**DETAILED AUDIT FINDINGS**

1. **Procurement batch – Bid no - HP11/037 First Technology (Pty) Ltd Ex 42**

**Audit Finding**

Laws, rules and Regulations:

1. Public Finance Management Act section 38(1)(c)(ii) states:

*“38(1) The accounting officer for a department, trading entity or constitution institution-*

*(c) must take effective and appropriate steps to-*

*(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct;”*

1. Treasury Regulations 16A3.2 and 16A6.2(b) states:

*“16A3.2 A supply chain management system referred to in paragraph 16A3.1, must-*

1. *be fair, equitable, transparent, competitive and cost effective;*

*16A6.2 A supply chain management system must, in the case of procurement through a bidding process, provide for-*

1. *the establishment, composition and functioning of bid specification, evaluation and adjudication committees;”*
2. SITA General Regulations states the following:
3. Regulation 8.1.7

*“Before the bid is advertised-*

1. *The designation or public body must approve the final bid documentation;”*
2. SITA Act state the following:
3. Section 7(6)(a) and (b)

*“The Agency*

1. *must set standards regarding-*
2. *the interoperability of information systems between departments, subject to the approval of the Minister; and*
3. *a comprehensive information systems security environment for departments, subject to the approval of the Minister and the Minister of Intelligence;*
4. *must certify every acquisition of any information technology goods or services by a department for compliance with those standards;”*

1. National Treasury Practice Note 9 of 2007/2008 paragraph 4.1 states:

*“In order to ensure implementation of the programme, accounting officers and authorities and successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of R10 million (ten million Rands), submit details of such a contract to the DTI for reporting purposes.”*

1. Instruction Note on Enhancing Compliance Monitoring SCM paragraph 3.1.1

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by not later than 31 August 2011”.*

1. SCM Guide paragraph 3.4.2 states:

*“The quality of goods/ services required should, however, not be over-specified to the extent that it will be impossible for others to offer such a product.”*

1. The Department’s SCM policy paragraph 45 states:

*“All specifications must be endorsed by a bid specification committee prior to submission to the bid adjudication committee for approval. A bid specification committee must consist of at least four people, one of which must be an SCM specialist.”*

The following deviations were noted:

a) Compliance deviations pertaining to the SITA contract noted by the auditors at SITA:

1. There was no evidence of approval of the bid document by the Senior Manager: Strategic Sourcing – this is required prior to the bid being published as required by SITA Act Regulations 8.1.7(a) & SITA's Own Procurement Policy (SOPP) 11.2.1.
2. The chairperson of the Bid Evaluation Commitee (BEC) was not a sourcing specialist as required – an employee from the Line of Business (LoB) was appointed instead as required by SITA's Own Procurement Policy (SOPP) 11.2.10(a).
3. There was no evidence of SITA monitoring that the winning supplier obtained a National Industrial Participation Programme certificate issued by the Dept of Trade and Industry where the value of the goods to be imported for the contract exceeded R10million, i.e. SBD 5 form not included in the bid invitation documents provided to bidders as required in terms of National Treasury Practice Note Number 9 of 2007/08 per 4.1 and SITA procedure manual paragraph  4.7.2.
4. SITA did not measure their information technology goods and services against the standards set in terms of sec 7(6)(a) and (b) of interoperability of information systems between departments.

Should additional expenditure be incurred by either SITA or client department as a result of incompatibility, the amounts could result in fruitless and wasteful expenditure.

b) The following deviations pertain to procurement and installations of 2010 Microsoft Enterprise were identified:

|  |  |
| --- | --- |
| **Bid no** | **Amount** |
| HS11/037 | R 25 462 718,76 |

1. The department participated in SITA contract RFB 578. The contact list for the provision

of Microsoft Managing License Contracts lists 10 suppliers who can provide the service.

ii) The department received ten bid responses; the first seven bidders were eliminated on

the initial phase due to failure to meet the minimum tender requirements. Since a

procurement process was already performed by SITA for the suppliers on the supplier list,

it is not clear why the department disqualified seven of the ten suppliers for failing to meet

minimum tender requirements.

iii) Of the three remaining bidders, two were disqualified based on functionality resulting in

the highest bidder being awarded the contract. Please see the table below:

|  |  |  |
| --- | --- | --- |
| **BIDDER** | **FUNCTIONALITY SCORE** | **AMOUNT**  **R** |
| PC WARE | 48 | 24 886 813,07 |
| FIRST TECHNOLOGY | 57 | 25 462 718,76 |
| BYTES | 42 | 21 688 813,07 |
| **MINIMUM SCORE REQUIRED** | **50** | |

1. Since the winning bidder charged the highest price and PC Ware was disqualified by two functionality points we could not determine if the price charged by the winning bidder was in fact economical.
2. Furthermore the tender evaluation committee awarded the bid to the winning bidder without considering the bidders inability to implement and integrate the system. The respective bidder obtained a very low score in this regard and from project start had posed a risk to the successful implementation of the project.

1. Contrary to the requirements listed above the bid specification committee did not consist of at least four people. Only the following three employees certified that the bid specifications, evaluation criteria and preference point scoring system have been analysed and agreed upon:

|  |  |
| --- | --- |
| **MEMBER** | **DESIGNATION** |
| Nthabiseng Mosupye | Chief Director: IS |
| Dintheng Matlala | Project Management |
| Tina Mkhulise | Procurement |

1. The non-signing of the project plan poses a huge risk against the successful implementation of the project as the plan stipulate the specific delivery timeframes and cost for each deliverable.
2. It was found that procurement was not included as part of the procurement plan submitted to Treasury.

c) It was further noted that the amounts listed below were not included in the commitment disclosure note:

|  |  |
| --- | --- |
| **Description of matter** | **R** |
| Microsoft Enterprise Agreement Licensing Pricing - year 2 | 8 026 157,92 |
| Microsoft Enterprise Agreement Licensing Pricing - year 3 | 8 026 157,92 |
| **Total** | **16 052 315,84** |

The finding occurred as a result of the fact that:

1. In the absence of both the Director: Tenders and Deputy Director: Tenders on 16 February 2012. The Assistant Director: Tenders (N Motloung) highlighted the fact that three members out of four members constitute a quorum.
2. Per discussion with Assistant Director: Tenders she indicated that the procurement plan in the auditor’s possession is outdated. It should be noted that this was the plan that was provided for audit purposes.

Impact of the finding:

a) Due to the fact that only three officials formed bid specification committee instead of four this may result in unfair and biased bid process.

b) Bids may be awarded to a service provider who does not have necessary experience and capacity.

c) The department may overspend or incur irregular expenditure as result of unplanned procurement.

d) Commitments were understated with R16 052 315,84.

e) Non-compliance with:

1. SITA Act Regulations 8.1.7(a) & SITA's Own Procurement Policy (SOPP) 11.2.1.
2. Practice Note Number 9 of 2007/08 paragraph 4.1 and SITA procedure manual paragraph  4.7.2.

**Internal control deficiency**

*Financial management*

*The department does not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.*

**Recommendation**

a) When making use of a SITA contract the department should consider the tender processes and procedures followed by SITA before disqualifying suppliers.

b) The requirements used to evaluate supplier based on functionality should not be so specific to disqualify majority of the suppliers. The department should consider the SCM Guide for Accounting officers and Authorities.

c) Where suppliers do not meet the functionality criteria by a small margin the department should consider double checking the points awarded that supplier to ensure consistency with the points awarded to other qualifying suppliers as well as to identify any errors that may have occurred.

d) The department should ensure that bid specification committee consist of at least four members as required by the policy.

e) The department should ensure that all procurements should be included in the procurement plan to ensure proper budgeting.

f) The financial statements need to be corrected to include the commitments. If management agrees with the finding the suggested correction should be included with management’s response

g) Management need to look at all tenders awarded prior to year end to ensure that commitments are completely disclosed.

**Management response**

a)(i) I am not in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: The department is not a liberty to respond on behalf of SITA

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

a)(ii) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: The department is not a liberty to respond on behalf of SITA

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

a)(iii) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: The department is not a liberty to respond on behalf of SITA

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

a)(iv) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: The department is not a liberty to respond on behalf of SITA

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

b)(i) I am NOT in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: SITA Circular 20 Microsoft point 3 of the heading **Process to be followed when procuring through Select Agreement states**: the processes to be followed will be the same process that departments use to handle their purchasing directly from suppliers. SITA will not dictate as each department might have a different process

Point 4 states: Microsoft licenses can only be purchased from approved resellers and not any other suppliers.

On the basis of the two statements, though all the said suppliers were invited to bid so as to have an open process and follow our internal SCM process only 3 responded. The judgement of which supplier will be chosen was based on several criterions that the department wanted to be met through as indicated in the “task directive”. SITA might have had a different process and criterion to meat as compared to DPW hence point number four indicates that SITA will not dictate to processes.

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

b)(ii) The appointed members as per the PA25, were Dintheng Matlala, Nthabiseng Mosupye, Jabulane Mndebele, Tina Mkhulise as per the Department’s policy. Jabulane Mndebele was in absentia on the day of the meeting but the members unanimously agreed to proceed as they did form a quorum in terms of the Department’s policy.

