submitted for audit purposes – Procurement and Contract Management			x			x				In progress
Operating Expenditure											
	COFF 02 CPT COFF 08 HO- Operating Expenditure – Payments not made within 30 days			x			x				In progress
Performance information											
	Programme 03 - Differences noted between quarterly reports, listing and POE		x				x				In progress
Presentation and disclosure											
	COFF 02 HO - Non-compliance with GRAP 18 segment reporting			x			x				In progress
Internal controls											
	Financial Misconduct Policy not regularly updated.				x			x			In progress

DETAILED AUDIT FINDINGS: ANNEXURES A TO B**ANNEXURE A: MATTERS AFFECTING THE AUDITOR'S REPORT****DETAILED AUDIT FINDINGS****Operating leases****COFF 09 HO- Operating Leases –Overpayment made****Requirements**

Treasury Regulations 15.10.1.1 and 15.10.1.2 state the following:

"15.10.1.1. The accounting officer is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.

15.10.1.2 For purposes of this regulation, sound cash management includes –

(c) avoiding prepayments for goods or services (i.e. payments in advance of the receipt of the goods or services), unless required by the contractual arrangements with the supplier;"

Nature

PMTE Lease contracts require the trading entity to pay rent one month in advance. During the audit of operating leases, we noted that overpayments of leases were made. As illustrated below, lease prepayments were paid for more than the required one month in advance.

No	Archibus Asset No.	PMIS code	Prepayment balance as at 30 September 2019	Prepayment required per lease contract	Overpayment
1	139517	310889	R 1 870 719,03	R -	R 1 870 719,03
2	138673	299728	R 5 008 664,48	R 184 324,99	R 4 824 339,49
3	138079	139713	R 15 980 673,27	R 6 500 303,45	R 9 480 369,82
4	138823	301745	R 6 949 557,92	R 6 801 175,21	R 148 382,71
5	138813	301670	R 3 379 168,32	R 1 959 042,56	R 1 420 125,76
6	138612	298907	R 123 850 721,64	R 6 888 661,74	R 116 962 059,90
7	139279	306399	R 7 063 504,87	R 2 071 044,87	R 4 992 460,00
8	137705	44	R 4 945 572,04	R 4 914 734,69	R 30 837,35
9	140389	323221	R 1 630 925,16	R 89 562,40	R 1 541 362,76
10	137729	136	R 1 428 549,84	R 220 828,87	R 1 207 720,97
11	137869	81160	R 3 340 211,79	R -	R 3 340 211,79
12	138395	277185	R 1 734 254,68	R -	R 1 734 254,68
13	139749	314683	R 6 458 929,02	R 1 749 145,99	R 4 709 783,03
14	139459	309640	R 6 750 303,98	R 39 997,00	R 6 710 306,98
15	137708	63	R 8 403 990,47	R 52 491,06	R 8 351 499,41
16	139953	317985	R 10 324 311,75	R 13 804,57	R 10 310 507,18
17	139788	315059	R 3 415 417,66	R -	R 3 415 417,66

No	Archibus Asset No.	PMIS code	Prepayment balance as at 30 September 2019	Prepayment required per lease contract	Overpayment
18	139212	305710	R 5 466 555,38	R 316 153,70	R 5 150 401,68
19	138691	300231	R 33 211 778,43	R 3 796 865,64	R 29 414 912,79
20	139871	316935	R 3 696 171,13	R -	R 3 696 171,13
21	138770	301203	R 2 425 918,47	R 459 551,14	R 2 289 328,08
22	139146	304445	R 17 244 413,03	R 5 494 140,97	R 16 307 026,04
23	140280	322775	R 9 384 332,82	R 5 785 993,55	R 8 420 000,56
24	140059	319044	R 2 976 698,13	R -	R 2 976 698,13
25	139270	306340	R 5 100 205,95	R -	R 5 100 205,95
26	139967	318087	R 2 173 921,88	R -	R 2 173 921,88
27	139509	310762	R 4 898 540,40	R 2 314 782,21	R 4 707 575,58
28	139172	305358	R 3 026 393,92	R 1 303 681,90	R 2 807 182,31
29	138816	301676	R 2 879 233,66	R 742 324,96	R 2 765 493,63
30	139131	304375	R 3 042 711,65	R 1 528 316,37	R 2 799 161,86
31	139123	304319	R 2 306 519,49	R -	R 2 306 519,49
32	139113	304152	R 2 338 482,28	R 853 293,19	R 2 329 763,98
33	138916	302662	R 10 544 670,12	R -	R 10 544 670,12
34	139795	315298	R 17 860 173,03	R 1 512 350,74	R 20 228 361,35
35	140051	318954	R 17 781 201,76	-R 2 587 612,13	R 14 794 922,11
36	138863	301990	R 3 230 888,69	R -	R 3 230 888,69
37	138810	301660	R 16 110 509,06	R 703 625,56	R 16 122 385,31

Total	R 378 234 795,20	R 53 708 585,20	R 339 215 949,20
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Impact

The aforementioned finding result in the following:

Non-compliance with PFMA sec 38(1) (c) (i) and Treasury Regulation 15.10.1

Possible fruitless and wasteful expenditure if the overpayments cannot be recovered.

Internal control deficiency

Leadership

Management did not monitor implementation of action plans to address internal control deficiencies as the same finding was raised in the prior year.

Recommendation

Management need to take effective steps to fully address the process where the overpayments are made and enhance steps to do follow-ups with landlords.



Management should do their own investigations to identify other overpayments and take steps to recover the money from the landlords.

Management response

Management response was not received.

Auditors conclusion

Management response not received. Therefore, finding remain and will be reported on the management report

COFF 04 - Vacant leased building**Requirements**

Section 1 of the Public Finance Management Act states that *“Fruitless and wasteful expenditure’ means expenditure which was made in vain and would have been avoided had reasonable care been exercised...”*

Section 38(1)(a)(i) of the Public Finance Management Act states that *“The accounting officer for a trading entity must ensure that the trading entity has and maintains effective, efficient and transparent systems of financial and risk management and internal control...”*

Section 38 (1)(c)(ii) Public Finance Management Act states that *“The accounting officer for a trading entity must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct...”*

Treasury Regulation 8.2.2 states that *“Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or condition attached to the delegation or authorisation.”*

Furthermore, section 9.1 stipulates that *“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure and must for this purpose implement effective and transparent process of financial and risk management...”*

Nature

During the performance of our audit, physical verification was conducted at the property listed in *table 1* below to confirm that client departments are occupying buildings as per lease agreement.

Table 1

Details as per lease schedules				
No	Property description	Property Reference	File	Tenant Name
1	325 Pietermaritz Street, Pietermaritzburg	6221/0272/000	Logoprops 32 (Pty) Ltd	National Prosecuting Authority (NPA)

Upon physical verification conducted on 11 March 2020, with the assistance of the Senior Administrative Officer: Acquisitions we noted that the building was vacant. Through inspection of the lease termination letter dated 11 October 2019 addressed to Logoprops 32 (Pty) Ltd (“the landlord”), a one calendar month notice (for the month of November 2019) was given as required by the initial lease agreement for termination effective 01 December 2019.

The reasons for the termination was that the National Prosecuting Authority (NPA) was moving to a state building on 1 December 2019. Furthermore, the Trading Entity stated clearly that they will not be liable for any monthly rentals and charges for consumption of utilities after 30th November 2019. However, through inspection of SAGE payment report and Achibus, we noted there were additional payments made to the landlord after the termination of the lease contract. Payments made after the lease termination date until 1st May 2020 are indicated in *Table 2* below.

Table 2

Payment Details as per SAGE			
Date	Document no.	Line description	Amount
2019/12/01	ZALSC1912S1004008516	Invoice ZPW0000010940	126 390
2019/12/01	ZALSC1912S1004008517	Invoice ZPW0000010940	5 631
2019/12/01	ZALSC1912S1004008518	Invoice ZPW0000010940	126 390
2019/12/01	ZALSC1912S1004008519	Invoice ZPW0000010940	5 631
2019/12/01	ZALSC1912S1004008520	Invoice ZPW0000010940	133 342
2019/12/01	ZALSC1912S1004008521	Invoice ZPW0000010940	5 940
2019/12/01	ZALSC1912S1004008522	Invoice ZPW0000010940	265 009
2020/01/02	ZALSC2001S1004011270	Invoice ZPW0000010940	265 009
2020/02/04	ZALSC2002S1004013871	Invoice ZPW0000010940	125 727
2020/03/01	ZALSC2003S1004016753	Invoice ZPW0000010940	125 727
Payments relating to 2019/20 financial period			1 184 796
2020/04/01	ZALSC2004S1004019687	Invoice ZPW0000010940	125 727
2020/05/01	ZALSC2005S1004022076	Invoice ZPW0000010940	125 727
Payments relating to financial periods subsequent to 2019/20			251 454
Total payments made subsequent to cancellation of lease			1 436 251

Impact

- Payments made subsequent to cancellation of lease and vacating of the building amounting to R1 436 251, of which R1 184 796 relates to 2019/20 financial period will result in Fruitless and wasteful expenditure.
- Non-compliance with section 38 of the PFMA and TR 8.8.2 and 9.1.

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and compliance and related internal controls regarding the operating lease payments made. As a result, there are possible fruitless and wasteful expenditure incurred from the operating lease payments expenditure.

Financial and performance management

Management did not implement controls over daily and monthly processing and reconciling transactions with regard to the operating lease payments.

Recommendation

It is recommended that management should:

- Ensure effectiveness of internal controls to prevent payments from being made to respective landlords, post the lease agreement termination by ensuring regular reviews of the payment schedules and remittance advice documents.
- The payment system should have controls to prevent payments being made on leases that have expired. Furthermore, exception reports on payments made on leases terminated should be drawn regularly and reviewed by management and followed up.
- Implement a payment checklist to ensure adequate review processes prior to processing and approving payments in order to minimize the risk of overpaying suppliers.
- Revisit the whole population of leases to determine that the extent to which payments are continuing for leases that have been terminated.
- An investigation should be conducted to determine who caused the entity to incur fruitless and wasteful expenditure.
- Recover the payments made to Logoprops 32 (Pty) Ltd for the period subsequent to lease termination.

Management response

There is disagreement with the audit finding in respect to:

- a) The actual amount paid after expiry of lease
- b) The finding that the amount paid amounts to fruitless and wasteful expenditure in terms of PMFA

The only amount paid to the Landlord after the termination of the lease is R125,727.28 and not R1 436 251 as indicated on the finding. It is noted that you have taken negative amounts as payments in arriving at the amount of R1 436 251.

Management has identified the incorrect payment and requested the supplier to re-imburse the PMTE, refer to attached letter. The transaction is disclosed as a receivable of R125 727.28 in the financial statements therefore not expensed. As the amount was not included in expenditure it cannot be disclosed as fruitless expenditure as it does not conform to the definition: *"Fruitless and wasteful expenditure' means **expenditure** which was made in vain and would have been avoided had reasonable care been exercised..."*

Auditor's conclusion

Management comment received. We are currently evaluating the figures taking into account the management comment.

It should also be noted that the payment made to the landlord after the termination of the lease will be fruitless and wasteful expenditure regardless of the entity's steps taken to try and recover the money. Management should investigate the root causes of such payment. The fruitless and wasteful expenditure should also be updated to reflect such transaction. The fact that the amount has been recorded as receivables doesn't mean that the transaction was not fruitless and wasteful since the payment did go through and the entity is in the process of recovering it.



Procurement and contract management

COFF 03 – Procurement process not followed – competitive bidding

Requirements

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that *“The accounting officer for a trading entity must ensure that the trading entity has and maintains*

- (i) *Effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) *(iii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;”*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that *“The accounting officer for a trading entity must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct”*

Treasury regulation 16A6.4 states that *“If in a specific case it is impractical to invite competitive bids, the accounting officer may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer.”*

Practice Note 3 of 2016/17 paragraph 8.1 and 8.2 states that:

“8.1 The Accounting Officer must only deviate from inviting competitive bids in cases of emergency and sole supplier status.

8.2 An emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids”

Nature

During the audit of the supply chain management processes, we identified that a deviated process was followed twice for Ramatlabama, Koptfontein and Derdepoort ports of entry: Repair, maintenance and servicing of buildings, civil, mechanical, electrical infrastructure and installations.

The reason for the deviation provided were as follows:

- That if maintenance is stopped as a result of no contractor on site, the said ports of entry will deteriorate in terms of their facilities and installations, which will result in an increase of the cost during the repair phase of the follow-on contract.
- Water and sewer is monitored on a daily basis by the contractor and the ports could be closed if there is no water.
- Septic tanks are cleaned periodically, if not, the ports could lead to environmental and health hazards.
- Generators must be supplied with diesel, if not, the ports could be closed during a power outage. Furthermore, removing of solid waste and refuse off site is imperative to avoid health hazards.

The initial contract period was for a period of three years (36 months) starting from 23 June 2016 – 22 June 2019. An extension of contract for a period of four months starting from 23 June 2019 to 21 October 2019 for an amount of R1 428 196.50 was approved by the National Bid Adjudication Committee (NBAC). Further extension on the contract for a period of five months starting from 09 December 2019 to 09 May 2020 for an amount of R4 147 303.65 was approved by NBAC.

However, due to delays and weaknesses in the internal procurement process, a deviation process was followed to avoid interruption of critical services and continuity of services. The entity should have started the procurement process in reasonable time before the current supplier's contract came to an end. The awards were in effect an extension of a total of 9 months to the current supplier to allow for continued services to the land ports mentioned above. Therefore, it was not impractical and impossible to follow the proper procurement process if planned properly.

The details of the project are as follows:

Tender number	Supplier	Description	First Extension Amount (R)	Second Extension Amount (R)	Total Amount (R)
H15/044	Caledon River Properties cc T/A Magwa Construction	Ramatlabama, Koptfontein and Derdepoort ports of entry: Repair, maintenance and servicing of buildings, civil, mechanical, electrical infrastructure and installations	R1 428 197	R4 147 304	R5 575 500

Impact

Non – compliance with laws and regulations.

Misstatement of irregular expenditure for the amount paid to date

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.

Recommendation

Management should ensure that the entity complies with all applicable laws and regulations.