Name: Eulala Kruger

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: Acting CD: SCM

Date:

b)(ii) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: The bidding process is weighted as per treasury prescripts of a 90/10 principle, the most important being (i.e. 90) being on functionality as compared to (10%) which is pricing. The department is not in a position to change such prescripts as they are defined by treasury. Secondly the department (as per the scoring allocation) was satisfied that even when the bidder posed a certain risk, of which all bidders pose some level of risk, the functionality criteria presented met the minimum requirements that the department was looking for. These bidding processes are as per PMFA and SCM prescripts and must not be looked at in the same light as those of goods and services under R500 000 where the only thing looked at for award is pricing and the lowest price always wins.

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

b)(iii) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: Project plans are indicative in terms of timeframes and are in line with deliverables. Project plans are not cast in stone due to the nature of technology as there are hiccups that can occur. Service providers are only paid when the deliverable is signed off an accepted. Time delays can be caused by both parties

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

b)(iv) I am [not] in agreement with the finding for the following reasons [and supply the following/attached information in support of this]: Due to the fact that a decision by EXCO to move the department to Microsoft 2010 was taken during the middle of a financial year, the initial procurement plan to treasury did not include this project. However an updated procurement plan did include the project

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | YES | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | NO |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | All procurement plans to be submitted to Treasury timeously | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | NO |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

c) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Adjustments will be made in the financials. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: Masutu Ramatlotlo

Position: Director IT Projects

Date:28/08/2012

**Auditor’s conclusion**

a) (i) to  (a)(iv) Although management has indicated that they are not in agreement with the finding, they have noted that they cannot respond on behalf of SITA. The matter therefore remains unresolved.

b) (i) Management’s comment is noted. The matter is resolved.

b) (ii) Although management has indicated that they are not agreement with the finding it should be noted that the Department’s SCM policy requires all specifications be endorsed by a bid specification committee and the committee should consist of at least four people. Since only three people signed and endorsed the bid specifications the requirement is not considered to have been met.

The matter therefore remains unresolved.

b) (iii) Management as not indicated whether or not they agree with the finding. The matter therefore remains unresolved.

b) (iv) Management has not indicated whether or not they agree with the finding. Although they have indicated that the purchase was included in the updated procurement plan submitted to Treasury, the updated plan was not provided.

The matter therefore remains unresolved.

1. Management agrees with the finding. Commitments was adjusted with the R16 052 316. Management must ensure that measures are implemented to identify all contracts awarded for which commitments still existed at year end. The contract register must be properly maintained to ensure that it indicates amounts awarded, amounts spend, amounts reflected in accruals and the remaining balance should then be reflected in commitments. The matter remains unresolved.
2. **SCM – Bid no - HS11/020 Senex Interiors (Pty) Lt****d ex 44**

**Audit Finding**

Laws, rules and Regulations:

a) Practice note 8 of 2007/2008 paragraph 3.4.1

*“Accounting officers / authorities should invite competitive bids for all procurement above R 500 000”.*

b) Preferential procurement policy framework act 5 of 2000 section 10(1),(2) and (3) states:

*“10(1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R500 000, the tender invitation must be cancelled.*

*(2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R500 000, the tender must be cancelled.*

*(3) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1) and (2) must re-invite and must, in the tender documents, stipulate the preference point system to be applied. “*

c) SCM guide for accounting officers and authorities paragraph 4.7.5 states:

*“4.7.5.1 In urgent and emergency cases, an institution may dispense with the invitation of bids and may obtain the required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the State.*

*4.7.5.2 Urgent cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. (However, a lack of proper planning should not constitute as an urgent case.)*

*4.7.5.3 Emergency cases are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery.*

*4.7.5.4 The reasons for the urgency/ emergency and for dispensing of competitive bids, should be clearly recorded and approved by the accounting officer/ authority or his/ her delegate.”*

d) Treasury regulation 16A6.4

*“If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority 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 or accounting authority”.*

1. Treasury regulation 16A8.4

*“If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must—*

*(a) disclose that interest; and*

*(b) withdraw from participating in any manner whatsoever in the process relating to that contract.”*

1. Instruction Note on Enhancing Compliance Monitoring SCM paragraph 3.1.1, 3.3.2 and 3.3.3 states:

*“3.1.1 Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by not later than 31 August 2011*

*3.3.2 Accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting bids and to verify the identity numbers of the directors/ trustees/ shareholders of the preferred bidder(s) against the institution’s staff establishment in order to determine whether or not any of the directors/ trustees/ shareholders are in the service of the state or officials employed by the specific institution. Such verification must take place during the bid evaluation process. If a bidder/ director/ trustee/ shareholder declares that he/ she is an employee of the state and furnishes, where applicable, proof that appropriate authority exists for him or her to undertake remunerative work outside his or her employment in the public service, such a bid must be evaluated in accordance with normal procurement processes. If a bidder/ director/ trustee/ shareholder is found to be an official who is in the service of the state and has failed to make such a declaration in the bid documents, the bidder may be disqualified and the matter must be dealt with as financial misconduct and the relevant accounting officer/ authority must take the necessary discipline steps against the official concerned.*

*3.3.3 The revised SBD 4 attached to this instruction note replaces SBD 4 issued in terms of Practice Note Number 7 of 2009/2010 dated 2 October 2009.”*

1. Practice Note 6 of 2007/2008 paragraph 2.3 to 2.5

2.3 *It is, however, recognized that there will be instances when it would be impractical to invite competitive bids. In this regard, Treasury Regulation 16A6.4 provides for such instances where accounting officers or accounting authorities are allowed to dispense with competitive bidding processes to procure goods and services by other means. This provision is intended for cases of emergency where immediate action is necessary or if the goods and services required are produced or available from sole service providers. The reasons for such action must be recorded and approved by the accounting officer or accounting authority.*

2.4 *Despite Treasury Regulation 16A6.4 being intended for cases of emergency or where goods and services are available from sole service providers, it has come to light that institutions are deliberating utilizing this provision to circumvent the required competitive bidding process in order to, among others, enter into contractual commitments or incur expenditure at the end of a financial year with the view to avoiding the surrender of unspent voted funds to the National / Provincial Revenue Funds.*

*2.5 An effective system of supply chain demand management requires an accounting officer or accounting authority to ensure that the resources required to support the strategic and operational commitments of an institution are properly budgeted for and procured at the correct time. Planning for the procurement of such resources must take into account the period required for competitive bidding processes. It must therefore be emphasized that a lack of proper planning does not constitute a reason for dispensing with prescribed bidding processes”.*

1. The department’s SCM policy paragraph’s 59 states:

“Members of the Bid Evaluation and Bid Adjudication Committees must be free of any conflict of interest when assessing the bids. A Declaration of Interest certificate must be signed by all members who participate in these committees:

The following deviations pertaining to procurement of furniture from Senex Interiors were identified:

|  |  |
| --- | --- |
| **Bid no** | **Amount** |
| HS11/020 | R529 266,66 |

a) The department requested for quotations from the following three suppliers. The closing date for the submission of the quotations was 14 June 2011. At the closing date the following three quotations were received:

1. Maphale Motuba Creations for an amount of R671 740,00
2. Sehlahlana Projects for an amount of R733 470,00
3. Legae Labatho for an amount of R861 260,00

Since the all the quotations received is above R500 000,00 the invitation for quotations was cancelled in terms of the Preferential Procurement Policy Framework Act section 10. The department should then have followed the tender procedures.

However, per the internal memo dated 1 July 2011, the department considered the procurement to be urgent and therefore opted to negotiate directly with Senex Interiors and Wetherley’s instead of going out on a competitive bid.

Considering that this was not the first time the department purchased furniture for the prestige houses the department should have reasonably been able to estimate the cost of furniture to be above R500 000,00. The department should have therefore engaged in a competitive bidding process from the start.

According to an internal memo dated 1 July 2011, the department took ownership of the property on 24 May 2011. The winning supplier was appointed on 1 August 2011; resulting in the department utilising 69 days to procure the goods. It was therefore not impossible or impracticable for the department to go out on an open bid; meaning that the procurement cannot be considered as urgent.

As a result, the procurement is not considered to be line with the practice notes and guidance’s issued by National Treasury. Based on the above, the procurement appears to be a result of a lack of proper planning.

b) Although the winning supplier did complete a PA-11 form (Declaration of interest and bidders past SCM practices), it was noted that the form did not take into account all of the requirements of the revised SBD 4 form (Declaration of interest) issued by National Treasury with Instruction Note 32. Instruction Note 32 came into effect on 31 May 2011.

c) It was found that procurement was not included as part of the procurement plan submitted to National Treasury as per Instruction Note 32 which was submitted for audit purposes.

d) The declaration file provided to us by the auditee attached to the minutes did not contain declarations of the Bid Adjudication committee.

The finding occurred as a result of the fact that:

a) Per inspection of the internal memorandum, there was an urgent need to relocate the client to the new house as he was left with no accommodation and currently staying in the hotel.

b) As per discussion with the Assistant Director: Tenders it was highlighted to that the department uses PA-11 in place of both SDB4 and SDB8.

1. The department may overspend or incur irregular expenditure as result of unplanned procurement.
2. Per discussion with Assistant Director: Tenders she indicated that the procurement plan in the auditor’s possession is outdated.

Similar findings were noted in the prior year. Per the SCOPA action plan the department indicated that the following actions will be implemented to address the issue:

a) Improve checklists for the payment of invoices to include confirmation of procurement process.

b) Compliance and inspectorate unit to conduct random checking.

c) Hold managers accountable for non-compliance.

Impact of the finding:

a) Irregular expenditure is understated with R529 266,66 due to the fact that deviations from competitive bidding were approved on the basis of it being an emergency, even though immediate action was not necessary and/or sufficient time was available for bidding process and therefore not complying with Practice Note 8 2007/2008, Practice Note 6 2007/2008 TR 16A6.1, TR16A6.4.

b) Persons in service of the auditee whose close family members, partners or associates may have interest in a supplier participated in or may have failed to withdraw from a process of awarding the contract to that supplier due to the non-compliance with TR 16A8.4 and SCM policy paragraph 59.

c) Due to the fact that competitive bidding process was not followed, the department may have lost a chance to procure goods with the supplier that could have offered the lowest price.

d) Payments being made to favoured suppliers.

e) Increased risk of bribery and fraudulent activities taking place.

**Internal control deficiency**

*Leadership*

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

*Financial management*

The department does not effectively reviews and monitors compliance with applicable laws and regulations

**Recommendation**

a) The department should invite various suppliers for all bids above R500 000 to achieve the most economical procurement, unless the procurement is amounts to misery, risky or dangerous instances.

b) The department should ensure that all winning suppliers declare their interest in order to identify any possible related transactions.

c) The department should also ensure that bidders provide and complete SDB8 to ensure that fraud, abuse of the SCM system or non-performance in previous contracts was declared by the winning supplier.

1. The department should ensure that all procurements should be included in the procurement plan to ensure proper budgeting.

**Management response**

a) I am not in agreement with the finding that it is impossible or impractical for the Department to go out on open bid and that the procurement cannot be considered as urgent

It was impractical or impossible to go out on an open bid taking into account the time frame it takes when following the open bid processes.

Cognisance must be taken of the fact that there was an urgent need to relocate the client to the new house as he was without official accommodation and staying in the hotel. The client requested that the house be ready by the end of June 2011, which resulted in the procurement be regarded as urgent.

It should also be noted that the time was already consumed by the quotation procedure whereby the quotations received on the 14 June 2011 above R500 000,00 therefore it was late to start a tender process and the Department opted to go on negotiated procedure in order to be able to fast track the service. The open procedure would have delaying further tracking of occupation.

Procurement processes through the negotiated procedure is usually shorter than the open tender procedure which is normally accompanied by hassles experienced in dealing with middleman (such as not having enough funds to purchase the required furniture , wrong deliveries by middleman etc.)

The estimated amount was based on the main suppliers prices.

1. I am not in agreement with the finding for the following:

With the issue of circular 32 the department did make the necessary alignments of the PA 11 and circulated then throughout the Department. The official responsible for the tender did not utilize the later version. We have however implemented a checklist which seeks to improve quality assurance of the bid document compilation to guard against such oversight. However the department has complied with the requirement of Practice Note 32. (See attached PA-11)

*Name:* E Kruger

*Position: Act CD:SCM*

*Date: 24 July 2012*

1. I am not in agreement with the finding.

The estimated amount for the purchase of the furniture was below R500 000,00 (refer to the PA 21 enclosed in the contract file) and therefore it was not included in the procurement plan. The procurement plan is for procurement that is estimated above R500 00.

*Name:* E Kruger

*Position: Act CD:SCM*

*Date: 24 July 2012*

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

The PA-18.2 (Declaration of interest was signed by all the members of the Bid adjudicating committee on 22 July 2012 (see attached)

*Name:* E Kruger

*Position: Act CD:SCM*

*Date: 24 July 2012*

**Auditor’s conclusion:**

1. Although management is not in agreement with the finding, the following is noted:
2. Since it is not the first time the department has purchased furniture for prestige accommodation the department should have been able to reasonably estimate the cost of the furniture to be above R500 000.
3. Although the department decided to enter into a negotiated procedure, after receiving quotes above R500 000, it is not clear why the department negotiated with Senex instead of the other suppliers from whom quotes were requested.
4. Although management has indicated that the procurement was estimated to be below R500 000 based on the main suppliers prices, it does not appear as if any of those suppliers were contacted. The amount charged by the winning supplier (R529 266,66) is also above R500 000.

Based on the above the matter remains unresolved.

1. Although management is not in agreement with the finding and have attached a blank PA-11 form evidencing that they have adjusted the form to be in line with instruction note 32, the form signed and submitted by the winning bidder is not the updated form.

The matter therefore remains unresolved.

1. The department procured furniture for the entire house at 249 Delphinus Street, Waterkoof.

The furniture to be procured for the entire house should have been estimated to be more than R500 000,00. The department should have therefore included the procurement of furniture for the entire house in the procurement plan to National Treasury.

The matter therefore remains unresolved.

1. Although management does not agree with the finding and has provided a declaration of interest, the following was noted:
2. The bid documentation initially provided indicated that the following bid adjudication members approved the bid:

* Mr R Samuel
* Mr T Tabane
* Mr L Bici
* Mr O Molotsi

1. The declaration submitted together with management’s response indicated that the following members have declared their interests:

* J Prinsloo
* R Samuel
* F Potgeter
* L Bici
* T Tabane
* K Mphela

Since not all of the members responsible for adjudicating the bid have declared their interest, the matter remains unresolved.

1. **Deviations pertaining to SCM: procurement batch 157696 – Msomipuisano Ex 50**

**Audit Finding**

Laws, rules and Regulations:

a) Practice note 8 of 2007/2008

“3*.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”.*

b) Departments Supply Chain Management Policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers listed on the supplier register.”*

The following deviations pertain to procurement of advertising services from Msomipuisano (batch: 157696) were identified:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **DESCRIPTION** | **AMOUNT (EXCLD VAT)**  **R** |
| Mposimpuisano creativity in action | 10x4 Meter telescopic teardrop banners | 12 800,00 |
| 12x3m x 3m Gazebos including full colour printing with logo’s | 75 900,00 |
| 1 000 Folders with glue pockets printed on Gloss 300 gsm | 7 294,66 |
| 10 x Pull up banners size 8 800 mm x 2 200mm printed in full colour with logo’s | 10 235,00 |
| 10 Size A1 Gold and Brown wood frames with block print and signage | 12 000,00 |
| 2x6 Meter x 3 meter full colour PVC banners with eyelets and ropes | 10 996,30 |
| 150 full colour A1 posters printed on 120 gsm | 15 525,00 |
| **Total** | | **144 750,96** |

Contrary to the legislation listed above it was noted that the department did not obtain three quotations. The following three suppliers were requested to submit quotes:

1. Msomipuisano (Pty) Ltd - not on the prospective supplier
2. Creative Hut – was on the prospective supplier
3. Darkes and Pakwells - not prospective supplier

Only two quotes were received, from Msomipuisano and Creative Hut.

The deviation for not obtaining three quotes was approved by the Chief Director: SCM, on the grounds that the department only received two quotations and the goods were needed urgently for the “Operations Buyisa events” on 15 April 2011.

However, there are at least six suppliers listed on Google (none of whom were invited) who can provide the department with banners and other marketing related services. Please see below:

1. Fontcept graphix (Pretoria, Gasfontien)
2. Ice worx graphics (Pretoria, Montana)
3. Design Symmetry (Johannesburg)
4. Sign a Rama (Johannesburg, Westrand)
5. Full Moon Branding (Centurion, Gauteng)
6. Affordable Signage, Graphics & Printing Solutions (Johannesburg, Gauteng)

It is therefore not impossible or impracticable to obtain at least three quotations.

Furthermore no documentation was provided indicating that the suppliers per the prospective supplier list were unable to provide the department with the goods, resulting in them seeking other suppliers.

The finding occurred as a result of the fact that:

As per internal memorandum dated 12 April 2011, it was indicated that procurement was urgent due to the fact that Minister wanted to host Operation Buyisa.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

Impact of the finding:

1. The department may have loss a chance to procure with a service provider that could have offered a lower price.
2. Irregular expenditure was understated with R144 750,96 as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement in terms of PN 8 of 2007/08 paragraph 3.3
3. Payments being made to favoured suppliers.
4. Increased risk of bribery and fraudulent activities taking place
5. Due to the fact that three quotations were not obtained it could not be determined if the procurement was economical, therefore if the goods or services were obtained at a reasonable price.
6. Non compliance with the department’s SCM policy.

**Internal control deficiency**

*Financial management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) The department should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.

In cases where requests for a quotation are submitted and less than three quotations are received, the department should follow up the reason for non submission with the respective suppliers.