Due to the nature and prior experiences of procuring continued repairs and maintenance services of land ports, management should properly plan and begin the procurement process timeously.

Management response:

The process of getting the follow on contract for this border post and the others started timeously as is demonstrated below.

1. The **Close out** reports were submitted to KAM on 5 September 2017 for a project that was scheduled to end in June 2019. The PI cannot be issued to the Branch without a close out report. **(See Annexure 1)**
2. **The PI** was received only on the 5th of September 2018. (1 Year delay). There was nothing that the Branch could do without an approved PI. **(See Annexure 2)**
3. The Project Managers were informed during the allocations meeting on 16 October 2018 that there was no funding for follow-on projects for the entire Land Ports of Entry. **(See Annexure 3)**
4. The procuring process resumed late in October 2018 when the projects were included in the **Procurement Plan**. **(See Annexure 4 & 5)**

Auditor's conclusion

Management's response has been noted. According to management's response the close out reports were submitted to KAM on 5 September 2017 for a project that was scheduled to end in June 2019 and the PI was received only on the 5th of September 2018, which caused a 1 Year delay, furthermore that there was nothing that the Branch could do without an approved PI.

However, according to the Procurement Instruction (noted as annexure 3), there was an initial procurement instruction (PI) dated 01 February 2018, which was issued to the Director: Special & Major Projects in February 2018 requesting her to initiate the procurement process for the appointment of service provider/s to implement the 36 months' facilities management contract at Ramatlabama, Bray, Makgobistad and Skilpadshek Land Ports. Thereafter, Chief Director Construction Management, Mr. W Hlabangwane requested verbally on the 10th May 2018 that the PI be re-issued to the DDG Projects via the Head of PMTE.

Therefore, management had the ability to liaise with the client department with regards to the urgency of the required PI needed to begin with the procurement process. However, through the information received at hand, there is no indication that management made any action to avoid "1-year delay" that was experienced. Which also led to the project being incorporated in the 2018/19 procurement plan after finalization of the procurement plan and impacted the procurement planning and process of the project.

COFF 06 CPT- Incorrect procurement process followed - Award to supplier that was supposed to be disqualified

Requirements

Section 38(1)(a)(i) and (iii) of the Public Finance Management Act states that: *“The accounting officer for a department, trading entity or constitutional institution must ensure that the department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective...”*

Furthermore, section 38(1)(c)(ii) states that: *“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct...”*

Preferential Procurement Regulation 2017 section 5(6) and 5(7) states that: *“A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender”* and that, *“each tender that obtained the minimum qualifying score for functionality must be evaluated in terms of price and preference point system and any objective criteria envisaged in regulation 11...”*

Preferential Procurement Regulation 2011 paragraph 4.4 states that: *“No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation...”*

National Treasury Instruction Note on the amended guidelines in respect of bids that include functionality as a criterion for evaluation paragraph 3.4.1 states that: *“The assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold referred to in paragraph 3.3 above. A bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation...”*

SCM Circular No. 6 of 2018 section 5.1 states that: *“market analysis should be done at the demand management and planning stage of the tender prior to issuing the tender and will then be verified against the received tenders during evaluation...”*

Nature

Issue 1

During the audit of procurement and contract management, the Notice and Invitation to Tender for CPTYT 07/19 and CPTYT 08/19 stated that bids will be evaluated for quality as one of the criteria's for functionality and that bidders need to provide the following in order to be awarded points for quality:

- References listed on the DPW-09EC will be used to obtain the quality of work. Bidder must provide contactable references with the person's name and contact details/ Bidders must forward the standard template (attached in tender document) to the referees to complete and must attached to the document when submitting on closing date.

It further stated that bidders need to score in all three criteria's in order to qualify and that functionality will be applied as a prequalification criterion.

In our assessment, we noted that the winning bidder Superfecta Trading had not submitted the standard template completed by contactable references in order to be scored on quality. This is also stated in the RBAC minutes dated 15 November 2019 that the BEC was requested to re-evaluate the bid and that the quality assessment forms were not submitted. According to the functionality criteria as per the Notice and Invitation to Tender, Superfecta Trading was supposed to be disqualified for not scoring in all three criteria's and not submitting all the required documentation to be evaluated further.

Based on the above, Superfecta Trading should not have been considered to be evaluated further, and would thus make LJ Trading the only bidder that would have been evaluated further. However, management indicated that LJ Trading's bid is considered to not be market related. Therefore, the department should have re-advertised and started the procurement process again.

The details of the tender are as follows:

Tender number	Supplier	Description	Area	Total Amount
CPTYT 07/19	Superfecta Trading	Service, Maintenance and repairs of generators for Area	Area 2	R20 125 451,20
CPTYT 08/19	Superfecta Trading	Service, Maintenance and repairs of generators for Area	Area 3	R20 503 341,20
Total				R40 628 792,40

Issue 2

During the audit of tender CPTYT 07/19 and CPTYT 08/19 we noted that only two bidders being LJ Trading and Superfecta Trading were considered to be responsive. Additionally, LJ Trading with a bid for R 3 899 236 and R4 003 684,75 respectively, was the only supplier that was requested to confirm that the amounts quoted are correct and Superfecta Trading was not requested to confirm the quoted amount. Management further stated that LJ Trading's bid was considered to not be market related.

In our assessment the pre-estimate value for the tenders as per the procurement strategy and tender evaluation report was R4 000 000,00 for each area which is supported by the values in the approved 2019-20 Procurement Plan. The 2019-20 Procurement Plan indicates that the department planned 24-month term contracts for maintenance, service and repairs to generators for area 2,3 and 4 with an estimate of R4 000 000, R4 000 000 and R2 250 000 respectively and to be awarded separately. This indicates that a market analysis was performed at the demand management and planning stage of the tender prior to issuing the tender. Furthermore, LJ Trading's quoted amount for the two areas was close to the R4 000 000 pre-estimate.

Management could further not provide a basis to support what is considered to be market related, thus making it difficult to prove why LJ Trading was the only bidder that was requested to confirm the quoted price. Consequently, the procurement is also considered to not be reasonable and economical as the selected bidder's price is 412.58% above the estimate of R4 000 000,00 and no evidence was provided to confirm that budget is available for the higher amount.

The details are as follows:

Tender number	Supplier	Description	Pre-estimate Amount	Tendered Amount	Difference
CPTYT 07/19	Superfecta Trading	Service, Maintenance and repairs of generators	R4 000 000	R20 125 451,20	R16 125 451,20
CPTYT 08/19	Superfecta Trading	Service, Maintenance and repairs of generators	R4 000 000	R 20 503 341,20	R16 503 341,20
Total					R32 628 792,40

Impact

The above may result in the following:

Irregular expenditure of R40 628 792,40

Non-compliance with section 38 of the PFMA

Non-compliance with PPR regulations and NT Instruction Note

Internal control deficiency

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored by management.

The current processes put in place over reviewing and monitoring the procurement process are not sufficient to prevent non-compliance with SCM regulations and managements assumption and judgements are not adequately documented to support the awarding of tenders where the market is not responsive.

Recommendation

It is recommended that management should have adequate measures in place to ensure that the entity complies with the relevant laws and regulations.

A more define tender evaluation process and market analysis of prices should be put in place which consists of utilizing the skills of professional such as QS, Engineers to assist in deriving at appropriate values for pre-estimates to reduce the risk of appointing bidders that do not offer economical prices to do the work.

Management should look at enhancing review and monitoring processes within the SCM unit to ensure that what is advertised in the invitation to bid is what the department requires the bidders to submit.

Management should also consider documenting the assumptions and other judgements made in the procurement process to ensure that they are in line with the SCM laws and regulations where the market is not responsive. Furthermore, this will also assist in the audit process and ensure that all regions are treated consistently.

Management response:

Issue 1

The department notes AG finding but is however not in agreement with this finding.

In the case of Superfecta, the Regional Bid Adjudication Committee and Bid Evaluation Committee are empowered to request any information that is of an administrative nature and to apply the Administrative Justice Act for reasonable fairness and that is not amending any financial status of a bidder. As per the aforementioned the information to be furnished as per the DPW 09 was requested to finalize the evaluation process taking into account that **this tender has been re-advertised for the past three years with no success**. The department wants to place on record that these areas were originally 4 with an estimate of R4 000 000 each and were later combined into two areas with an estimate of R16 000 000. The department is further not in agreement that the AG makes specific reference to a bidder that is non-compliant as they articulated that their price was incorrect and also not that this resulted in Irregular Expenditure as all due process were followed and complied with in accordance with SCM Policies and Regulations. Furthermore, LJ Trading was not even included in the application of the preference point system which forms the bases of passes over. The basis of estimates is always variable but the market is the determining factor. It must also be noted that before the procurement process is undertaken the budget is approved by the Property Budget Administration Unit.

Issue 2

The department notes AG finding but is however not in agreement with this finding.

When this matter was tabled in the Regional Bid Adjudication Committee the committee deliberated on the fact that the price quoted by LJ Trading was suspiciously low. The committee unanimously agreed that the Bid Evaluation Committee should confirm the authenticity of the rates quoted. The prospective bidder was contacted to confirm their Schedule 1 price rate and subsequently responded to the department by confirming that the rates were incorrect. Although the prospective bidder did provide corrected rates this is not allowed after bids have closed as per SCM Regulations (Please see attachment) and they were therefore declared administratively non-responsive based on the fact that they underquoted.

Auditor's conclusion

Issue 1:

Management's response to the issue is noted, however the audit finding remains unresolved. The PA.04(EC) evidently indicates the requirements that bidders need to adhere to in order to be considered responsive, to be evaluated for functionality and how the scoring for functionality will be coordinated. Furthermore, it states that bidders need to score in all three criteria's in order to qualify and that functionality will be applied as a prequalification criterion. Therefore, the department cannot regard an essential document needed to evaluate and score a bidder on quality as an "administrative document", and which would also in terms of the PA.04 result in a bid to be non-responsive as it did not comply with the requirements as at the closing date of the tender. We also note that the tender has been re-advertise for the past three year with no success, however this does not have to take away compliance with the relevant SCM laws and regulations.

Issue 2:

Management's response to the issue is noted, however the audit finding remains unresolved.



- The 2019-20 Procurement Plan indicates that the department planned 24-month term contracts for maintenance, service and repairs to generators for area 2,3 and 4 with an estimate of R4 000 000, R4 000 000 and R2 250 000 respectively, which results in a total amount of R10 250 000 and not R12 000 000 for the three areas when applying management's thought process as per the response. Management further states that before the procurement process is undertaken the budget is approved by the Property Budget Administration Unit, therefore confirming that a market analysis was performed at the planning stage of the tender prior to issuing the tender as required by the SCM policy and the department was expecting bids of similar/close to the pre-estimate amount.
- Even though a budget was approved, the department was still in a position to award a tender that exceeds the budget by 412%, which in this cases raises the question of did the department not deliberate on the fact that Superfecta Trading's price could be suspiciously high.
- There is still no basis to support as to what is considered to be market related, taking into consideration that the committee unanimously agreed that the LJ Trading's price is suspiciously low.

COFF 07 CPT- Incorrect procurement process followed - Highest scoring bidder not awarded contract**Requirements**

Section 38(1)(a)(i) and (iii) of the Public Finance Management Act states that: *"The accounting officer for a department, trading entity or constitutional institution must ensure that the department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective..."*

Furthermore, section 38(1)(c)(ii) states that: *"The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct..."*

Preferential Procurement Regulations 2017 section 6(8) states that, *"Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tender scoring the highest points..."*

Nature

During the audit of procurement and contract management, the following was noted for tender no. CPTYT 19/19:

The Special Conditions of Contract (SCC) clause 6.5 states that: *"The department will not appoint the same service provider for more than two areas..."*

From auditing the tender evaluation documents, we noted that the first and second highest scoring bidders, being MN Engineering and Stainless Concepts Engineering respectively, were not awarded the tender for the reason as stipulated on the Special Conditions of Contract (SCC) clause 6.5. However, evidence could only be obtained that MN Engineering had been awarded a tender for two areas, and no evidence was obtained to confirm that Stainless Concepts Engineering had been awarded a tender for two areas. Furthermore, from the assessment of the register for tenders awarded in the current financial year, it was still not evident that Stainless Concepts Engineering had been awarded two areas.

Therefore, in our assessment the bid should have been awarded to Stainless Concepts Engineering for Area 4 for being the second highest scoring bidder taking into consideration SCC clause 6.5

Tender number	Description	Winning bidder	Mishoe Trading & Projects Bid	Stainless Concepts Bid	Difference
CPTYT 19/19	Service, Maintenance and repairs to industrial Equipment for Area 4 of Western Cape	Mishoe Trading & Projects	R4 460 217,50	R 4 135 28,005	R324 932,50

Impact

The above may result in the following:

Possible misstatement in irregular expenditure of an amount of R324 932,50

Non-compliance with section 38 of the PFMA



Non-compliance with PPR 2017 regulations

Internal control deficiency

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored by management.

Management did not adequately ensure that proper controls are in place in order to assist the department to keep track of how many areas a service provider is allocated at the time of making awards.

Recommendation

It is recommended that management should have adequate measures in place to ensure that the entity complies with the relevant laws and regulations.

Furthermore, management should assess and provide evidence that the second scoring bidder was awarded two areas at the time of making this award.

Management response

The department is not in agreement with the finding. As indicated to the AG colleagues, the process was followed properly by the Bid Evaluation Committee, with reference to clause number 6.5 stating “the Department will not appoint the same Service Provider for more than two areas per discipline. This will be done in the interest of spreading work to more Service Providers” close quote. I would like to confirm that the Bid Evaluation Committee followed exactly what the clause referred to. Please see attached proof that Stainless Concepts was awarded two areas i.e. Area 2 and Area 7. In the interest of spreading work Mishoe Trading was appointed as Stainless Concepts was the only Service Provider who submitted a bid for Area 7 and therefore they had no competition in that Area. Therefore, the guiding rules and regulations have been complied with.