If, after making all reasonable attempts, it is impossible to obtain at least three quotations; the deviation from obtaining three quotations should be approved by the Accounting Officer or a properly delegated or authorised official.

1. In cases, where the goods and services are required urgently, the department should invite as many suppliers as possible (not just three) to ensure that the goods and services will be procured at the most economical price.
2. The database should be updated to ensure that the department has sufficient suppliers to provide the department with the required services.

**Management response**

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

Firstly, we do business with service providers listed on the departmental database, otherwise we request the Bid Committee to allow us to source outside the database in case we do not find relevant suppliers. Therefore to bring the issue of google does not assist as we still need to screen and qualify suppliers according to the set standards in line with the supply chain management frame work for supplier registration.

It is not possible to pay favoured suppliers as the system randomly selects suppliers according to their commodities, particularly with this transaction, the system selected the suppliers.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | The current framework allows us to proceed were it is not possible to obtain three quotation, especially in a urgent situation | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Demand and Acquisition Director | |
| Estimated completion date for corrective action | It is on an on-going basis | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | No |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Director SCM*

*Date: 01/08/2012*

**Auditor’s conclusion**

Although management has indicated that they do business with suppliers on the database practice note 8 states that where no suitable are available on the prospective suppliers list, written price quotations may be obtained from other suppliers.

From the Google search it is evident that there are sufficient suppliers in the market to adhere to SCM requirements. Management must ensure that their database is updated and contain sufficient service providers to ensure that they adhere to SCM regulations.

It is therefore not considered to be impossible or impractical to obtain three quotations. The matter remains unresolved.

1. **Supply chain management deviations - Motseng Investments – Pretoria Region Ex 57**

**Audit Finding**

Laws, rules and legislation:

1. PMFA
2. Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

1. Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

1. Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

1. Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

1. Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

1. Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1. The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

*9.1.2.  When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.*

*9.1.5.* *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

1. Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1. An official of an institution may not spend or commit public moneys except with the approval ( either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

c) Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1.states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.”*

d) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 156942, as indicated in the table below, relates to the procurement of hiring of catering equipment by the service provider for the hosting of the madam management outreach programme event which was hosted on 25 to 26 May 2011:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 156942 | 2 268 745,92 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Khemamo Consortium to render the service. According to the web site of Khemano the company is hundred percent black - owned.

Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 105959, received from Motseng Facilities Management.

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Khemano Consortium to Motseng (including transport costs). | 1 776 900,00 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R1 776 900,00\*12%)* | 213 228,00 |
| Total amount (Excluding VAT) | 1 990 128,00 |
| VAT @ 14% | 278 617,92 |
| **Total amount charged to DPW (including VAT)** | **2 268 745,92** |

1. From the information stated above it is clear that Motseng Facilities Management merely acted as a middleman between Khemamo and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Khemamo.

It was further noted that attached to the batch was documentation from Motseng Facilities Management stating the procurement process for requesting quotations were followed by them. They have invited quotations from three service providers and two responded. The reason why they had chosen Khemano Consortium was on the basis of providing the lowest price. Both service providers were 100% black owned and submitted all the required documentation.

1. Three service providers listed as being invited to submit quotations:

* Khemano Consortium
* Nwamavutani Events
* Setshaba Events

1. Service providers submitted their RFP

* Khemano Consortium
* Nwamavutani Events

(iii) The following timelines were specified in the Motseng Facilities Management procurement documentation.

|  |  |
| --- | --- |
| **Activity** | **Due Dates** |
| Documents issue | 17 May 2011 |
| Deadline for the RFP responses | 19 May 2011 |
| Internal evaluation of responses | 19 May 2011 |

It should further be noted that the service provider was appointed on 20 May 2011.

It is therefore not evident why, if Motseng Facilities Management can get three service providers that provide these services and two to respond, it is necessary for the department to incur the additional cost.

1. Per inspection of the invoice 105959, dated 31 May 2011, and certification that invoice has been received by finance, dated 07 June 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 15 June 2011.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

No other documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

1. The procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.
2. A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

The finding occurred as a result of the fact that:

1. As per discussion with the Assistant Director: Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.
2. As per discussion with Senior Administration Officer: Prestige it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.
3. As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

Impact of the finding:

a) The most economical option to provide services have not been considered and this resulted in spending R243 079,92 (R213 228,00\*114/100) more on outsourcing a function that could have been performed internally.

b) The non compliance with paragraph 6.1 of Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R2 025 666,00 being classified as irregular as an original, valid tax clearance certificate was not provided.

c) Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.

d) None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1 issued by NT.

e) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented. It should be noted that although the procurement was not included in the tender deviation register provided.

|  |  |  |
| --- | --- | --- |
| **Action by management** | **Target date** | **Progress to date** |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

**Internal control deficiency**

Financial and performance management

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

The department did not procure goods and services in accordance with the supply chain management requirements and deviations as defined by supply chain management legislation are not approved and reported to those charged with governance.

**Recommendation**

1. A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.
2. The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.
3. A post-performance assessment of procurement should be performed in order to determine if any expenditure incurred was fruitless and wasteful or irregular and any such expenditure should be investigated by management
4. All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.
5. All planned procurement should be reported to National Treasury in line with Instruction Note 32.
6. The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

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

The Department of Public Works appointed Motseng Facilities Management Contractor. Their contract included management of Prestige Events at a charge of 12 % management fee. The Department does not get involved in their procurement processes and does not know what their Supply Chain Management Policies.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 18 June 2012

1. I am in agreement with the finding for the following reasons :

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken: | Order will be issued before the service is rendered | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population? |  | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | |
| Position of official responsible to take corrective action: |  | |
| Estimated completion date for corrective action: |  | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | |

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 18 June 2012

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

The Spousal Outreach Programmes cannot be part of the procurement plan for security reasons. The requests get sent to the Department by the Presidency upon them receiving the confirmation from the Spousal Office.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 12 June 2012

1. I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken: |  | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population? |  | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | |
| Position of official responsible to take corrective action: |  | |
| Estimated completion date for corrective action: |  | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to managment |  | |

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date 18 June 2012

**Auditor’s conclusion**

1. Management’s comment is acknowledged however the following is noted:

The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

If the department had been adequately capacitated in line with their mandate, they would not have needed to procure these services, but could have rather performed it themselves.

The procurement of goods and services from Motseng, is therefore not considered to be economical, efficient or effective.

The matter remains unresolved.

1. Management is in agreement with the finding, the matter therefore remains unresolved.
2. Although management is not in agreement with the finding, their reasons for not including the expenditure in the procurement plan do not appear to be valid. The department should be able to disclose the above mentioned expenditure to National Treasury.

The matter remains unresolved.

1. Management is in agreement with the finding, the matter remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R2 268 745,92 is therefore considered to be irregular.

1. **SCM - PM-018636 - 155830 Motseng (Ex 58)**

**Audit finding**

Laws, rules and legislation:

PMFA

a) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

b) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

c) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

d) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

e) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

f) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1. The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

“9.1.2. *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to \*the notice of the relevant tender board or procurement authority, whichever is applicable.”*

“9.1.5. *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

g) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1.  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

h) Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1.states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.”*

i) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 155830 as indicated in the table below, relates to the procurement of hiring of catering equipment for the hosting of the Vice President of The Socialist Republic of Vietnam, by the Deputy Minister on 4 May 2011.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 155830 | 897 117,98 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, VIH (Vetical International Holding), to render the service. Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 105528, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Vetical International Holding to Motseng (including transport costs). | 702 630,00 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 702 630,00\*12%)* | 84 315,60 |
| Total amount (Excluding VAT) | 786 945,60 |
| VAT @ 14% | 110 172,38 |
| **Total amount charged to DPW (including VAT)** | **897 117,98** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Vetical International Holding and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the service provider could have been avoided had the service been provided by the department without using a service provider or if the service been procured directly from Vertical International Holding.

b) Per inspection of the invoice 105528, dated 13 May 2011, and certification that invoice has been received by department, dated 13 May 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 25 May 2011.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

c) The above procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.

d) A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that they intended on doing business with from August 2011 going forward, however all the suppliers that they already had business dealings with prior to August 2011 were not included in the procurement plan.

Impact of the finding:

1. The most economical option to provide services have not been considered and this resulted in spending R96 119,78 (R84 315,60\*114/100) more on outsourcing a function that could have been performed internally.
2. The non compliance with paragraph 6.1 of Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R800 998,20 being classified as irregular as an original, valid tax clearance certificate was not provided.

.

1. Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.
2. None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1 issued by NT.

e) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

**Internal control deficiency**

Financial and performance management

a) The department did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.

b) The department did not procure goods and services in accordance with the supply chain management requirements and then did not report it to those charged with governance and disclosed it as irregular expenditure in the financial statements.

c) The department did not review and monitor compliance with applicable laws and regulations.

d) The department did not procure goods and services in accordance with the supply chain management requirements.

**Recommendation**

a) A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services needed to avoid paying unnecessary fees.

c) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental purchase order or via an internal memo.

d) All planned procurement above R500 000,00 should be reported to National Treasury in line with Instruction Note 32.

e) A post-performance assessment of procurement should be performed in order to determine if the utilisaiton of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

f) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

a) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Remove Events Management from Motseng Facilities Management Contract | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Chief Director | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 18 June 2012

b) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | An order need to be issued before the service is rendered. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 18 June 2012

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

The State Visits cannot be part of the procurement plan for security reasons. The requests get sent to the Department by the Presidency upon them receiving the confirmation that there will be an official visit by a certain Head of State.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 18 June 2012

d) I am in agreement with the finding for the following reasons:

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 18 June 2012

**Auditor’s conclusion**

Management’s comment is acknowledged however the following is noted:

a) The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

b) If the department had been adequately capacitated in line with their mandate, they would not have needed to procure these services, but could have rather performed it themselves.

c) The procurement of goods and services from Motseng, is therefore not considered to be economical, efficient or effective.

The matter remains unresolved.

d) Management is in agreement with the finding, the matter therefore remains unresolved.

e) Although management is not in agreement with the finding, their reasons for not including the expenditure in the procurement plan do not appear to be valid. The department should be able to disclose the above mentioned expenditure to National Treasury. It is not required to disclose sensitive matters; just the name of the event and cost will suffice.

The matter remains unresolved.

f) Management is in agreement with the finding, the matter remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R897 117,98 is therefore considered to be irregular.

1. **SCM - Motseng Fascilities Management [Fano – 168108] Ex 59**

Laws, rules and legislation:

PMFA

a) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

b) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

c) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

d) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

f) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

g) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 state that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

h) Treasury Regulations 8.2.1 and 8.2.2 also state that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

i) Practice Note 8 of 2007/ 2008 paragraph 3.2 states:

*“Accounting officers/ authorities may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally.”*

The following deviations were noted in the procurement of heaters. Please see the table below for information on the batch selected for testing:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG FASCILITIES MANAGEMENT | 168108 | 3 355,52 |

1. From the information provided it was noted that Motseng Facilities purchased the heaters from Builders Warehouse, added an additional 12% (handling fee) to cost of the heater (excl. VAT) and sold it to the department. Please see the table below for a break down:

|  |  |
| --- | --- |
| **BREAK- DOWN** | **R** |
| Total cost of the heaters purchased from Builders Warehouse (excld VAT) | 2 628,07 |
| 12% Handling fee charged by Motseng | 313,37 |
| Total amount charged by Motseng (excl. VAT) | 2 943,44 |
| VAT @ 14% | 412,08 |
| **TOTAL amount charged by Motseng (incl. VAT)** | **3 355,52** |

From the above it is evident that Motseng merely acted as a middle man.

1. Although there are at least 308 suppliers on the supplier database who are able to provide the department with electric and electronic components, the department did not request and evaluate three quotations in accordance with Practice Note 8 of 2007/ 2008.
2. A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfolio – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

1. As the Motseng Facilities Management contract is with SIU it could not be determined if;
2. Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.
3. There was also no documentation attached to proof that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (e) did not indicate the original contract amount and an amount for the extension.
4. If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

1. Furthermore, per inspection of the invoice dated, 14 June 2011, and certification that invoice has been received by finance, dated 30 June 2011, we that the goods were received before the order was issued and approved. The order was approved on 8 September 2011.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

The finding occurred as a result of the fact that:

1. As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.
2. As per discussion with Senior Administration Officer: Prestige it was noted that procurement with Motseng is different as the department will place an order with Motseng without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

Impact of the finding:

1. The most economical option to provide goods was not considered resulting in fruitless and wasteful expenditure being understated with R357,24 (R313,37\*114/100).
2. The non compliance with Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R2 998,28 being classified as irregular as the department did not obtain three quotations.
3. Sufficient appropriate audit evidence could not be obtained due to the fact that the contract and other pertinent information was seized by SIU.
4. Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.
5. Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions, listed below, being implemented.

|  |  |  |
| --- | --- | --- |
| **Action by management** | **Target date** | **Progress to date** |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

**Internal control deficiency**

*Leadership*

a) The department did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity.

b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls$

*Financial and Performance Management*

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

1. The department should obtain and evaluate three quotations as required by Practice note 8, to avoid incurring fruitless and wasteful expenditure.
2. A post-performance assessment of procurement should be performed in order to determine if any expenditure incurred was fruitless and wasteful or irregular and any such expenditure should be investigated by management.
3. All purchases needs to be approved prior to receipt of goods and services either by way of a governmental order or via an internal memo.
4. The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

a) I am in agreement with the finding for the following reasons:

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

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

The Department of Public Works appointed Motseng Facilities Management Contractor. Their contract included purchase of furniture and equipments at a charge of 12% management fee. The Department does not get involved in their procurement processes and does not know what their Supply Chain Management Policies are.

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

c) I am in agreement with the finding for the following reasons:

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

d) I am in agreement with the finding for the following reasons:

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

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

An internal memo was not a requirement at the time the service was rendered. Circular 33 of 2011 only came into effect after approval by the Acting DG on the 07 November 2011.

Name: Bassie Kgasoane

Position: Chief Director: Prestige

*Date:* 20 June 2012

**Auditor’s conclusion**

1. Management is in agreement with the finding, the matter therefore remains unresolved.
2. Management’s comment is noted however the following is acknowledged:

The department has the capacity, necessary skills, resources and time available to obtain quotations for heaters.

The procurement of heaters through Motseng, is therefore not considered to be economical, efficient or effective.

The matter remains unresolved.

1. Management is in agreement with the finding the matter therefore remains unresolved.
2. Management is in agreement with the finding the matter therefore remains unresolved.
3. The fact that the department did not generate an order before receipt of the goods represents a control weakness. Although management is not in agreement with the finding no documentation was provided indicating that the control was adhered to.

The matter therefore remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R2 998,28 is therefore considered to be irregular.

1. **MOTSENG INVESTMENTS Ex 60**

**Audit Finding**

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

v) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

d) Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

*“3.1.1 Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.*

*3.9.3 In order to mitigate such practices, accounting officers and authorities are directed that, from the date of this instruction note taking effect, contracts may be expanded or varied by not more than 20% or R20 million (including all applicable taxes) for construction related goods, works and/or services and 15% or R15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lower amount. The relevant treasury may, however, decrease these thresholds for institutions reporting to them.*

*3.9.4 Any deviation in excess of these thresholds will only be allowed subject to the prior written approval of the relevant treasury. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted to the relevant treasury where goods reasons exist. ”*

e) Supply chain circular of NT pertaining, dated 24 April 2012, to the postponement of the implementation of sub-paragraph 3.9.4 of Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

“*3.1 Taking cognisance of paragraph 2.3 above, sub-paragraph 3.9.4, as contained in Instruction Note No. 32 dated 31 May 2011 is also postponed for implementation pending the issuance of a revised Instruction Note.*

*3.3 Institutions are, however, required to forward motivations for all expansions in excess of the threshold to the relevant treasuries and to the Auditor General within 10 (ten) working days after the Accounting Officer or Accounting Authority has granted approval for the deviation.*

*3.4 Such motivations must include, among others, the contract number, the description of the contract, the name of the contractor, the original contract amount, the value and the percentage of the deviation and the reason for the deviation”*

f) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 168478, as indicated in the table below, relates to the procurement of staging equipment for the Women's day celebration held on 9 August 2011.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 168478 | 2 490 717,60 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, EMS (Exlusive Management Services) to render the service. Please note that since the contract and other pertinent information relating to Motseng Investments is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 107346, received from Motseng Facilities Management:

| **BREAK-DOWN** | **R** |
| --- | --- |
| Total amount of the goods and services charged by Exlusive Management Services to Motseng (including transport costs). | 1 950 750,00 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 1 950 750,00\*12%)* | 234 090,00 |
| Total amount (Excluding VAT) | 2 184 840,00 |
| VAT @ 14% | 305 877,60 |
| **Total amount charged to DPW (including VAT)** | **2 490 717,60** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between EMS (Exlusive Management Services) and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

It was further noted that attached to the batch was documentation from Motseng Facilities Management stating the procurement process followed by them. They have invited quotations from nine service providers and four responded. The reason why they had chosen Exclusive Facilities Management was on the bases of rotation and it being the lowest. They did however not attach the other service provider’s quotations.

i) Nine service providers listed as being invited to submit quotations:

* Exclusive management services
* Vertical International holdings
* Tattoo Promotions
* Nwamavutani Events
* El & Tee Events
* Batswala Advertising Media & Communications
* African Jewels
* Wicked-Soundz Production
* Blueraindrops Advertising

ii) The following service providers submitted their RFPs:

* Exclusive management services
* Vertical International holdings
* Nwamavutani Events
* El & Tee Events

It is therefore not evident if Motseng Facilities Management can get nine service providers that provide these services and four to respond, why were it necessary for the department to incur the additional cost.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Exclusive Management Services.

b) It was also noted that there is not an “event” commodity on the supplier database.

c) Per inspection of the invoice 107346, dated 19 August 2011, and certification that invoice has been received by department, dated 22 August 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 05 September 2011, 14 days after the service was received.