Auditor’s conclusion

Management comments are noted. Although we noted that management provided letter of appointment to the supplier for area 7 that is dated 12/05/2020 while the contract commenced on 19/12/2019 to Stainless Concepts Engineering – for Area 7. Therefore, in order to draw an auditor’s conclusion with regards to the matter, the following additional information is required to appropriately draw an auditor’s conclusion

For tender CPTYT-22/19

- Bid Evaluation Committee minutes
- RBAC minutes
- PA 21(EC): Tender Evaluation report to the Regional Bid Adjudication Committee.

COFF 05 PTA: Invitation of tender or expression of interest for construction works contracts**Requirements**

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that “*The accounting officer for a department must ensure that the department has and maintains*

- (i) *Effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) *(iii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;”*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that “*The accounting officer for a trading entity must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct*”

CIDB regulation 25 (1) states that; “*Subject to sub regulation (1A), in soliciting a tender offer or an expression of interest for a construction works contract, a client or employer must stipulate that only submissions of tender offers or expressions of interest by contractors who are registered in the category of registration required in terms of sub regulation (3) or higher, may be evaluated in relation to that contract.*”

Nature

During the audit of procurement: Tender no PT19/009 - maintenance of the lifts at various buildings in Pretoria and surrounding areas, it was noted that the grading of the selected contractor through the deviation process is not suitable for the value of contract.

Notice and Invitation to Tender PA-04 (EC) stated that tenderers should have a CIDB contractor designation of 8SI or higher. However, it was noted that the winning contractor’s CIDB designation is 7SI.

Supplier Name: SIGMA LIFTS & ESCALATORS (PTY) LTD

Tender no	Contractor grade	Contract price	Expenditure to date
PT19/009	7SI	R 49 930 723	R 1 771 753

Impact of the finding

Non-Compliance with CIDB regulation 25 (1).

This will in turn result in irregular expenditure of R 1 771 753.

Internal control deficiency*Leadership*

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and performance management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.



Recommendation

It is recommended that management should ensure that the entity complies with all applicable laws and regulations.

Management should perform a due diligence when evaluating tenders and ensure the appointed contractors comply with CIDB requirement. This will prevent appointing contractors who might deliver poor performance.

Management Response

Management is in agreement with the finding. However, National Treasury (NT) was notified and approval for deviation sort and was subsequently approved prior to implementation. The approval meant that Regional Bid Adjudication Committee could embark on a negotiated procedure with lifts manufacturers. In terms of NT annexure “D” (attached) there is provision for this process. In addition, annexure “D3” is attached to support the reason(s) provided above.

Auditors Conclusion

Management comment noted. However, the tender specification drafted by management indicated the grading required as per CIDB requirements. In following the deviation process, management should have ensured that the service provider appointed complies with this CIDB requirements. The finding will remain and be reported in the management response.

COFF 02 JHB; COFF 02 DBN - Deviations not justifiable**Requirements**

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that *“The accounting officer for a department must ensure that the department has and maintains*

- (i) Effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) (iii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;”*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that *“The accounting officer for a department must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct”*

Treasury regulation 16A3.2 states that *“A supply chain management system must: be fair, equitable, transparent, competitive and cost effective”*

Treasury regulation 16A6.4 states that *“If in a specific case it is impractical to invite competitive bids, the accounting officer may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer.”*

Practice Note 3 of 2016/17 paragraph 8.1, 8.2 and 8.4 states that:

“8.1 The Accounting Officer must only deviate from inviting competitive bids in cases of emergency and sole supplier status.

8.2 An emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids

8.4 The Accounting officer must invite as many suppliers as possible and select the preferred supplier using the competitive bid committee system.”

Nature**Issue 01 – JHB Region**

During the audit of supply chain management (SCM), it was noted that **cleaning services** were procured from certain suppliers through a deviation process. The supporting memorandums provided were inspected to ascertain the reasons for deviation. According to our assessment the reasons provided for the deviations was not sufficient to support the deviations. The table below show the suppliers and the reasons provided in the memo.

1. Lebato Development Projects

Supplier Name	Ref. Number	Date Memo prepared	Date Memo approved and the official	Amount (R)
Lebato Development Projects	JHBE 19/192	04-Nov-19	28 November 2019, Advocate J. Monare (Regional Manager)	184 968

Reasons provided for the deviation per the memo:

In terms of the memo approved 28 November 2019, the following was stated:"

Cleaning services at Jeppe Magistrate Court has been outsourced to private service provider. The contract for 24 months JHB16/24 **expired on the 31 May 2019**.The contract was extended for a period of three months from 01 June to 31 August 2019.

The 24 months tender JHB19/16 rendering of cleaning for 24 Months was advertised on 31 May 2019, closed on 25 June 2019. On the 06 August 2019 the evaluation committee had the first meeting to evaluate received bids but the specialist was not available and the meeting was postponed. The evaluation committee held a second meeting on 22 and 23 August 2019. Evaluation were not completed and another meeting took place on 30 August 2019 to complete the evaluation.

Quotation for three months JHB19/05 was advertised on the 16 May 2019, briefing date was on the 21 May 2019 and closing date was on 31 May 2019. The project leader was informed by SCM that it was non-responsive only two bids were received.

Another quotation was started and confirmed and signed on 01 July 2019 and submitted to SCM for them to nominate and invite service providers to submit their quotations. Until now not been captured according to Supply chain management wanted to clear out security submission first.

On 04 November 2019 the project leader requested an emergency contract to be appointed for three (03) months from 03 December 2019 to 02 March 2020. The memo was approved on 28 November 2019.

It was noted on the memo that the process to start and finalise a quotation is approximately three months.

Reasons the deviation not appropriate as per the AGSA

In terms of the memo it appears that the deviation was due to limited timeframe and SCM's inability to source at least 3 (three) compliant quotations. However, based on our assessment, the entity had at least 6(six) months to finalise the quotation/tender process for cleaning services and failed to do so. In our opinion this was due to poor planning in sourcing three quotations as the project leader would have known beforehand that the Service Level Agreement was due to expire on the 31 May 2019 and the necessary steps would have been taken to source three quotations by informing Supply Chain Management timeously.

2. Immaculate Cleaning & Hygiene Services (PTY) Ltd

Supplier Name	Ref. Number	Date Memo prepared	Date Memo approved and the official	Amount (R)
Immaculate Cleaning & Hygiene Services (PTY) Ltd	JHBE 18/230	14-March-2019	14 March 2019, Advocate J. Monare (Regional Manager)	714 864

Reasons provided for the deviation per the memo:

In terms of the memo approved on 14 March 2019, the following was stated:"

Cleaning services at Randburg Magistrate Court has been outsourced to private service provider. The contract for 24 months cleaning **expired on the 15 December 2018**. The contract was extended for a period of three months from 16 December 2018 to 14 March 2019.

Tender (JHB 18/29) for 24 Months was advertised on 09 November 2018 and closed on 04 December 2018. SCM has not finalized pre-screening.

Request for quotation JHBQ 18/161 was submitted to Supply Chain Management on 31 October 2018. The briefing was held on 06 December 2018 with a closing date of 12 December 2018. SCM has informed the project leader that the project is awaiting security vetting.

On 14 March 2019, the project leader requested an emergency contract to be appointed in Family court to avoid unhygienic environment on site. The memo was approved on 14 March 2019

Reasons the deviation not appropriate as per the AGSA

In terms of the memo, it appears that the deviation was due to SCM not being able to finalise pre-screening of the tender bids and awaiting security vetting. However, the entity should be aware that the securing vetting process takes time and should have commenced the procurement process at least 6(six) months prior to the current contract ended.

In our opinion, the deviation was due to poor planning and therefore we deem the reason for deviation not sufficient.

3. Immaculate Cleaning & Hygiene Services (PTY) Ltd

Supplier Name	Ref. Number	Date Memo prepared	Date Memo approved and the official	Amount (R)
Immaculate Cleaning & Hygiene Services (PTY) Ltd	JHBE 19/056	21-May-19	24 May 2019, Advocate J. Monare (Regional Manager)	475 754

Reasons provided for the deviation per the memo:

In terms of the memo approved on 24 May 2019, the following was stated:"

Cleaning services at Family court has been outsourced to private service provider. The contract for 24 months **expired on the 28 February 2019**.The contract was extended for a period of three months from 01 March 2019 to 31 May 2019.

Tender (JHB 18/42) for Rendering Cleaning Services for 24 Months for Family court was advertised on 02 November 2018 and closed on 04 December 2018.

A compulsory site briefing meeting was held on 12 November 2018.The tender lapsed before it could be evaluated.

Quotation process JHBQ 18/193 to render Cleaning Services for three (03) months was submitted to Supply Chain Management on 25 January 2019 and the evaluation process is underway. Emergency contract for three months would be from 01 June 2019 to 31 August 2019 to ensure that there is continuity in service delivery.

On 21 May 2019 the project leader requested an emergency contract to be appointed in Family court to avoid unhygienic environment on site. The memo was approved on 24 May 2019.

It was noted on the memo that one of the officials commented that this emergency could have been avoided.

Reasons the deviation not appropriate as per the AGSA

In terms of the memo it appears that the deviation was due to limited timeframe and SCM's inability to evaluate tender number JHB18/42.However based on our assessment, the entity had at least 3(three) months to finalized the quotation/tender process for cleaning services and failed to do so. In our opinion this was due to poor planning in sourcing three quotations as the project leader would have known beforehand that the Service Level Agreement was due to expire on the 28 February 2019 and the necessary steps would have been taken to source three quotations by informing Supply Chain Management timeously.

4. Dinnys Business Enterprise



Supplier Name	Ref. Number	Date Memo prepared	Date Memo approved and the official	Amount (R)
Dinnys Business Enterprise	JHBE 18/178	18-Jan-19	18 Jan 2019, Advocate J. Monare (Regional Manager)	483 700

Reasons provided for the deviation per the memo:

In terms of the memo approved on 18 Jan 2019, the following was stated:”

Cleaning services at Johannesburg Magistrate Court has been outsourced to private service provider. The contract for 24 months JHB/16/21 **expired on the 18 October 2018**.The contract was extended for a period of three (03) months, from 19 October 2018 to 18 January 2019.

Tender (JHB 18/10) for rendering cleaning services for 24 Months was advertised on 29 June 2018 and closed on 24 July 2018.On the 27 August 2018 the evaluation committee had the first meeting to evaluate received bids. The evaluation committee after advised by SCM Specialist discovered that the tender had few mistakes in the responsiveness criteria, and a decision was taken to cancel the tender and start the process afresh.

The contract for the current service provider was therefore extended for a period of three months from 19 October 2018 to 18 January 2019 in order to allow project leader to start the process again.

Quotation for two months JHBQ/18/126 was advertised on the 18 October 2018 and Briefing date was 23 October 2018.The project leader was informed by SCM that it is non-responsive only two bids received.

Tender JHB18/39 was advertised on the 07 December 2018 for rendering cleaning services for 24 months and a compulsory site briefing meeting was supposed to be on 17 December 2018 due to a Public Holiday the meeting was cancelled and the process has to start again.

On 18 January 2019 the project leader requested an emergency contract to be appointed for three (03) months from 22 January 2019 to 21 April 2019. The memo was approved on 18 January 2019.

Reasons the deviation not appropriate as per the AGSA

In our opinion, the reasons above do not justify an emergency. Cleaning services is a continued need by the entity, management should have reasonably expected that the original contract was coming to an end. The process to appoint a new supplier should have commenced earlier in order to take over after the current contract ends. The situation that led to an “emergency” could have been avoided through adequate procurement planning.

Impact of finding

Non-compliance with the PFMA section 38 and National treasury instruction note 3 of 2016/2017.

The amount paid of R1 859 289 on the above deviations will result in irregular expenditure

Issue 02 - DBN Region

During the audit of quotations, it was noted that a deviation process was followed for ColdPoint Aircon Services for servicing and repair of seven (7) air conditioning at Scottburgh magistrate court. The reasons for the emergency & urgent procurement provided on OW415 ref: DUR/01000/122542 and PA-12 for the ratification of emergency processes approved by regional bid adjudication committee included the following:

- The situation can pose a threat to general public health.
- Persisting problem can lead to claims against the State.

Attached to the payment batch were communications between the client department representatives and PMTEs facilities management, it was noted that the client department logged several cases as disclosed in Table 1 below before the entity responded.

According to auditor's assessment the reasons provided for the deviations were not sufficient to support emergency & urgent procurement as it was not impractical for the entity to obtain responsive quotations considering the timeframes of cases logged by the client department. Should the entity have attended to the calls when first logged on 24 January 2018 (365 days from the date they acted to the last call logged for room 2 and room 21), it would have been possible to source three quotations.

Based on the above the deviation was due to poor planning of the entity in attending to calls logged by client departments and therefore we deem the reason for deviation not sufficient for emergency & urgent procurement.

Table 1

No	CASE NUMBER	DATE	REASON	DATE ON WHICH THE ENTITY ACTED TO THE CALL	DIFFERENCE IN DAYS (FROM DATE OF CALL LOGGED TO DATE ON WHICH THE ENTITY ACTED TO THE CALL)
1	DUR117995	24-Jan-18	SPP MS CHOWTHEE ROOM 2	24-Jan-19	365
3	DUR118006	24-Jan-18	CAPT FREEMNATLE ROOM 21	24-Jan-19	365
4	DUR121810	14-Nov-18	RC MAGISTRATE MFAYELA ROOM 21	24-Jan-19	71
2	DUR121939	22-Nov-18	SPP MS CHOWTHEE ROOM 2	24-Jan-19	63
5	DUR122250	18-Dec-18	ROOM 2 AND ROOM 21 COMBINED	24-Jan-19	37

Table 2

No	COMMODITY / SHORT DESCRIPTION	SUPPLIER	AMOUNT
1	Servicing and repair of seven (7) air conditioning	ColdPoint Aircon Services	494 407,02

Impact of finding

Non-compliance with the Preferential Procurement Regulation, 2017

Misstatement of irregular expenditure for the amount incurred to date of R494 407.2

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.

Recommendation

It is recommended that management should:

Monitor all contracts with service providers and ensure that the SCM process is initiated early for all contracts that are coming to an end.

Procurement process should be initiated at least six (6) months prior to the end of the contract

Perform a thorough investigation and quantify the full extent of the irregular expenditure identified from unjustifiable deviations.

Management Response

JHB Region

We are not in agreement with the finding due to the following reasons:

Seeing that the AGSA perceive the root cause of acquiring the cleaning services under review through an emergency procurement strategy as lack of planning on the side of Management, it is imperative for Management to firstly give an overview of the context under which the services in question were acquired on an emergency basis. Thereafter, Management will then respond to each communication of Factual Finding (COFF).

Some of the factors which led to the acquisition of such cleaning services on an emergency basis are as explained below:

1. High volume of the previous year's tenders rolled over to the current financial year, 2019/2020

1.1 There was a large number of tenders and quotations which could not be awarded during the previous financial year, 2018/2019, and they were carried over to the current financial year, 2019/2020 and they had to be given the highest priority over the new tenders and quotations with a view to finalise their respective tendering process and award them. When prioritising this tendering process, Management had to take into consideration, the impact it would have over service delivery if not awarded within a reasonable time since their inception.

1.2 In planning as to how the rolled-over tenders and quotations are to be executed together with the ones included during the current financial year, 2019/2020, Management had to apply its mind and pay some due diligence in minimising or avoiding the risks it would come up with, if starting with the new tenders and quotations at the expense of the ones rolled-over from the previous financial year.

1.3 The logical thinking is that every reasonable and credible manager would prioritise finalising the rolled-over tenders and quotations over the new ones, unless the new ones are very much important and urgent to complete. Most of the rolled-over tenders were at the evaluation stage and could not just be abandoned in any way.

2. Re-prioritisation of the Regional Projects to be procured during the current year

2.1 When procuring the goods and services for the Regional Office (RO), including those of cleaning services, Management may deliberately do that in an integrated manner and not in silos.

2.2. For example, when there is a need for the RO to procure say, the service for R400 000 000 under Projects Branch and the one under Cleaning Services division for R2 500 000 at the same time, Management may strategically decide to priorities the acquisition of the R400 000 000 project first and delay the acquisition of the said cleaning services for R2 500 000 in favor of that of Projects due to various factors, such as a need to optimize the Projects spending of the budget allocated within the current financial year.

2.3 Such a decision will have been taken in the interest and for the benefit of the Department and service delivery at large, and not due to lack of planning or management oversight.

3. Project Managers, being the technical field workers who should prioritise their core business over the administrative work of the tendering and quotation process.

Most of the Bid Specification Committee (BSC) and Bid Evaluation Committee (BEC) members are Project Managers, Works Managers and / or Portfolio Managers, whose 90% of their respective core business is to do the field work, which takes precedent to the tendering process, in the name of enhancing service delivery. Management still ensure that the above-mentioned officials are made to strike a balance between the work they do for tendering/quotation process and that of their core business as technocrats when planning their Annual Performance (APP).

4. Departmental High rate of capacity constraints

4.1 Insofar as it is a general Departmental challenge to have the capacity constraints, the total positions for JHB Regional Office SCM Sub-Directorates which were permanently filled and vacant, their vacancy rate as at 31 October 2019 are enumerated as per the table below:

Sub-Directorate	Total	Filled	Vacant	Filled %	Vacancy Rate (%)
Acquisitions Management	9	6	3	67	33
Contract Management	3	1	2	33	67
Demand Management	5	2	3	40	60
Movable Assets	5	2	3	40	60
Provisioning & Logistical Management	22	13	9	59	41
Provisioning & Logistical Management (Other)	13	0	13	0	100
Deputy Director	1	0	1	0	100
Director	1	1	0	100	0
Total	59	25	34	42	58

4.2 As indicated on the table above, the total staff complement for Supply Chain Management Directorate as per the current Organisational Structure implemented as from November 2017 is **59**. Out of 59 positions, only **25 posts**, representing **42%** of the staff complement were permanently filled as at 31 October 2019, whereas the remaining **34 posts**, representing **58%** of the staff complement were still vacant.

4.3 The staff complement is highly overloaded with work, mainly due to the high vacancy rate. The effect of the shortage of staff is mainly felt at the Acquisition, Demand and Contract Sub-Directorates, where tenders and quotations are being processed. Such vacancy rate is 33%, 67% and 60% respectively.

4.4 Such capacity constraints have led to a huge backlog on the processing of tenders and quotations, in that the existing staff complement is being overstretched and it is by far struggling to cope with the updating of the backlog in question, to the extent that most of them become fatigued and constantly get sick, with the resultant effect of exacerbating the problem.

5. The basis that AGSA based its audit opinion on in regarding the nature of the cleaning transactions as Irregular

5.1 The basis that AGSA relied on when expressing its audit opinion was the extract of the abridged background and reasons given on the payment batch. That information was not detailed and no other relevant supporting documentation was given because it was addressed to the Regional stakeholders concerned who had the background of what was happening on the said procurement needs.

5.2 In order for the Regional Management to resolve this audit finding, it is imperative for Management to furnish the auditors with further explanations and /or other supporting documentation when necessary. Such explanations and/or further documentation will be furnished per each case as indicated below.

6. The legislation/ financial prescripts we used when procuring such cleaning services on emergency basis were as articulated below:

6.1 Management took into account section 38(1)(a)(ii) of the PFMA, where the procurement system used was inter alia, fair, transparent and cost effective.

6.2 We also took into account Treasury Regulation 16A6.4, par.8.1 and 8.2, in that Management only deviated from inviting competitive bids in the cases under review and used the emergency procurement process, as the prevailing situation then was serious and unexpected. That situation was going to pose an immediate risk to health, life, property or environment, which then called an urgency to action, and there was insufficient time to invite competitive bids, and not due to lack of time management or management oversight, as this will be demonstrated on the individual cases below.

7. The subsequent remedial action that Management considered in improving the procurement process

7.1 The following are some of the strategies that the Regional Office has employed with a view to update the backlog and at the same time to avoid recurrence of same in future:

7.1.1 Management has deployed the officials from Demand and Contract Management Sub- Directorates to assist with the tendering and quotation process.

7.1.2 Requested the Deputy Director: Financial Accounting to act as Director: Supply Chain Management in the absence of the current Director: SCM.

7.1.3 Requested the Assistant Director: SCM from Head Office to be acting as Deputy Director: Supply Chain Management from October 2019 until 31 March 2020.

7.1.4 Employment of overtime work as a performance strategy within the SCM environment.

7.1.5 To expedite the appointment of permanent staff members.

8 Management Responses to the individual Communication of Factual Findings

The reasons, timelines and summary of background for below-mentioned emergency deviation will be systematically outlined. Management will, in turn, provide the Management Response on the Communication of Factual Finding (COFF) for this cleaning service procurement.

8.1. Lebato Development Projects

Supplier Name	Ref. Number	Date Memo prepared	Date Memo approved and the official	Amount (R)
Lebato Development Projects	JHBE 19/192	04-Nov-19	28 November 2019, Advocate J. Monare (Regional Manager)	184 968

Reasons, timelines and summary of background provided for the deviation by Management

1. Cleaning services at Jeppe Magistrate Court has been outsourced to private service provider. The contract for 24 months JHB16/24 **expired on the 31 May 2019**. The contract was extended for a period of three months from 01 June to 31 August 2019.
2. The Bid Specification Committee (BSC) for the 24 months tender JHB19/16 for the rendering of cleaning services was approved by the Regional Manager on 30 January 2020. The BSC meeting took place on 05 March 2020. The Procurement Strategy was approved by the Regional Bid Adjudication Committee (RBAC) on 25 April 2019 as per **Annexure A**. The said tender was advertised on 31 May 2019 and closed on 25 June 2019.
3. Quotation for three months JHB19/05 was advertised on the 16 May 2019, briefing date was on the 21 May 2019 and closing date was on 31 May 2019. The Project Leader was informed by SCM that the quotation was non-responsive as only two (2) bids instead of a minimum of three (3) quotations were received.
4. Another quotation was started and confirmed and signed on 01 July 2019 and submitted to SCM for them to nominate and invite service providers to submit their quotations. That quotation process was also delayed by security vetting process, the documentation of which was submitted to SAPS and DPWI HO for further processing. Management does not have any control over the time it should the above-mentioned to finalise the security vetting process.
5. On 04 November 2019, the Project Leader requested an emergency contract to be appointed for three (03) months from 03 December 2019 to 02 March 2020. The memo was approved on 28 November 2019.
6. The intervals in between the activities are dependent on the availability of limited SCM Practitioners and /or Project Leaders who had to divide themselves amongst the many tenders which had to be prioritized according to, either the project amount or urgency of the project start date.
7. NB: It was noted on the memo that the process to start and finalise a quotation is approximately three months and that the starting period as recommended by AGSA is at least six (6) months before the expiry of the cleaning services contract.

Reasons the deviation not appropriate as per the AGSA

In terms of the memo it appears that the deviation was due to limited timeframe and SCM's inability to source at least 3 (three) compliant quotations. However, based on our assessment, the entity had at least 6(six) months to finalise the quotation/tender process for cleaning services and failed to do so. In our opinion this was due to poor planning in sourcing three quotations as the project leader

would have known beforehand that the Service Level Agreement was due to expire on the 31 May 2019 and the necessary steps would have been taken to source three quotations by informing Supply Chain Management timeously.

Reasons the deviation was appropriate as per JHB RO Management

1. In terms of the reasons, timelines and summary of background provided by Management to finalise the tendering process for the 24-month contract, Management planned to take at least seven (7) months to finalise the tendering process starting from 30 January 2019 to 31 August 2019.
2. Management, further made a provision for a three (3) months quotation starting from 01 September 2019 to 30 November 2019. The combined planned period for the procurement of the 24 months' contract (JHB19/16) is ten (10) months, as opposed to at least six (6) months as recommended by AGSA. So Management started the procurement process four (4) months way before the recommended time.
3. The reason which led to the Regional Office appointing the cleaning services on an emergency basis in November 2019 was because only two (2) quotations were responsive, as opposed to a minimum of three (3) responsive quotations. As to after how many times the Regional Office should go out on quotation so as to receive at least three (3), is beyond Management's control.
4. So, Management still maintains that it did everything in its power to finalise its procurement process within its ten (10) months planned time and it followed the above-quoted legislations.

DBN Region

I am not in agreement with the finding for the following reasons [and supply the following/attached information in support of this:

- (i) The calls that were logged on the 24, 14, 22, 18 in 2018 different months, normal process was followed to outsource 3 quotations and due to non-responsive from service providers these calls were outstanding. On the 18/01/2019, client logged a call with DUR-0119-122542 and included all those split air-conditioning units in offices that were still outstanding, Location of work to be done was; High Court, Regional Court no.5, Family Court, Magistrates Office room 15c, Room no 2b, Room no 21c, 15a and 1d with Description problem: Repair 8 air conditioners that are not working.
- (ii) High Court, Regional Court and Family Court each court has its own Packaged Central Unit +/- 120000 btu. This was recommended as an Emergency due to the following reasons:
 - Court is a public space. People have different illnesses and they often faint due to heat inside.
 - Prisoners that are not clean which presents a health risk for staff representing DOJ personnel as well as court attendees
 - The Courts at Scottburgh Mag Court are within the building and they only rely on air-condition system to cool the place. It was in summer and heat was unbearable. In situations like these Judges/Magistrates often postpone cases. As a results DOJ has to incur costs to compensate witnesses who travelled to attend cases.

Auditors Conclusion

JBH Region

1. Lebato Development Projects

Based on the information provided by management it is clear that there was sufficient time to invite competitive bids and there were enough opportunities to award a winning bidder.

Timelines:

As per the original memorandum ,the original 24 month contract ended on 31 May 2019. Thereafter the contract underwent two extensions, the first one was from 01 June 2019 to 31 August 2019 (3 months) and the second one from 01 September 2019 to 31 November 2019 (3 months). Finally, for the period 01 December 2019 to 02 March 2020 it seems management had exhausted its reasons for extending the contract and therefore opted to deviate from normal procurement processes based on an emergency procurement which is technically still another extension on the original contract.

This demonstrates that management had sufficient time to invite competitive bids. It is good practice to not wait for the current contract to come to an end before management can decide on starting the procurement processes for a provision of continuous services

Reasons for not awarding:

1. "The 24 months tender JHB19/16 rendering of cleaning for 24 Months was advertised on 31 May 2019, closed on 25 June 2019. On the 06 August 2019 the evaluation committee had the first meeting to evaluate received bids but the specialist was not available and the meeting was postponed. The evaluation committee held a second meeting on 22 and 23 August 2019. Evaluation were not completed and another meeting took place on 30 August 2019 to complete the evaluation."

Based on the above comments, it shows that tender JHB19/16 was advertised, bids were received and the evaluation committee were able to sit on three (three) separate occasions. It seems that management had enough time to start with the procurement process and appoint a service provider but did not, as a result the finding will remain unresolved.

2." Quotation for three months JHB19/05 was advertised on the 16 May 2019, briefing date was on the 21 May 2019 and closing date was on 31 May 2019. The project leader was informed by SCM that it was non-responsive only two bids were received.

Management should have proceeded with the procurement with the two responsive quotations. As per national treasury practice note 8 of 2007/08 par 3.3.3: "If it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded and approved by the accounting officer / authority or his / her delegate."

The finding therefore remains.

2. Immaculate Cleaning & Hygiene Services (PTY) Ltd

As per management's comments, a provision of at most **ten (10)** months was made to conclude the procurement process. The awarding is not successful due to a delayed security screening from SAPS and HO Security Services Management.

However, it can be reasonably known by management that security screening takes time and factored into the procurement process. Therefore, as much as blame can be put on the screening process, management through proper planning had control over the delay. In instances where security vetting is a major part of the specifications, management can approach national treasury to rather have a closed panel of vetted suppliers.



Furthermore, it is unsettling for us that the same supplier seems to be in service for the same service on a continued basis, which may indicate that the procurement process has still not been finalized as at 31 March 2020.

3. Immaculate Cleaning & Hygiene Services (PTY) Ltd

The 6(six) months recommendation is prescribed for at least 6 months prior to the end of the original contract not post expiry of the contract to allow for enough time for management to procure the service with minimal or no extension required. As per managements comments, knowing that the procurement process was going to take seven (7) month, the process should have started 7months prior to the expiry of the contract. Prioritizing high value contracts over smaller contracts such as cleaning services is an internal decision and should not infringe on national treasury regulations. Therefore, we disagree with management.