It was also noted that no internal memo was attached approving the expense prior to the service being rendered.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

d) It was also noted that the department did not indicate (by means of the blue “received” stamp) the date on which the invoice was received by the finance department.

e) The above procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.

f) A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfolio – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) As the Motseng Facilities Management contract is with SIU it could not be determined if;

i) Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.

ii) There was also no documentation attached to proof that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (e) did not indicate the original contract amount and an amount for the extension.

iii) If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with the assistant director: Financial Accounting (SCM) it was noted that the department used the normal departmental stamp as proof of receipt of the invoice instead of the blue stamp.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

Impact of the finding:

1. The most economical option to provide services have not been considered and this resulted in spending R266 862,20 (R234 090,00\*114/100) more on outsourcing a function that could have been performed internally.

b) The non compliance with Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R2 223 855,40 being classified as irregular as the department did not submit the original, valid tax clearance certificate as required by paragraph 6.1.

c) Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.

d) None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1 issued by NT.

e) Non compliance with supply chain circular of NT dated 24 April 2012.

f) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented. It should be noted that the procurement was not included in the tender deviation register provided.

| **Action by management** | **Target date** | **Progress to date** |
| --- | --- | --- |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## *Financial and performance management*

*a) The department did not effectively review and monitor compliance with applicable laws and regulations*

*b) The department did not procure goods and services in accordance with the supply chain management requirements.*

## Recommendation

a) A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services needed to avoid paying unnecessary fees.

c) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental purchase order or via an internal memo.

d) The department should only use one stamp to indicate the date on which the invoice was received to avoid confusion.

i) All planned procurement above R500 000,00 should be reported to National Treasury in line with Instruction Note 32.

ii) A post-performance assessment of procurement should be performed in order to determine if the utilisation of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

**Management response**

a) I am in agreement with the finding for the following reasons:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken | Remove Events Management from Motseng Facilities Management Contract. | | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** | |
|  | **No** | |
| If yes, what corrections will be made to the population |  | | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | | |
| Position of official responsible to take corrective actions | Chief Director: Prestige | | |
| Estimated completion date for corrective action | 01 August 2012 | | |
| Does management agree with the root cause indicated | **Yes** | | **No** | | |
|  | |  | | |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The Department does not deal with procurement of service providers and does not have a supplier database. This is the responsibility of Motseng Facilities Management and the Department does not get involved in their procurement processes.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

c) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | The order will be issued before the service is rendered. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

e) I in agreement with the finding for the following reasons:

.

| **DESCRIPTION** | **RESPONSE** | |
| --- | --- | --- |
| Corrective action to be taken | The National Events will be included in the Department’s planned procurement of the year. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

f) I am in agreement with the finding for the following reasons:

Name: Bassie Kgasoane

Position: Chief Director: Prestige

Date: 20 June 2012

**Auditor’s conclusion**

1. Management is in agreement with the finding. The matter therefore remains unresolved.
2. Management is not agreement with the finding, the department should however take note of the following:

The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

If the department had been adequately capacitated in line with their mandate, they would not have needed to procure these services, but could have rather performed it themselves.

The procurement of goods and services from Motseng, is therefore not considered to be economical, efficient or effective.

The matter therefore remains unresolved.

1. Management is in agreement with the finding, the matter therefore remains unresolved.
2. Management has not indicated whether or not they are in agreement with the finding. The matter therefore remains unresolved.
3. Management is in agreement with the finding, the matter remains unresolved. Compliance with the action plan will be considered in the 2012/2013 financial year.
4. Management is in agreement with the finding, the matter therefore remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R2 490 717,60 is therefore considered to be irregular.

1. **Supply chain Management deviations – Motseng Investments – Pretoria Region – FANO 168477 Ex 61**

## Audit finding

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

v) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent  and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

d) Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

*“3.1.1 Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.*

*3.9.3 In order to mitigate such practices, accounting officers and authorities are directed that, from the date of this instruction note taking effect, contracts may be expanded or varied by not more than 20% or R20 million (including all applicable taxes) for construction related goods, works and/or services and 15% or R15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lower amount. The relevant treasury may, however, decrease these thresholds for institutions reporting to them.*

*3.9.4 Any deviation in excess of these thresholds will only be allowed subject to the prior written approval of the relevant treasury. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted to the relevant treasury where goods reasons exist. ”*

e) Supply chain circular of NT pertaining, dated 24 April 2012, to the postponement of the implementation of sub-paragraph 3.9.4 of Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

“*3.1 Taking cognisance of paragraph 2.3 above, sub-paragraph 3.9.4, as contained in Instruction Note No. 32 dated 31 May 2011 is also postponed for implementation pending the issuance of a revised Instruction Note.*

*3.3 Institutions are, however, required to forward motivations for all expansions in excess of the threshold to the relevant treasuries and to the Auditor General within 10 (ten) working days after the Accounting Officer or Accounting Authority has granted approval for the deviation.*

*3.4 Such motivations must include, among others, the contract number, the description of the contract, the name of the contractor, the original contract amount, the value and the percentage of the deviation and the reason for the deviation”*

f) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 168477, as indicated in the table below, relates to the procurement of hiring of equipment for Tanzania state visit on 17 July 2011.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 168477 | 1 200 856,57 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Tattoo Promotions CC to render the service. Please note that since the contract and other pertinent information relating to Motseng Investments is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice106949, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Tattoo Promotions CC to Motseng (including transport costs). | 940 520,50 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 940 520,50\*12%)* | 112 862,46 |
| Total amount (Excluding VAT) | 1 053 382,96 |
| VAT @ 14% | 147 473,61 |
| **Total amount charged to DPW (including VAT)** | **1 200 856,57** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Tattoo Promotions CC and the Department of Public Works.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Tattoo Promotions CC.

b) The 12% profit made by the service provider could have been avoided had the department performed the procurement process themselves in line with the supply chain management practices notes issued by National Treasury.

c) Per inspection of the invoice 106949, dated 29 July 2011, and certification that invoice has been received by department, dated 05 August 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 06 September 2011.

d) It was also noted that no internal memo was attached approving the expense prior to the service being rendered.

e) No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

f) It was also noted that the department did not indicate (by means of the blue “received” stamp) the date on which the invoice was received by the finance department.

g) The above procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.

h) PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

*“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract*

*(Motseng Facilities Management) Request for Extention)”*

The committee members approving the extension was:

MS C Motsisi – the previous Chief Financial Officer

Mr T Tabane – the Chief Director SCM

Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

*“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”*

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

As the Motseng Facilities Management contract is with SIU it could not be determined if;

Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.

There was also no documentation attached to proof that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (e) did not indicate the original contract amount and an amount for the extension.

If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

g) There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

Impact of the findings:

1. The most economical option to provide services have not been considered and this resulted in spending R218 663,20 (R112 862,46\*114/100) more on outsourcing a function that could have been performed internally.
2. The non compliance with Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R1 072 193,37 being classified as irregular as the department did not submit the original, valid tax clearance certificate as required by paragraph 6.1.
3. Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.
4. None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM issued by NT.

e) Non compliance with supply chain circular of NT dated 24 April 2012.

f) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

h) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented. It should be noted that the procurement was not included in the tender deviation register provided.

| **Action by management** | **Target date** | **Progress to date** |
| --- | --- | --- |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## *Financial and performance management*

*a) The department did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.*

*b) The department did not procure goods and services in accordance with the supply chain management requirements and then did not report it to those charged with governance and disclosed it as irregular expenditure in the financial statements.*

*c) The department did not review and monitor compliance with applicable laws and regulations.*

*d) The department did not procure goods and services in accordance with the supply chain management requirements.*

## Recommendation

a) A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.

c) A post-performance assessment of procurement should be performed in order to determine if the utilisation of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

d) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

f) All planned procurement above R500 000,00 should be reported to National Treasury in line with Instruction Note 32.

g) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

a) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Remove Events Management from Motseng Facilities Management Contract. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Chief Director: Prestige | |
| Estimated completion date for corrective action | 20 June 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

b) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | An order need to be issued before the service is rendered. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 20 June 2012 | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The State Visits cannot be part of the procurement plan for security reasons. The requests get sent to the Department by the Presidency upon them receiving the confirmation that there will be an official visit by a certain Head of State.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

d) I am in agreement with the finding for the following reasons :

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

e) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The original Tax Clearance Certificate was attached with the submission to the Special Bid Committee requesting approval for the extension.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

**Auditor’s conclusion**

1. Management is in agreement with the finding. The matter is therefore unresolved.
2. Management is in agreement with the finding. The matter is therefore unresolved.
3. Management has not indicated whether or not they are in agreement with the finding. The matter therefore remains unresolved.
4. Although management is not in agreement with the finding, their reasons for not including the expenditure in the procurement plan do not appear to be valid. The department should be able to disclose the above mentioned expenditure to National Treasury. It is not required to disclose sensitive matters; just the name of the event and cost will suffice.

The matter remains unresolved.