4. Dinnys Business Enterprise

We disagree with management. The reasons mentioned by management do not meet the definition of an emergency procurement. We agree that on the date that the memorandum was sitting on the Regional Manager's desk for approval, the matter was urgent and posed a risk to health if she did not approve it; however, the situation was not unexpected and there was sufficient time to procure the services.

The above contracts when you look at them holistically point to inefficiencies in the procurement of cleaning services that resulted in induced emergencies.

DBN Region

Management comments are noted, however no sufficient evidence or documentation was provided by management to prove that normal SCM process was followed and bidders were non-responsive. Furthermore, High Court, Regional Court and Family Court air-conditioning split units were all included in the previous case numbers as indicated by managements comments under paragraph (i) of their response.

Poor planning and managements inability of attending to calls logged by client departments led to the deviation and therefore we deem the reason for deviation not sufficient for emergency & urgent procurement. The finding will be reported in the interim management report.

COFF 05 CPT - Evaluation criteria applied in evaluating quotes not stipulated in the RFQ**Requirements:**

Section 38(1)(a)(i) and (iii) of the Public Finance Management Act states that: *“The accounting officer for a department must ensure that the department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective...”*

Treasury regulation 16A3.2(a) states that: *“A supply chain management system referred to in paragraph 16A3.1 must be fair, equitable, transparent, competitive and cost effective...”*

Nature

During the audit of procurement and contract management, it was noted that a Request for Quotation(RFQ) did not include the evaluation criteria to be used in evaluating the respective quotations. The quotations were evaluated using the 80/20 preference points systems however on the RFQ it did not indicated as such. As a result, quotations were not evaluated on criteria originally set out in the RFQ. Consequently, the process that was followed was not fair, equitable or transparent

The details are as follows:

RFQ #	Short Description	Service Provider	Amount (R)
6425	Supply of sanitary bins for Area 1	Amosk Investments	323 313.90

Impact of the finding

Non-compliance with section 38 of the PFMA and TR 16A3.2(a)

Internal control deficiency*Financial and Performance Management*

Management did not review and monitor compliance with applicable laws and regulations.

Management did not adequately review procurement documents to ensure that all information that should be stipulated in the procurement documents have been stipulated.

Recommendation

It is recommended that management should enhance compliance procedures to ensure compliance with all prescribed laws and regulations. In addition, such procedures include enhancement of compliance checklists that are already developed.

Management response

The finding is noted, however, the Department is not in agreement with the finding. In terms of SCM Regulations the threshold value for invitation of quotations is up to R500 000. The SCM Regulations prescribes the application of the 80/20 Preference Point System. In this case SCM invited and evaluated all quotations received. The SCM principle mandate's that at least a minimum of three quotations must be obtained. In this situation more than three quotations were received. The SCM Regulation further stipulates that the rand value from R30 000, 00 to unlimited value the price points and application of B-BBEE Points must be applied. All due process applicable to a close quotations process were applied accordingly. The process was fair and transparent and no service provider was given any unfair advantage.

Auditors Conclusion

Managements response is noted and the finding remains unresolved for the following reason: Management should take cognisance of the fact that the finding does not bring into question the Preference Point System, nor the fact of whether three (3) quotations where received or that the procurement process was not followed by the department. The finding merely highlights that the invitation failed to notify the prospective bidders of the scoring system to be used, as per normal practice that the entity does on all its other invitations. As such, prospective bidders may have been discouraged to bid for the quotation due to this, resulting in an unfair advantage to those who were not discouraged by the missing indicator. As a result, we find that the procurement was not fair service providers and therefore finding remains unresolved.

COFF 01 DBN - Quotations pre-qualifying criteria**Requirements**

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that *“The accounting officer for a department must ensure that the department has and maintains*

- (i) *Effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) *(iii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;”*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that *“The accounting officer for a, department must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct”*

Preferential Procurement Regulation 2017 paragraph 4 (1) (a) states that *“If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-*

(a) a tenderer having a stipulated minimum B-BBEE status level of contributor”

It further states the following in terms of paragraph 4 (2): *“A tender that fails to meet any pre-qualifying criteria stipulated in the tender document is an unacceptable tender.”*

Nature

During the audit of quotations, it was noted that the PA-32, Invitation to bid document for Quotation number Dur-0619/124623 was sent to suppliers with a pre-qualifying criterion that indicated that the tenderers should either be a level 1 or 2 B-BBEE level contributor. In performing the audit procedures, it was noted that the suppliers that were evaluated as listed in the table below did not submit any proof of their B-BBEE status level contributor as required by the pre-qualification criterion.

This was also evident as the sub regional bid adjudication committee awarded zero points for B-BBEE status level contributor on the PA-20.7 Scoring Model for all the suppliers listed in table below. The quotations should have not been evaluated further as they did not meet the pre-qualifying criteria.

No	RFQ #	COMMODITY / SHORT DESCRIPTION	SUPPLIER	AMOUNT
1	Dur-0619/124623	DCS Ekuseni Youth Prison: Service fire equipment	Senzokwakhe	R 197 359.00
2			Mahlangana Trading	R 195 970.00
3			Imimangaliso Technical Pty Ltd	R 191 886.40

Impact of the finding

Non-compliance with the Preferential Procurement Regulation, 2017

Misstatement of irregular expenditure for the amount incurred to date of R 191 886.40

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.

Recommendation

It is recommended that management must develop or enhance compliance procedures to ensure compliance with all prescribed laws and regulations. In addition, such procedures include enhancement of compliance checklists already developed.

The accounting officer should investigate the reasons for the irregular expenditure and confirm if it was deliberate. All expenditure incurred in terms of the above quotations should be included in the irregular expenditure register.

Management response

I am not in agreement with the finding for the following reasons:

In the evaluation of this quotation SCM Directive no 05 signed 19/08/2015 was used. Paragraph 2 of this directive allows SCM to communicate with bidders on administrative matters during evaluation, this includes the submission of a valid BBEE certificate where the department is not in possession of one.

This verification was done and it was discovered that the department was in possession of a valid BBEE certificate for work done under DUR 0219/123038 paid by finance on 22 May 2019.

The PA 20.7 was erroneously not revised to include points for the recommended / appointed, however this had no financial implication on the final award.

Auditor's response

Management's comments are noted, however based on the Invitation to Bid: PA-32 for DUR 0219/123038, Part B: Terms and conditions for bidding point 1.3 states that; "...**B-BBEE Certificate or Sworn Affidavit for B-BBEE must be submitted to the bidding institution...**

Failure to provide any of the above particulars may render the bid invalid. An original or certified copy of the B-BBEE status level verification must be submitted in order to qualify for preference points

Management has indicated that the SCM Directive no 05 signed 19/08/2015 was used of which Paragraph 2 of this directive allows SCM to communicate with bidders on administrative matters during evaluation.

As per Inspection of paragraph 2 of the said SCM Directive, it was noted that it states the following;

“2 Responsibility to engage with the service provider

2.1 During the bid evaluation process SCM practitioners are best empowered to communicate with the bidders on administrative matters.

2.2 Administrative matters entail the following

2.2.1 Submission of Tax clearance certificate or BBBEE certificate that expired during the evaluation,

2.2.2 Clarity regarding information filled on the bid document,

2.2.3 Clarity/Information regarding any other documents /Certification that forms part of the bid response and bidding document.”

The above extract of the directive does not indicate the narrative that has been mentioned and applied by management of Paragraph 2 of *this directive allows SCM to communicate with bidders on administrative matters during evaluation, this includes the submission of a valid BBBEE certificate where the department is not in possession of one*” as per the requirements of paragraph 2.

Based on the above information documented, the finding and its impact still remain, Irregular Expenditure should be reported.

COFF 01 PTA; COFF 04 CPT - Possible splitting of quotations**Requirements:**

Section 38(1)(a)(i) and (iii) of the Public Finance Management Act states that: *“The accounting officer for a department must ensure that the department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective...”*

Furthermore, section 38 (1)(c)(ii) states that: *“The accounting officer for a, department must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct...”*

Treasury regulation 16A6.1 states that: *“Procurement of goods and services, either by way of quotations or through a bidding process, must be within the threshold values as determined by the National Treasury...”*

Practice Note 8 of 2007/08 paragraph 3.5 states that: *“Goods, works or services may not deliberately be split into parts or items of lesser value merely for the sake of procuring the goods, works or services otherwise than through the prescribed procurement process. When determining transaction values, a requirement for goods, works or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction...”*

Nature**Issue 1 - PTA Region**

During the audit of the supply chain management processes, we identified three request for quotations (RFQs) relating to the service of the same nature being procurement from different suppliers through the quotation process. Both RFQs had the same description: Security services at old Telkom towers.

Through the audit of the quotation files we noted that PMTE have been procuring security services on the monthly basis for the Telkom tower property. Based on the discussion with management and inspection of the quotation register for the current and the prior year, we noted that management have been awarding quotations to service providers to protect Telkom towers through quotation process instead of entering into a contract.

The audit evidence obtained indicate that the service was split into items of lesser value in order to avoid the competitive bidding process thus resulting in the non-compliance with Treasury regulations.

Based on the nature of the service required, management are able to assess how long they will need the security service for Telkom tower's property. The service can easily be procured through the competitive bidding process and a service provider could be appointed on a long term contract.

Table A: RFQs based on the sample selected.

No.	Suppliers	Description	Amount (R)	Payment to date
1	Roshen Holdings	Security services at old Telkom towers.	499 675	499 675
2	Security24 Investment	Security services at old Telkom towers.	498 805	498 805
	Nkarabe Protection Service	Security services at old Telkom towers.	498 990	498 990
Total			1 497470	1 497470



Impact of the finding

Non – compliance with laws and regulations.

Misstatement of irregular expenditure for the amount paid to date.

Issue 02 – CPT Region

During the audit of procurement and contract management the following deviations were noted:

1. We noted that the department has procured security contracts for the areas/properties as mentioned in the table below which were for 2-month periods during the current financial year using a nominated procedure (deviation process), and in some instances awarded to the same service provider. Due to the nature of service, it is reasonable that the department goes on tender in order to obtain security services for a longer period as opposed to 2 months' periods as there is no intention to vacate the premises in the near future. In our assessment some of the combined quoted amounts came slightly below the R500 000 competitive bidding threshold while the other combined awards are above the threshold, thus evidencing the possibility of deliberate split into parts of a lesser value merely to avoid following the competitive bidding process and this was further confirmed with management.

Based on this evidence and nature of the service, the department is able to make an assessment of how long they will require the security services in each respective property and as a result is able to acquire the service through competitive bidding instead of following the quotation process.

The table represents the 2-month security contracts awarded, indicating the total amount spent for each area/property.

No	Short Description of Services	Service provider	Amount (R)
1	24 Hour security services Customs House	BC Security Solutions	277 288,93
2	24 Hour security services Customs House	BC Security Solutions	246 527,68
3	24 Hour security services Customs House	Striving Mind Trading 519	313 356,80
		TOTAL	837 173,41
4	24 Hr Security: Hope Street parking	Silver Solutions 2616	306 397,37
5	Hope Street: 24 Hr Security	Imvula Quality Protection	174 155,58
		TOTAL	480 552,95
6	24 Hr Security: Nieuweester Parking	Mokato Security	440 466,87
7	24 Hr Security: Nieuweester Parking	Mokato Security	363 629,70
8	24 Hr Security: Nieuweester Parking	Bokwe Trading	150 094,76
		TOTAL	954 191,33
9	24 Hr Security: Parliament Towers	Capital Ship Trading 605	404 018,55
10	24 Hr Security: Parliament Towers	Mokato Security	313 024,75
11	24 Hr Security: Parliament Towers	Bokwe Trading	201 778,10
		TOTAL	918 821,40
12	24 Hrs Security Services: Drakenstein: Mandela House	Red Security	86 001,60
13	24 Hrs Security Services: Drakenstein: Mandela House	Striving Mind Trading 519	314 502,74
14	24 Hrs Security Services: Drakenstein: Mandela House	Greystone Trading 389	58 903,82
		TOTAL	459 408,16

No	Short Description of Services	Service provider	Amount (R)
15	Fernwood: 24 Hr Security	BC Security	261 350,13
16	24 Hr Security: Rondebosch Fernwood	Imvula Quality Protection	174 155,58
		TOTAL	435 505,71
TOTAL			4 085 652,96

2. For the contract mentioned in the table below we noted that the initial contract for facilities management was due to end on 31 March 2019 of which at the same time a request for approval of a nominated procedure was issued to appoint a service provider for desalination plant and mechanical services for Robben Island. The department opted to award a 6-month contract, and then later renewed the contract for another 6 months to the same service provider.

In our assessment, the quoted amounts are slightly below the competitive bidding threshold amount of R500 000 with the contract being for 6 months and renewed for another 6 months, is an indication of possible splitting merely to avoid following competitive bidding process. Based on discussions with management, the department was in a position to assess the challenges it has in relation to the particular contract and rather procure the service following the tender process.

Furthermore prior to the initial contract ending in March 2019, there was no evidence that indicates that the department had started the procurement process in reasonable time as this proves to be a service that relates to the continued need of the department. Therefore, this in our assessment, indicates poor planning by the department.

Supplier	WCS number	Description	Period	Amount (R)
Hendrick Greeff (Pty) Ltd T/A AllFix Services	054104	Robben Island: Desalination Plant & Mechanical Services	Six (6) Months 01 April 2019 – 30 September 2019	499 000,00
			Six (6) Months 01 October 2019 – 31 March 2020	499 000,00
Total				998 000,00

The above may result in the following:

Possible misstatement of irregular expenditure with amounts of R998 000,00 and R4 085 652,96

Non-compliance with section 38 of the PFMA

Non-compliance with TR 16A6.1

Non-compliance with PN 08 of 2007/08

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.



1. Management did not ensure that contracts of services with a similar nature and of a continued need for the operations of the department are in place in order to comply with the relevant SCM laws and regulations.
2. Management did not communicate timeously with relevant client department and have adequate plans in place to obtain funding to continue with the facilities and maintenance contract as mandated by law.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored

Management did not implement procurement processes in a timely manner to ensure that SCM regulations are adhered to

Management didn't monitor the RFQs to ensure that they do not pertain to the same service where the competitive bidding process could be followed instead of quotation to avoid splitting of items.

Recommendation

It is recommended that management should ensure that the entity complies with all applicable laws and regulations.

RFQs should be reviewed regularly to identify goods/services of the same nature required on the monthly basis. The assessment should be made to determine the possibility of procuring goods/service through the competitive bidding instead of quotation process merely to avoid going on tender.

Timely monitoring and procurement process of contracts that are due to end should be implemented.

Management should perform further investigation to determine the extent of the non-compliance as well as the financial impact had the contract was entered with the service provider to provide services for longer period instead of shorter periods

The accounting officer should also investigate the reasons for the irregular expenditure and confirm if it was deliberate. The expenditure should be included in the irregular expenditure register.

Management response

PTA Region

Management is not in agreement with the finding based on the following:

The Department purchased Telkom Towers with the purpose of selling / leasing the property to SAPS. The hand over by Telkom to NDPW was completed on the 09 September 2016.

A meeting was called on the same day (9 September 2016) with different stakeholders, it was then agreed that Pretoria Regional Office Security Management with assistance from management from both HO and Regional Office will take full responsibility in securing the building while waiting for SAPS to take over.

The Department could not go out on tender because SAPS gave an indication that they will take over the building at any given moment.

Later in the year it became apparent that the handover process to SAPS will delay, the department then initiated the process of going out on Tender for Security Guarding services. The tender was advertised and closed on the 27 November 2018 (PT18/033) See attached documents. **Annexure A and C.**

During the process of evaluation, it was discovered that the Functionality Criteria had some loopholes and therefore we could not proceed with the process.

A new process was started in July 2019 and still in progress, see attached documents. **Annexure B**

CPT Region

Security Services Contracts.

The finding is noted, however, the Department is not in agreement with the finding. Whenever Security Services are required the approval is granted by the Regional Bid Adjudication Committee (RBAC).

A Nominated Procedure for the procurement of Security Services for various State Owned Properties were followed upon approval for which the service providers were invited in terms of SCM Prescripts. All quotations received were evaluated and adjudicated in terms of Preferential Procurement Policy Frame Work Act.

The Public Tender was initially advertised in the National Tender Bulletin in the past two years, and it was subsequently cancelled as a result of material irregularities. In terms of SCM Regulation 2017, if a tender is cancelled for the second time National Treasury should grant approval.

The request was sent to National Treasury seeking approval for the cancellation and a response from National Treasury was received on 06 August 2019, with two sites request being supported (Customs House and Mandela House), while the other two sites (Parliamentary Towers and Fernwood Estate) were not supported. The Department is awaiting these two response from National Treasury as two sites were not supported.

The Terms of Reference (TOR) has been drafted and are awaiting approval by the Regional Bid Adjudication Committee once National Treasury approval is received. Head Office has submitted the Departmental Procurement Plans to National Treasury for approval.

It is not feasible to leave State Owned Properties without security, hence, the Nominated Procedure is being followed.

Facilities Management Contracts

The department notes AG finding but is however not in agreement with this finding.

In 2012 Robben Island Museum took over the maintenance of Robben Island from the Department of Public Works. Due to capacity issues at the end of 2014 the Department of Public Works, Department of Arts and Culture and Robben Island Museum collaborated to get the facilities management function back on track in order for this World Heritage site to be preserved.

In May 2015, Coega Development Corporation (Pty) Ltd was appointed by the Department of Public Works for a period of 4 years to provide all the necessary services required in respect of the total facilities management for Robben Island. The desalination plant is one of the services under mechanical services.

The total facilities management with Coega Development Corporation (Pty) Ltd expired in April 2019. A request for extension of the facilities management contract was made to the National Bid Adjudication Committee but it was not approved. As an interim measure the Department entered into 6 months' term contracts through a nominated procedure which was supported and approved by the Regional Bid Adjudication Committee and Regional Manager on 28 March 2019. The term contracts were from 1 April 2019 - 30 September 2019, and a further extension was approved from 1 October 2019 until 31 March 2020. This was to ensure that the Department provides an un-interrupted essential service at Robben Island whilst looking at procuring the new facilities management contract.

To register a new facilities management contract, a submission was forwarded to Planned Maintenance Budget Committee for funding which was recommended on 13 June 2019. This submission served at the Infrastructure Budget Committee for final approval of funds and thereafter issuing of the Procurement Instruction. After numerous follow ups funds approval was eventually granted on 21 November 2019.

Upon approval of the funding this office was informed by Facilities Management in Head Office that they are busy with the appointment of an Implementing Agent to take over the facilities management at Robben Island. Follow ups on this process were made however it was indicated that the Memorandums of Understanding have not been finalized yet. In the meantime, it is crucial that the Department needed to keep the Island in a functional state in order not to lose momentum in terms of maintenance. It is therefore upon this premise that an extension on the negotiated procedure with the existing service provider was granted.

The current service provider, Hendrik Greef t/a Alifix Services, was new to the Department, however they needed more time to familiarize themselves with the Desalination Plant and with the scope of work over the past 6 months. They have proven to possess the capacity to manage this service given the unique environment of Robben Island. It must also be mentioned that due to the difficult logistical arrangements in respect of Robben Island to initiate and operationalize these contracts, it will not be practical and cost effective to procure for new service providers. It is therefore upon this premise that extension was granted to the existing service provider. Desalination plant operation, sewer maintenance and mechanical services are a critical service that ensures uninterrupted provision of clean water and sewer on the Island as there are no municipal feed. Should these services not be operational, then there is no water in the Island.

Auditor's conclusion

PTA Region

We have read the response and inspected the documents submitted. The following was noted from the information given;

- Telkom towers were handed over to PMTE on the 09 September 2016.
- Later that year the department became aware that SAPS will delay to take occupation of the building hence they initiated the process of going out on a tender.

First tender process



- Management has indicated that the first tender process was identified to have loopholes hence it couldn't process.
- Inspected the bid adjudication committee minutes dated 31 July 2018 where the procurement strategy was approved for the first tender process. (Annexure A).
- Through analysis of the information provided it is evidenced that it took management 1 year and 11 months from hand over date (6 September 2016) to have the procurement strategy approved for the tender.
- The tender was then advertised on the 27 November 2018 (annexure C) and the request for approval of bid evaluation committee was approved on the 22 February 2019.
- This tender process took very long and no reasons have been provided to explain such delays. It took almost two and a half years before it was cancelled.
- Management have not provided any supporting documents to validate the reasons for the cancellation of the tender.

Second tender process

- The second tender process was initiated in July 2019 and the procurement strategy relating to the tender was approved on the 30 October 2019. (Annexure B).
- Management has not indicated the status of the second tender to date.

Through inspection of the supporting documents and the management response provided it is evidenced that this tender was not prioritized and the quotation process have been then followed throughout the years to ensure that security services are provided at the property.

CPT Region

Security Services contract

Managements response to the finding is noted. However, the finding is not resolved for the following reason:

Management indicated that the department is awaiting approval from National Treasury as the tender was cancelled in the previous 2 years and it is not feasible to leave state owned properties with no security services, and the response is based on 4 properties and not the other 2 properties namely, Nieuwe Meer Parking and Hope Street, that are also in question. Therefore, the response does not cover other properties. The department also indicates that the tender bulletin was cancelled twice as a result of material irregularities, which questions the current processes in place that would result in a tender being cancelled twice as a result of the stated irregularities. Since this is a continued need for the department to provide security services to state owned properties, it is also not certain that the procurement process was started in time i.e. at least 6 months prior to the previous security contract having ended.

Furthermore, management has not provided us with the period on which the prior year contract ended for us to assess reasonability of the period taken to appoint a service provider.

Facilities Management Contracts

Managements response to the finding is noted. However, the finding is not resolved for the following reason:

Based on managements' response it is apparent that management was conscious of the fact that the facilities contract with the Coega Development Corporation (Pty) Ltd was coming to an end and also the lengthy process involved in the procurement process of appointing a service provider to

maintain Robben Island. This is an indication that management did not commence with their internal control processes in time, and as a result indicates poor planning from the department.

COFF 04 PTA – Extension of time with financial impact**Requirements**

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that *“The accounting officer for a trading entity must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective...”*

Public Finance Management Act paragraph 1 defines 'fruitless and wasteful expenditure' as *“expenditure which was made in vain and would have been avoided had reasonable care been exercised”*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that *“The accounting officer for a trading entity must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct”*

Public Finance Management Act paragraph 38 (1)(g) states that: *“The accounting officer must on discovery of fruitless and wasteful expenditure, immediately report, in writing, particulars of the expenditure to the relevant treasury;”*

Public Finance Management Act paragraph 38 (1)(h) states that: *“The accounting officer must take effective and appropriate disciplinary steps against any official in the service of the department or constitutional institution who makes or permits fruitless and wasteful expenditure”*

Public Finance Management Act paragraph 40 (3)(b) states that: *“The annual report and audited financial statements must include particulars of fruitless and wasteful expenditure that occurred during the financial year and any disciplinary steps taken as a result of such fruitless and wasteful expenditure.”*

Treasury Regulation 9.1.1 state that *“The accounting officer of a trading entity must exercise all reasonable care to prevent and detect fruitless and wasteful expenditure and must, for this purpose, implement effective, efficient and transparent processes of financial and risk management.”*

Treasury Regulation 8.1.1 state that *“The accounting officer of the institution must ensure that Internal procedures and internal control measures were in place for the approval and processing of payments. These controls provided reasonable assurance that all expenditure is necessary, is appropriate, is paid promptly and is adequately recorded and reported on.”*

Nature

During the audit of the contract management, we noted that the authorized amount on the project exceeded the original contract price for project **WCS No: 044028: Construction of a new building Magistrate Court**. The increase resulted from the penalties charged by the contractor to Property Management Trading Entity due to delays experienced on the project not caused by the contractor. The penalties were charged based on the JBCC contract signed by the entity and the contractor.

The contractor charges the entity an amount of R24 283.26 per day on the approved extensions. We have inspected the request for extensions and the internal memorandums prepared by the entity which detail the reasons for the delays. Memorandums included the number of days requested by the contractor and the financial impact expected from the extension.

The penalties charged by the contractor will result in the financial loss for the entity, as the entity does not get any value from the expenditure incurred. In addition, this expenditure could have been avoided had proper planning been done ("reasonable care").

The entity has approved 13 extensions of time to date with the financial impact of R18 965 226.06. The number of days that the project has been extended is 781 days.

Through inspection of the JBCC contract clause 29.1. we further noted that contract state that "*The circumstances for which the contractor is entitled to a revised of the date for practical completion and for which revision the principal agent shall not adjust the contract value in terms of 32.12 are delays to practical completion caused by*

29.1.1 Increment weather

29.1.4 Vis major, civil commotion, riot, strike or lockout"

The reasons for extension on the memorandum provided included delays resulting from strikes, riots and lockout however the extension provided by the entity had a financial impact where the contract value was adjusted. This is not in line with the JBCC contract clause 29.1.

The reason for the delays as per the memorandums have been included on the table below:

Claim No.	Reason for the delay as per the request for extension and Memos.	No of days	Financial impact
1	DPW delayed to handover the site to the contractor.	127	R3 083 974,02
10	DPW agent failed to provide construction information The contractor noted the discrepancies on the Civil working drawings and the Structural Engineering concrete work and roof structure details. The information required was not readily available on the time of request. The absence to revised drawings required the contractor to reschedule the works. The contractor claimed 73 days and the PA only approved 65 days.	65	R1 578 411,90
11	The required additional scope of work by Department of justice affected the sequencing of work thus attracting additional time. It is due to the support as the required additions impact on the extent and sequence of surrounding and related specialized work the community want insisted to do.	53	R1 287 012,78
12	Time lost due to delay in design drawings: Site Development plans not issued to contractor. Failure to commence and complete the access roads to the building. The contractor has been delayed due the Civil Engineers drawings, starting with the access road and the site development plans not in	155	R3 763 905,30

Claim No.	Reason for the delay as per the request for extension and Memos.	No of days	Financial impact
	order. The way-leave was not yet approved. Contractor ask for 188 days the PA approved 155 days.		
	<i>Delay due to DPW imposed delays and poor planning</i>	400	R9 713 304,00
2	Disruptions by local community/lockout demanding the appointment of CLO.	42	R1 019 896,92
3	Disruptions by local community/lockout preventing work and delivery of materials. The CLO appointed for the project stop the work and instructed the workers to leave the site because they were unhappy with the rate paid to workers and for certain demands they want the contractor to adhere to. They chase the security from the site and locked the gates and took the keys with them. Any worker or Fikile staff (Contractor) that want to enter the site was chase away by the community and steering committee members from the ward 23.	66	R1 602 695,16
4,5,6	Riot, Strike and lockout: Preventing delivery of material to the site.	82	R1 991 227,32
	The community prevent the suppliers from entering the site to deliver the concrete for the slab to be cast. They also didn't allow the truck with the steel for the slabs to deliver and they threaten the drivers that they will burn their trucks if they try to enter the site.		
7,8	Casting of concrete delay: The workers were removed from site while busy with concrete casting on first and second floor. The concrete suppliers had to remove all the trucks that was on site as the community threaten that they will burn their trucks if don't leave the site. The contractor had to redo the whole first floor as they couldn't vibrate the concrete and also had to leave the suite for the safety of the workers.	54	R1 311 296,04
9	The site was closed due to safety reasons emanated from civil unrest broke affecting works on site. The community prevent them from entering the site. The claim relates to 10 working days lost between 16 August 2016, 23 August 2016 and 06 September 2016, which civil unrest occurred affecting works on site as follows:	10	R 242 832,60
	- For safety reasons site access closed on the 23 August 2016, 29 August 2016 and 06 September 2016.		
	- Concrete for of 29 August 2016 postponed to 5 September 2016, and 5 September 2016 but could not due to delivery vehicles access being blocked.		
	- Work could only re-commenced on the 9 September 2016.		
13	The contractor submitted application for extension of contract period. They have claimed working days siting delays due to striking community who riot and lock the site.	127	R3 083 974,02

Claim No.	Reason for the delay as per the request for extension and Memos.	No of days	Financial impact
	The project is being implemented with involvement of community, as a results the contractor has appointed sub-contractors and labours from local community. This action has brought a lot of management challenges. Throughout the contract the Local Community has been difficult to manage, if any dispute arise they strike and prevent any cases to the site this preventing progress.		
	<i>Delays related to civil unrest and related matters</i>	381	R9 251 922,06
	TOTAL DELAYS	781	R 18 965 226,06

Impact

Non – compliance with laws and regulations.