1. Management is in agreement with the finding the matter therefore remains unresolved.
2. Management is in agreement with the finding the matter therefore remains unresolved.
3. Management’s comment is noted. The original tax clearance certificate for the extensions was not obtained. The matter remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R1 200 568,57 is therefore considered to be irregular.

1. **MTKR Marketing and Communication – OR-052928, PM-133334** **Ex 74**

**Audit finding**

Laws, rules and Regulations:

1. Practice Note 8 paragraph 3.2 states the following pertaining to transactions with a value of R2 000 but not exceeding R10 000(VAT included):

*“Accounting officers / authorities may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally”*

1. Treasury regulations 16A6.1 states:

*“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.”*

c) Supply Chain Management Circular No.1 of 2008/2009 of the department requires that: requires the following in paragraph 3.2:

*“Written Price Quotation: Above the Transaction Value of R500 but not exceeding R10 000 (VAT included)*

*Head Office*

*3.2.1 Minimum of three (3) to the maximum of five (5) written quotations should be solicited from the Supplier Register.*

*3.2.1 Should follow the quotation processes as per the approved SCM Policy.*

*3.2.3 Should be evaluated on price only.*

*Regional offices*

*3.2.5 Minimum of three (3) to the maximum of five (5) written quotations should be solicited from the Supplier Database*

*3.2.6 Quotations should be evaluated on price only and no points will be awarded for preference.”*

The department procured the following goods:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **FANO** | **DESCRIPTION** | **AMOUNT** |
| MTKR Marketing and Communication | 182728 | PA system | 5 700,00 |
| **TOTAL** |  |  | **5 700,00** |

Per the internal memo (request for approval to award quotation to a single vendor MTKR Marketing and Communications and where quotations were sourced manually), the following suppliers were invited to submit quotations via email:

1. Bee Fire Systems
2. Morwaswi Communications
3. Shellard Madia Audio Visual Project
4. Nyungubyisa Communciations
5. Tlhoge Trading and Projects

However, none of the suppliers listed above were responsive on the closing date. The department then proceeded to call suppliers on the supplier register, of whom only one supplier was responsive and was able to provide the department with goods (MTKR Marketing and Communications).

The following issues were noted:

Although the department did send a request for quotations to the five suppliers listed above there is no evidence that the department attempted to contact the suppliers after sending the email to confirm that the request was in fact received.

Furthermore despite the fact that the supplier database includes the supplier’s telephone and fax numbers the department noted that the email sent to Tlhoge Trading and Projects was not deliverable resulting in the supplier being non-responsive.

It is therefore unclear why the department attempted to call other suppliers listed on the supplier register and not the initial suppliers to whom the request for quotations were sent.

It was noted from the internal memo approving the deviation that the urgent request was received on 13 December 2011 and that the office of the acting DG needed this service by 14 December 2011.

Based on the above the reasons for the deviation from obtaining three quotations do not appear to be reasonable.

The finding occurred as a result of the fact that:

Per the internal memo it was noted that on the closing time none of the suppliers to whom quotations were sent responded. The following was also stated:

*“Based on the urgency of the service required, quotation unit has to phone suppliers on the supplier database. The only supplier who was responsive was MTKR Communications, therefore a written quotation was received.”*

Impact of the finding:

1. Awards being made to favoured suppliers.

b) Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement as required by Practice Note 8 of 2007/8 and Treasury regulations.

1. Non compliance with Supply Chain Management Circular No.1 of 2008/2009.

**Internal control deficiency**

## *Leadership*

*The department does not effectively and timeously establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes and responsibilities.*

## *Financial and performance management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) The department should follow up on all requests for quotations sent to suppliers to ensure that the supplier did in fact receive the request and is able to respond.

b) The deviation from obtaining three quotations should only be approved in valid cases where it was impossible or impracticable to obtain three quotations and not where the department failed to follow up on the requests.

c) Where the suppliers on the supplier register is unable to provide the department with quotations, the department should consider obtaining quotations from suppliers not listed on the database.

d) Where suppliers are consistently non-responsive because the supplier cannot provide the necessary goods/ services or the supplier’s contact details are not valid, the department should consider either updating the supplier register to reflect only the goods and services the supplier can provide or remove the supplier from the supplier register.

e) Proper planning should be performed to ensure that the procurement section have sufficient time to properly perform their tasks to comply with SCM requirements.

**Management response**

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

According to the practice note no 8 of 2007/2008 3.3, entities may invite three verbal quotations and place an order against a written quotation.

From the records of the transactions, the department send a formal request to five (5) service providers and none of them responded on the closing date.

Then the department phone other service providers and MTKR was able to respond. Please attachment document for reference.

MTKR is a registered supplier in the departmental database

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Dir: DAM*

*Date:25 July 2012*

**Auditor’s conclusion**

Although management is not in agreement with the finding no documentation was provided indicating that the department received three verbal quotations and that the initial suppliers from whom quotations were requested did in fact receive the request.

The department should have planned the procurement to allow them sufficient time to source three quotations.

The matter therefore remains unresolved.

1. **Procurement batch 131271 – Kgobo-Kgobo Ex 79**

**Audit Finding**

Laws, rules and Regulations:

a) Treasury Regulations 16A6.1 states:

*“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.”*

b) Practice note 8 of 2007/2008 paragraph 3.3.1

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*3.3.3 If it is not possible to obtain at least (3) written price quotations, the reasons should be recorded and approved by the accounting officer/ authority or his/ her delegate.”*

c) Departments Supply Chain Management Policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers listed on the supplier register.”*

The following deviations pertaining to items purchased from Kgobo- Kgobo Security Businesses (OR-051756, PM-131271) were noted:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **QUANTITY** | **AMOUNT**  **R** |
| 420L Fridge with water dispenser | 1 | 7 000,00 |
| LCD 42 Inch flat screen with radio facilities tv | 1 | 7 999,00 |
| **TOTAL** | | 1. **999,00** |

a) Contrary to the legislation listed above it was noted that the department did not obtain three quotations as per Practice Note 8.

The following five suppliers were requested to submit quotations:

1. Imvula Quality Protection - on the prospective supplier list
2. Mmoledi Projects - not on the prospective supplier list
3. Oarona Stationers - not on the prospective supplier list
4. Kgobo-Kgobo Security and Business Projects - on the prospective supplier list
5. Nonosetse Trading Enterprise - on the prospective supplier list

Only Kgobo-Kgobo Security Businesses and Mmoledi Projects submitted quotations. The

deviation was approved by the Chief Director: SCM, per the internal memo – reference number

- 197A0083. The reason for the deviation is as follows:

*“The Inner City Regeneration and Projects Management Unit: DDG’s office is urgently looking*

*for this assets as they do not have them and would like quotations unit to treat this request as*

*urgent as possible.”*

Considering the nature of the goods being purchased, the reason for the deviation does not

appear to be valid as it was not impossible or impracticable to obtain at least three quotations.

There are at least 388 suppliers on the supplier register who can provide kitchen and food

appliances and at least 308 suppliers who can provide electric and electronic equipment. It is

therefore not evident why the department invited suppliers who are not listed on the supplier

register provided. Moreover, since the pro-quote system cannot nominate suppliers that are not

listed on the supplier register it is not clear where the department could have obtained the

supplier’s information from.

In addition, no documentation was provided indicating that the deviation from inviting suppliers

on the supplier register was approved.

1. It is also not evident why quotations were sourced from the following two service providers considering the items procured were a fridge and a television.
2. Oarona Stationers
3. Kgobo - Kgobo Security Businesses

The finding occurred as a result of the fact that:

The internal memorandum approved by Chief Director: Supply Chain Management indicated that five suppliers were invited, however only two suppliers provided the department with quotations.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

Impact of the finding:

1. Irregular expenditure being understated with R14 999,00 as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement in terms of PN 8 of 2007/08 paragraph 3.3
2. The department may have loss a chance to procure with a service provider that could have offered a lower price.
3. Risk of payments being awarded to favoured suppliers.
4. Increased risk of bribery and fraudulent activities.
5. Due to the fact that three quotations were not obtained it could not be determined if the procurement was economical, therefore if the goods or services were obtained at a reasonable price.
6. Non compliance with the department’s SCM policy.

**Internal control deficiency**

*Financial management*

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

1. The department should accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.
2. If the suppliers per the supplier register are unable to provide the department with the necessary goods and services then the department should consider sourcing quotations from other suppliers. The deviation from inviting suppliers on the supplier register should be approved by a delegated official.
3. The deviation from obtaining at least three quotations should only be approved in valid urgent and emergency cases, i.e. where it is impossible or impracticable to obtain at least three quotations or where it will result in a dangerous or risky situation.

**Management response**

1. I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

The request for quotation was send to five service providers and only two were able to respond. There are many factors that can result in none response and at this stage they are unknown to the department. With all legislative changes and none payment by government institutions small supplier are limited in terms of trade and opportunities.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To plan suppliers information session to enlighten them about business | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Demand and Acquisition | |
| Estimated completion date for corrective action | By 30th December 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | No |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

During supplier registration, suppliers are required to choose commodity they can supply therefore when a request comes through, the system will select suppliers according to their commodity categories.