The expenditure paid in vain which could have been avoided will result in fruitless and wasteful expenditure.

Misstatements of fruitless and wasteful expenditure disclosed amount.

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.

Management didn't monitor the projects appropriately in order to ensure that the project is completed within the agreed time frames.

All the necessary information required to execute the projects when not always submitted on time to the contractor to avoid delays which will results in the financial loss for the entity.

Management has not taken the proactive steps to recover the financial loss from the responsible person where the penalty was paid to the contractor resulting from the delays.

Recommendation

It is recommended that management should ensure the entity complies with all applicable laws and regulations.

It is recommended that management should ensure:

- All projects are monitored regularly and all the necessary information and documents are provided to the supplier timeously to avoid delays.



- The consultants work should be monitored by the project managers and all the reports/ drawings prepared by consultants should be checked for accuracy and be delivered to the contractor timeously.
- Access to the construction sites should be organized before the construction commence.

It is recommended that management should assess the reasons for the delays against the JBCC contract in order to avoid making unnecessary payments were the delays are covered under JBCC contract clause 29.1.

It is recommended that management should conduct an investigation on all significantly delayed projects to determine the reasons for the delay as well as the financial loss incurred by the entity. The fruitless and wasteful expenditure assessment should be conducted to identify expenditures that could have been avoided by the entity.

Where the financial loss results from the consultant not performing as per the contract, the fruitless and wasteful amount should be recovered from them. If the financial loss is caused by the PMTE officials, the disciplinary processes should be followed to ensure that the money is recovered from the implicated individual.

It is recommended that management should assess the reasons for the delays against the JBCC contract in order to avoid making unnecessary payments were the delays are covered under JBCC contract clause 29.1.

Management response

Management is in agreement with the finding. All the extension of time claimed up to no.05, it was a true reflection of the incidents that happened on site.

The extension of time for claim no.06, dated 04/11/2019, was approved subjected that the Project Manager must resubmit and rectify as per comments of the DDG CPM, Head Office. No financial approval was supported for any extension of time for no.06. The funds of R9 251 922.06 for 381 days were not supported by the Project Manager, Director Projects, Chief Director CPM and DDG CPM.

See attached **annexure an** extension of time from 1-6.

Auditors Conclusion

Management comment noted. Through inspection of the supporting documents provided we have noted that an extension of 127 days indicated on both tables have been duplicated. The correct number of days that a project has been delays is 654 with a financial impact of R15 881 252.04.

Furthermore, we have noted that the 381 days indicated by management on the response doesn't form part of the total 654 days approved by management as per of the project extension. It relates to the recent request for extension which hasn't been approved yet by management. This request for extension was not included on our finding.

COFF 02 PTA; COFF 03 DBN - Publish of awards on eTender Publication and Government Tender Bulletin

Requirements

Public Auditing Act paragraph 15 of the states that: "The Auditor-General has at all reasonable times full unrestricted access to:

(a) Any document, book or written or electronic record or information of the auditee or which reflects or may elucidate the business, financial results, financial position or performance of the auditee;

(b) Any of the assets of or under the control of the auditee; or

(c) Any staff member or representative of the auditee."

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that "The accounting officer for a trading entity must ensure that the department has and maintains

- (i) Effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) (iii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;"*

Public Finance Management Act paragraph 38 (1)(c)(ii) states that "The accounting officer for a, trading entity must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct"

Public Finance Management Act paragraph 40(a) and (b) of the states that: "The accounting officer for a trading entity must keep full and proper records of the financial affairs of the trading entity in accordance with any prescribed norms and standards; must prepare financial statements for each financial year in accordance with generally recognized accounting practice..."

Treasury regulation 16A6.3 (d) states that "awards are published in the Government Tender Bulletin and other media by which the bids were advertised."

National Treasury Instruction No 1 of 2015/16 paragraph 4.1 and 4.2 states that:

"4.1 The Accounting Officers of PFMA compliant institutions must through the relevant treasury publish the awards of all advertised competitive bids on the eTender Publication Portal by taking cognisance of the requirements in paragraph 4.2

4.2 PFMA compliant institutions must submit the following information on successful bids to the relevant treasury's eTender Publication Administrator within seven (7) working days of awarding the bids:

- a) Contract description and bid number*
- b) Names of the successful bidder(s) and preference points claimed*
- c) Contract price(s), if possible and*
- d) contract period"*

Nature

Issue 01 - PTA Region

During the audit of supply chain management, it was noted that the following contracts were awarded through a tender process, however these tenders were not advertised in the eTender Publication Portal as required by National Treasury Instruction No 1 of 2015/16.

Furthermore, we noted that awards were not published on the Government Tender Bulletin and the eTender Publication Portal as required by Treasury regulation 16A6.3 and National Treasury Instruction No 1 of 2015/16.

No	Tender number	Project Description	Supplier Name	Award Contract Value	Payment to date
1	PT18/034	Repairs and maintenance of roof and stabilizing of foundation for salvokop radio tech unit official quarters.	A AND O CIVIL JV PRISO PROJECTS	42 048 851	17 919 036
2	PT18/080	Office accommodation for Independent police investigation directorate (IPID)	Tlou Integrated Tech cc	122 550 710	-
Total					17 919 036

Impact of the finding

Non-compliance with the Preferential Procurement Regulation, 2017

Misstatement of irregular expenditure for the amount paid to date

Issue 02 - DBN Region

During the audit of supply chain management, it was noted that the advertisement and awarding of the tenders as disclosed in Table 1 below were not published on the eTender Publication Portal. Management response stated that construction related projects are not advertised or published on eTender as required by Treasury regulation 16A6.3 and National Treasury Instruction No 1 of 2015/16.

Table 1

No	Tender number	Project Description	Supplier Name	Award Contract Value
1	DBN19/04/05	DBN: Thenga Holdings Pty Ltd: Durban Prison replacement of boiler at Durban Westville	Thenga Holdings Pty Ltd	65 175 221,67

No	Tender number	Project Description	Supplier Name	Award Contract Value
2	DBN18/11/10	DBN: Mashalofu Business Enterprise: Jacobs -Department of Labour :Repairs and renovations to entire complex	Mashalofu Business Enterprise	35 471 056,56
3	DBN19/01/01	DBN: Invested Property Fund: Port Shepstone procurement alternative accommodation and parking	Invested Property Fund	34 796 622,48
4	DBN18/11/05	DBN: Durban Maintenance and Building (Pty) Ltd - Ladysmith SAPS 8 Mill Street	Durban Maintenance and Building (Pty) Ltd	22 999 998,56
5	DBN18/10/01	DBN: Durban Maintenance and Building Pty Ltd: SAPS repairs and renovations	Durban Maintenance and Building (Pty) Ltd	15 700 979,72

Impact of the finding

Non-compliance with the Treasury regulation 16A6.3 (d) and National Treasury Instruction No 1 of 2015/16

Misstatement of irregular expenditure for the amount paid to date

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Reviewing and monitoring of compliance with applicable laws and regulations is insufficient and not properly monitored.

Recommendation

It is recommended that management must develop or enhance compliance procedures to ensure compliance with all prescribed laws and regulations. In addition, such procedures include enhancement of compliance checklists already developed.

The accounting officer should investigate the reasons for the irregular expenditure and confirm if it was deliberate. The expenditure should be included in the irregular expenditure register.

Management response

PTA Region

Management is in agreement with the finding.

Management will assess the extent of the business processes that were breached and take corrective measures against relevant official(s). We will ensure that advert and result of tenders are published.

DBN Region

I am not in agreement with a finding because the department experienced challenges accessing the system and proceeded to use other mediums as this was causing delays and no assistance was received from National Treasury. Amongst the challenges encountered was that of not being able to load the documents on the system continuously shutting down during a process. The region however ensured that the tender was advertised on the Government Tender Bulletin.

Reference is made to National Treasury circular 01 of 2019/2020 issued on 13/08/2019, paragraph 2.2 which emphasizes the importance of using the Tender Bulletin whether the e-tender portal system is available or not, suggesting that e-tender is not an additional SCM process but is an additional tool for maximizing the transparency and to allow easy access to bid documents.

I am not in agreement with the Laws, rules and Regulations quoted in support of the finding insofar as to the contravention of the PFMA section 38 and 40 and Treasury Regulation 16A6.3 as alluded on the findings above which suggest that these transactions will result to irregular expenditure, relatively it can have been viewed and reported as non-compliance to National Treasury Instruction Note 01 of 2015 2016.

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) – I disagree because an open tender process was followed and the process followed complied with all five pillars of Supply Chain Management.

Public Finance Management Act paragraph 38 (1)(c)(ii) states that “*The accounting officer for a, department must take effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct*” – I disagree because the process followed was an open tendering process, 03 out 04 approved .mediums of advertising were used (i-Tender, DPW website and Tender Bulletin) presuming the introduction of e-Tender portal was not to add an SCM process but to allow service providers easy access to bid documents.

Treasury regulation 16A6.3 (d) states that “*awards are published in the Government Tender Bulletin and other media by which the bids were advertised.*” – I disagree because awards were advertised in all three media that used to advertise / invite bids.

Auditor's conclusion

PTA Region

Management comment noted. The finding will remain in the management report

DBN Region

Management's response is noted. However, National Treasury circular no. 1 of 2019/2020 refers to the eTender system experiencing a downtime period between 05 May 2019 to 20 May 2019 and recorded dates post 20 May 2019; where the finding raised refers to tenders that were advertised before that period.

Therefore, the finding remains.

COFF 03 PTA - Limitation of Scope - Procurement and contract management**Requirements**

Public Finance Management Act paragraph 38(1)(a)(i) and 38(1)(a)(iii) states that *“The accounting officer for a trading entity must ensure that the trading entity has and maintains effective, efficient and transparent systems of financial and risk management and internal control; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective...”*

Public Finance Management Act (PFMA) section 40(1)(a) stipulates that: *“the accounting officer for a trading entity must keep full and proper records of the financial affairs of the trading entity in accordance with any prescribed norms and standards....”*

Furthermore, Section 41 states that: *“an accounting officer of a trading entity must submit to the relevant Treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as the relevant Treasury or the Auditor-General may require....”*

Paragraph 15(a) to (c) of the Public Auditing Act states that: *“the Auditor-General has at all reasonable times full unrestricted access to any document, book or written or electronic record or information of the auditee or which reflects or may elucidate the business, financial results, financial position or performance of the auditee; any of the assets of or under the control of the auditee; or any staff member or representative of the auditee....”*

Nature**Issue 1: PT18/080**

During the audit of the supply chain management processes, we noted that the information (contract files) for the unsuccessful bidders for tender: PT18/080: Procurement of office accommodation for Independent police investigation directorate (IPID) were not submitted for audit. The information was requested on the RFI 03 PTA – Competitive bidding. *Refer to table A Table A.*

Table A

No.	Unsuccessful Bidders
1	SKG Africa (Pty) Ltd
2	Tomacap (Pty) Ltd
3	Tribugenix (Pty) Ltd
4	Veniogyn (Pty) Ltd
5	Kilichron Investment

Issue 2: WCS: 044028

During the audit of the contract management, we noted that an authorized amount exceeded the original contract price for project: WCS No: 044028: Construction of a new building Magistrate Court. Through further testing we noted that an increase resulted from the Variation orders and Preliminaries and General items (P&G) however no supporting documents were provided to confirm if the variation orders were authorized by the relevant delegations (VO committee). Furthermore, we

could not obtain the breakdown of the P&Gs in order to determine what they relate too. The Information was requested under RFI 02: Contract management. *Refer to Table B.*

Table B

Authorized amount description	Comment	Amount
VOs amount	No evidence to support this VO amount	13 169 434
Preliminaries and General items (P&G)	No support was provided to explain the amount and the breakdown that the amount relates too.	24 141 858

Impact

Limitation of scope as we were unable to obtain sufficient and appropriate audit evidence to complete the audit and this can also lead in unfavourable audit outcomes.

Non-compliance with the PFMA sections 40(1) a. & Section 41.

Internal control deficiency

Leadership

Management did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

Financial and Performance Management

Management did not implement proper record keeping in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial and performance reporting.

Recommendation

It is recommended that management should ensure that the entity complies with all applicable laws and regulations.

It is recommended that the responsible divisions should provide the auditors with the requested information without further delay.

Furthermore, management should ensure that procedures are put in place to enforce compliance with internal controls regarding submission of information requested by the AGSA within the required timeframe as set out in the engagement letter.

Management response:

Issue 1: PT18/080

Management is in agreement with the finding of limitation of scope. The requested unsuccessful bidders were submitted to Head Office through the Regional Office Supply Chain Management to be served at National Bid Adjudication Committee. The signed register is attached. **Annexure A.**

Issue 2: WCS: 044028

Management is not in agreement with the limitation of scope finding on the authorized amount of

R 13 169 434.82. The supporting documents were submitted to the AGSA together with the project file and other documents as requested on PMTE RFI 02. See attached supporting documents.

Management is in agreement with the limitation of scope on Preliminaries and General items amounting R 24 141 858.00.

Auditor's conclusion

Issue 1: PT18/080

Management comment noted. The finding will be reported as a limitation of scope in the management report since the information have not been submitted to auditors to date.

Issue 2: WCS: 044028

Management comment noted. The finding will remain and reported in the management report due to the following reasons:

The VO obtained and inspected by auditors relates to an amount of R5 256 904.60 which was excluded from the R13 169 434 figure reported below.

No supporting documents were received to validate the VO indicated below as per the WCS report.

Authorized amount description	Comment	Amount
VOs amount	No evidence to support this VO amount	13 169 434

COFF 03 CPT - Partial information not submitted for audit purposes – Procurement and Contract Management Requirements:

Requirements

Public Finance Management Act section 40(1)(a) stipulates that: *“The accounting officer for a department must keep full and proper records of the financial affairs of the department in accordance with any prescribed norms and standards...”*

Furthermore, section 41 states that: *“An accounting officer of a department must submit to the relevant Treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as the relevant Treasury or the Auditor-General may require...”*

The Acquisition and Disposal Management Directive paragraph 276.d states that: *“after confirmation with the National Treasury, that the recommended vendor is not listed as a default vendor, the Adjudicator will make the award according to the recommendation...”*

Nature

During the audit of procurement and contract management – testing of quotations, the requested information as per PMTE CT – RFI 01 was not submitted for audit purposes as detailed in the table below.

No	Service provider	Description of contract	Amount	Information not submitted
1	Do It Better	Plot clearing for saldanha NB once off service	R346 000,00	Approval of award by Adjudicator/delegated official
2	Trident Security Service (Pty) Ltd	Tamboerskloof Erf 81: 24 Hour security	R303 546,00	Approval of award by Adjudicator/delegated official
3	Petrel Group (Pty) Ltd	Servicing and Manufacture nuts for lifting platform driving screws for Antarctica Research base	R494 304,50	Approval of award by Adjudicator/delegated official

Impact

The above may result in scope limitation being reported.

The above may result in non-compliance with section 40(1)(a) and 41 of the PFMA

Internal control deficiency

Financial and Performance Management

Management did not implement proper record keeping in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial and performance reporting.

Management has not implemented effective internal controls over information management to ensure that complete, relevant and accurate information is accessible and available for audit

Recommendation

It is recommended that the responsible divisions should provide the auditors with the requested information without further delay. Furthermore, management should ensure that procedures are put in place to enforce compliance with internal controls regarding submission of information requested by the AGSA within the required timeframe as set out in the engagement letter.

Management response

In terms of Item 1 and 2 in the above table these quotations were invited from Devolution and the quotations were subsequently awarded on Devolution and therefore no approval was required.

In respect of item 3 there was a delay in the filing of documents as the responsible official was performing duties in Antarctica from December 2019 until the end of February 2020. The required approval for this matter is attached.

Auditor's conclusion

Management comments have been noted and the finding is partially resolved for the following reasons:

For items 1 and 2, we acknowledge that the quotations were awarded on devolution, however management did not give us any information that indicates that the devolution was approved by the delegated official. Therefore, the finding remains unresolved.

For item 3, management subsequently submitted the outstanding information and therefore the finding is resolved.

Operating expenditure

COFF 03 CPT ,COFF 08 HO Operating Expenditure – Payments not made within 30 days

Requirements:

Section 38(1)(a)(i) of the stipulates that: *“The accounting officer for a department, trading entity or constitutional institution must maintain –effective, efficient and transparent systems of financial and risk management and internal control...”*

Furthermore, section 38(1)(f) states that: *“The accounting officer for a department, trading entity or constitutional institution must settle all contractual obligations and pay all money owing, including intergovernmental claims within the prescribed or agreed period...”*

Treasury Regulation 8.2.3 stipulates: *“Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from receipt of an invoice, or in a case of civil claims from the date of settlement or court judgement...”*

Instruction note 34 of National Treasury dated 30 November 2011 states that:

“4.1 The accounting officer’s responsibility [in terms of section 38(1)(f)] to settle all contractual obligations and to pay all money owing, including intergovernmental claims, within the prescribed (30 days) or agreed period is hereby re-iterated.

4.2 Within thirty days (30) days from the date of this Instruction Note, all departments are required to have in place systems (processes and procedures) that will enable the tracking of each invoice received from the various service providers.”

4.3 The system referred to in paragraph 4.2 above may either be manual or electronic in nature and such a system must also be able to track progress with the processing of each invoice.”

4.4 At any given time, such a system must be able to provide information related to the date on which an invoice was received, the date on which it was paid and the time period between the date of receipt and the date of payment, if the invoice was indeed paid.

4.6 The information required in paragraph 4.5 above must be submitted to the National Treasury within seven (7) days after the end of the preceding month in the format prescribed in the enclosed Annexure A.”

4.7 The accuracy of information in paragraph 4.5 must be confirmed by signature of the department’s accounting officer prior to its submission to the National Treasury.

4.11 If accounting officers of national and provincial departments delegate the power to confirm the accuracy of information in paragraph 4.5 to their respective department’s chief financial officer or to any other functionary, the accounting officers are not divested of the responsibility concerning the exercising of the delegated power, as provided in section 44(1)(d) of the PFMA...”

Nature**Issue 01 - CPT Region**

The following payments to suppliers relating to operating expenditure were not made within 30 days from date of receipt of invoice as required by the relevant laws and regulations.

No	Supplier	Batch No	Invoice No	Amount (R)	Date invoice was received	Date of payment	No of days lapsed
1.	City of Cape Town	ZAPNV1905S1003658200	SC35110	238 274,27	2019/04/15	2019/05/17	32
2	Witzenberg	ZAPNV1906S1003672015	SC34858	273 267,51	2019/04/15	2019/06/19	65
Total				511 541,78			

Issue 02 – Head office

During the audit of other sundry expenditure, we noted that the following payment was not made within 30 days from receipt of invoice:

No:	Supplier	Batch number/FA number	Date invoice received	Payment date	No. of days	Amount [R]
1	Batsha IT Solutions	ZAPNV1908S1001696174	06 July 2019	12 August 2019	37	R24 897.00

Impact

The above may result in non-compliance with section 38 of the PFMA, TR8.2.3 and NT Instruction Note 34.

Furthermore; payments to suppliers not made within 30 days may lead to interest charged on overdue accounts, thus resulting in the entity incurring fruitless and wasteful expenditure.

Internal control deficiency**Leadership**

Management did not implement effective HR management to ensure that adequate and sufficiently skilled resources are in place and that performance is monitored

Due to shortage of staff noted in the finance section, there has been backlog of invoices from suppliers resulting in the entity not being able to make payments to suppliers within 30 days.

Financial and Performance Management

Management did not review and monitor compliance with applicable laws and regulations.

Management did not have sufficient controls to ensure that all payments were made within the required 30 days of receipt of the invoice,

Recommendation

It is recommended that the department reviews the current controls in place used to ensure and monitor that payments are made within 30 days from date of receipt.

Furthermore, it is also recommended that the department prioritizes the filling of vacant positions in the finance section to assist in smoothening the operations of the department.

Management response

CPT Region

Kindly be advised that the names of the service providers listed in the table above (City of Cape Town & Witzenberg) is incorrect as the payment numbers relate to payments for Stainless Concepts who provides day-to-day maintenance services.

These Invoices could not be processed for payment within the stipulated 30 days due to the payments being closed ± a week before the end of March and the Property Management Information System used for the processing of payments will only open a few days after the beginning of the new financial year which resulted in the delay in these payments. Please refer to delay form on the scanned copies of the payments which reflects this matter.

Head office

Management response not received

Auditor's conclusion

CPT Region

Management comments have been noted and it is correct that the payments are for Stainless Concepts. The auditor stated the place where day to day maintenance services were performed instead of the name of the service provider. However, the finding is not resolved for the following reason and will be followed up at year end:

As per managements response it is evident that management is aware that the Property Management Information system closes at every year end and reopens after a few days into the new financial year. It is then recommended that management should have a process in place to identify and prioritize suppliers that are due for payment and settle them before the system closes to avoid the non-payment within the 30 days' period.

Head office

Management response not received. Therefore, finding remains and will be reported on the management report.

Performance Information

Programme 3: Differences noted between quarterly reports, listing and POE

Requirements:

Section 40(3)(a) of the PFMA states that: *“The annual report and financial statements referred to in subsection 1(d) must Fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objective and its financial position as at the end of the financial year concerned....”*

Paragraph 5.2 of the Framework for Managing Programme Performance Information requires the: *“auditee to have appropriate systems to collect, collate, verify and store performance information to ensure reliable reporting of actual achievements against planned objectives, indicators and targets...”*

Nature

During the audit of predetermined objectives, Programme 3: Construction Project Management, differences were noted between the quarter 1 reported achievement, listing that supports the reported achievement and actual portfolio of evidence for the performance indicators as per the table below.

No	Performance Indicator	Achievement per Q1 report	Achievement per listing	Achievement per POE	Management Comments
1	3.1. Number of approved infrastructure projects designs.	23	27	20	Achievement as per schedule, consolidated report and PoEs submitted to M&E all amount to 27. There are no differences. See Annexure A
2	3.3 Number of infrastructure sites handed over for construction	26	28	26	Achievement as per schedule, consolidated report and PoEs submitted to M&E all amount to 28. There are no differences. See Annexure B
3	3.4 Number of infrastructure projects completed.	26	27	26	Achievement as per schedule, consolidated report and PoEs submitted to M&E all amount to 27. There are no differences. See Annexure C

Impact of the finding

The reported information is not valid and accurate which may result in a possible qualification on the performance indicators and reported achievement.

Internal control deficiency

Financial and performance management

Management did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.

Inadequate review processes by management to ensure that reports and listings that support the reported achievement are accurate

Recommendation

It is recommended that thorough review processes be implemented to ensure that correct information is reported in the quarterly reports.

It is further recommended that management should revise the population where inaccurate reporting was identified.

Management response

Management does not agree with the findings. See a table and comments above.

Annexure E is the consolidated report.

Auditors Conclusion

Management comments and information submitted were reviewed, and the finding is partially resolved for the following reasons:

Issue 1,2 and 3: Subsequent to review of management comments and submitted information, the difference between the listing and POE is resolved. However, differences still remain between the M&E quarter 1 report and evidence submitted to support the quarterly report. Therefore, these differences are not resolved and finding will be followed up at year end.

Presentation and disclosure

COFF 02 HO Non-compliance with GRAP 18: Segment reporting on the Interim financial statement submitted

Requirements

Public Finance Management Act (PFMA) section 40(1) (a) stipulates *that the accounting officer for a department must keep full and proper records of the financial affairs of the department in accordance with any prescribed norms and standards.*

Furthermore, Section 41(1) (b) states *“an accounting officer of a department must prepare financial statements for each financial year in accordance with generally recognized accounting practice”.*

GRAP 1 paragraph 17 states that “financial statements shall present fairly the financial position, financial performance and cash flows of an entity. Fair presentation requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, revenue and expenses. The application of Standards of GRAP with additional disclosures, when necessary, is presumed to result in financial statements that achieve a fair presentation.”

Furthermore, GRAP 1, paragraph 127(c) states, “An entity shall disclose in the summary of significant accounting policies the accounting policies that are relevant to an understanding of the financial statements.”

Directive 5 states that GRAP 18 on Segment Reporting is effective from 1 April 2019 for trading entities.

Nature

During the audit planning, it was noted that the entity didn't perform an assessment and consider the impact of GRAP 18 Segment reporting standard when preparing the interim financial statement as at 30 September 2019. The information required to be disclosed as per GRAP 18 segment reporting, Para 18 – Para 22 were not included on the submitted financial statement.

As per Directive 5, the segment reporting standard was effective as from 1 April 2019 and it should have been considered when preparing Interim financial statement.

No	Applicable GRAP No.	Standard	Effective date
1	GRAP 18	Segment reporting	1 April 2019.

Impact

The interim financial statement submitted are not complete and are not fairly presented as per GRAP 1 Presentation of financial statement.

Internal control deficiency

Financial and performance management

Management did not prepare accurate and complete financial and performance reports that are supported and evidenced by reliable information.

Recommendation

It is recommended that management should:

Identify and assess new GRAP standards that are applicable to PMTE and which have already been effective.

Assess GRAP 18 segment reporting requirements and disclosure all the relevant information to their financial statement as per the standard.

Management response

Management acknowledges the audit finding that PMTE did not perform an assessment and consider the impact of GRAP 18: Segment Reporting standard when preparing the interim financial statements as at 30 September 2019. It should be noted by the audit team that an assessment was conducted and presented to the structures within the Department. The process was not finalised at the time that the interim financial statements were prepared and presented. The process is at an advanced stage and will be concluded when the annual financial statements are prepared and presented for the year ended 31 March 2020.

Auditors Conclusion

Management comment noted. The finding will be reported in the management report. The annual financial statement will be reviewed at year end to assess if it complies with GRAP 18.

ANNEXURE B: OTHER IMPORTANT MATTERS

Internal controls

Financial Misconduct policy not regularly updated

Requirements:

Public Finance Management Act paragraph 38(1)(a)(i) states that: "The accounting officer for a department must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control..."

Nature

During the audit of consequence management, it was noted that the Financial Misconduct Policy (2016) of PMTE has not been regularly updated to be in line with the National Treasury Instruction Notes, in particular Treasury Instruction No.2 of 2019/2020 on Irregular Expenditure Framework (effective 17 May 2019) and Treasury Instruction No.3 of 2019/2020 on Fruitless & Wasteful Expenditure Framework (effective 1 November 2019). The policy was last approved on 24 February 2016.

The paragraph quoted in the below table is an inconsistency that was identified between the policy and the issued framework. This is not the only instance and the department is advised to review the policy to be in line with the Treasury Instruction Notes.

Quoted paragraph per the Financial Misconduct Policy	Quoted paragraph per Irregular Expenditure Framework issued in terms of Treasury Instruction No.2 of 2019/20
Paragraph 10.1 states that "Transactions of financial misconduct that have resulted in fraudulent, corrupt and criminal activities or actions that deprived the state of value for money must be reported to the SA Police Service"	Paragraph 48 states that "If the investigation confirms that the irregular expenditure is related to fraudulent, corrupt or criminal act, the accounting officer or accounting authority must, <u>within 7 days</u> ensure that a criminal charge is laid with the SA Police Services against the responsible employee."

Impact of the finding

The actions taken during the consequence management process may not be in accordance with National Treasury Instructions.

Internal control deficiency

Leadership

Management did not design and implement proper controls to ensure that the entity's policies are updated, reviewed and approved on a regular basis

Recommendation

It is recommended that management should put in place controls to ensure that policies are reviewed regularly in line with issued frameworks. Furthermore, management should update the above

mentioned policy and other outdated policies, review all policies and ensure that they are in line with the relevant legislation.

Management response

The finding must be withdrawn as it was not discussed with management prior to being issued.

Auditors Conclusion

Managements response is noted. Subsequent to issuing the communication of audit finding, a discussion was held with management. We had an expectation that management would indicate whether they agree or disagree with the finding. If they don't agree, they can provide us with supporting evidence.