Quotation Unit has to render service within a specific turnaround time hence deviations are there to be utilized in case the department is unable to receive three quotations. The Director and Chief Director SCM are delegated to approve such deviations.

*Name:* Eulala Kruger

*Position:* Acting Chief Director

*Date:* 6 August 2012

**Auditor’s conclusion**

1. Management agrees with the finding. This expenditure, amounting to R14 999,00 should have been disclosed as irregular expenditure as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement in terms of PN 8 of 2007/08 paragraph 3.3.
2. It is confirmed on the supplier list for commodities that these suppliers also supply furniture. The matter is therefore resolved.
3. **Procurement batch 178239 – CHM Vuwani Ex 83**

**Audit finding**

Laws, rules and Regulations:

a) Practice note 8 of 2007/2008, paragraph 6.1

*“The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included)”.*

b) SITA Act General Regulations

i) Regulation 8.1.1

*“The designated department or public body must -*

1. *Determine the need to procure information technology goods or services and;*
2. *Compile a business case and the user requirements specifications for the need.”*

ii) Regulation 8.1.3

*“For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representative -*

1. *to make proposals regarding the business case and user requirement specifications and approve such case and specifications*
2. *To authorise the accounting authority of the designated department to award the bid on their behalf”*

iii) Regulation 8.1.5

*“For purpose of advertising, the agency must compile the bid documentation consisting of –*

1. *The evaluation criteria for the bid in accordance with the Preferential Procurement Policy Framework Act, including but not limited to, specific goals for-*
2. *Black economic empowerment, and*
3. *Procuring from suppliers situated in the specific province where goods or services are required”*
4. *Tax clearance certificate requirements;*
5. *If the value of the envisaged contract exceed R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and industry;*
6. *In respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.”*

(iv) Regulation 8.1.7(a)

*“Before the bid is advertised –*

1. *the designated department or public body must approve the final bid documentation; and*
2. *the Agency must compile a value proposal on the cost for the designated department or public body in respect of advertising and evaluation of the bid”*

v) Regulation 8.2.1

*“Within 10 working days after receipts of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval -*

1. *A procurement schedule for the execution of the request for a bid;*
2. *A detailed costing for the subsequent contract management, if required.”*

vi) Regulation 13.1.

*“The agency must, in consultation with the designated department, establish the following committees to deal with the evaluation fo bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body:*

1. *A Bid Evaluation Committee to;*
2. *evaluate bids; and*
3. *make a recommendation for award to the Recommendation Committee, including the identification of all the risks associated with the recommendation and the rating of all the risks (herein referred to as “the risk report of the BEC”); and*
4. *a Recommendation Committee to-*
5. *verify compliance of the procurement process with all applicable legislation and generally the integrity of that process;*
6. *if the process is verified as not compliant or its integrity was compromised, refer the recommendations back to the Bid Evaluation Committee with its reasons;*
7. *Identify any risks additional (if any) to those identified in the risk report of the BEC and provide its own rating for all the risks (herein referred to as the risk report of the RC); and*
8. *If the process has been verified as compliant and for its integrity, submit the recommendations of the Bid Evaluation Committee and the risk reports of the BEC and RC to the relevant accounting authority of the designated department of public body”*

vii) Regulation 13.3 (a) – Chair person of the TEC (BEC)

*“The BID Evaluation Committee is mandatory services and transversal term contract must consist of at least the following:*

*b) An employee designated by the Agency as the chairperson”*

c) Practice note 5 of 2009/10 pertaining to the procurement through SITA and the accountability of accounting officers states in paragraph 4.2.1

*“The following represents the two types of transversal term contracts that are available for ICT related procurement, namely:*

1. *transversal framing contracts where the ICT related goods and/or services may be procured by means of quotations from pre-identified potential suppliers whose products meet the standard certification; and*
2. *transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices.”*

The following deviations pertaining to the SITA contract was noted:

The following deviations pertaining to the SITA contract (285-1) was reported at SITA

| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| --- | --- | --- | --- |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

The following deviation pertaining to procurement of a printer in terms of SITA contract 285/1 was identified. Please see the table below for information on the payment batch selected for testing:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| CHM VUWANI | PN178239 - OR052768 | 88 090,70 |

The following suppliers were invited from SITA list of suppliers and quoted the following amounts:

1. CHM Vuwani R88 090,70
2. Ibhubesi Information Technology R88 090,70
3. Vukani Technologies R88 090,70

Although it is acknowledged that in terms of paragraph 4.2.1(b) there may be transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices, it could not be confirmed whether prices for the goods procured were in line with the pricelist of the SITA 285/1 contract as we could not obtain access to the pricelist and the department did not make a printout and attach it to the payment batch. It could therefore not be established whether the price for the procurement of the printer is fixed or whether, if indeed the price is fixed, the correct (agreed upon) price has been charged by the supplier.

The finding occurred as a result of the fact that:

The director of IT support indicated that suppliers to be used for the month are chosen. At the beginning of every week quotations are selected for utilisation. The prices will not change within a week and prices for the 285-1 contract are predefined and therefore only change per quarter.

Impact of the finding:

1. Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R88 090,70 could not be confirmed.
2. Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the price charged could not be confirmed for the procurement of capital machinery and equipment amounting to R88 090,70.
3. Risk of payments being awarded to favoured suppliers.
4. Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

## Leadership

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

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

1. The department must attached a printout of the SITA price list to enable the reviewers of the payment batches also to confirm that the prices charged were in line with the amounts per the SITA contract and if the correct amounts were charged.
2. If fixed prices were not set in terms of the SITA 285/1 contract and the department had to obtain quotations, then the possibility of bid rigging needs to be investigated as all three the suppliers quoted exactly the same amounts.

In cases where fixed prices are charged the department must have a system in place to ensure that there is fair rotation of awards being made.

**Management response**

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Letter has been written to SITA to furnish the AG with the requested information in relation to contract 285. Going forward the department will attach pricing list from SITA website on all contract 285 procurements | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Procurement processes do not indicate that a contract price list must be attached, only quotations are attached | |

*Name:* Dintheng Matlala

*Position: Deputy Director*

*Date: 03/08/2012*

**Auditor’s conclusion**

Management agrees with the finding. The matter remains unresolved.

1. **Deviations from supply chain management requirements – Emisolve (PTY) LTD – head office Ex 88**

**Audit Finding**

Laws, rules and legislation:

1. PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)*  *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct*;”

1. Treasury Regulations states:

*" 8.2.1. An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation.*

*16A6.1 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.*

*16A9.1(d) The accounting officer or accounting authority must reject any bid from a supplier who fails to provide written proof from the South African Revenue Services that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;”*

1. Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3 and 6.1 state:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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*

*6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).”*

d) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001, (PPR) requires that:

*“16 No contract may be awarded to a person who has failed to submit an orginal Tax Clearance Certificate from the South African Revenue Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.”*

The following deviations relating to the procurement of stationery from Emisolve (PTY) Ltd has been noted. Please see the table below for information on the payment selected for testing:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUPPLIER** | **BATCH NUMBER** | **DESCRIPTION OF ITEMS** | **QUANTITY** | **R** |
| Emisolve | 175291 | Office Stationery | Bulk | 190 019,75 |
| **Grand Total** | | | | **190 019,75** |

The following items were also included in this procurement:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST**  **[INCLUDING VAT]** | **TOTAL** |
| **R** | **R** |
| Samsung Fax Machine Cartridge SXC – 4521F | 4 | 2 200,77 | 8 803,08 |
| Nashua Aficia (Sp 1100sf) | 8 | 3 058,76 | 24 470,10 |
| Shredder | 3 | 5 386,50 | 16 159,50 |
| Binding machine | 2 | 5 501,92 | 11 003,85 |
| Television Sets (Top of the range LED) | 4 | 11 157,75 | 44 631,00 |

Contrary to the legislation listed above, the department did not obtain and evaluate three written quotations as required by Practice Note 8; only one quote was obtained from Emisolve (Pty) Ltd.

The matters listed below were noted on an internal memo from the Acting Head of Office of the deputy Minister, Ms Lithakazi Ngcukuva, signed on 28 September 2011, to the CD:SCM Mr. Trevor Trevor Tabbane the CD:SCM and the chairperson of the bid committee. It should be noted that the memo to approve the deviation, was not signed by the CD:SCM.

The subject and purpose of the memo:

*(i)“To request the Chairperson of the Bid Committee to ratify the decision to procure goods for the Office of the Deputy Minster urgently”*

(ii) Discussion

*“The Office had procured goods through the normal route, these were still not procured after six months, thus some of the required office supplies had become urgent to enable the office to function.*

*The request to ratify the decision to procure goods on an urgent basis was informed by the lack of delivery through the normal means.”*

(iii) Recommendation

*“It is recommended that the Chairperson of the Bid committee ratify the decision to procure goods through special bid process.”*

Although the internal memo indicated that the department attempted to procure the goods via the ‘normal route’, but was however unsuccessful for six months, no evidence was provided indicating that the department initially intended to follow procurement procedures, such as request for quotations etc.

The PA12 – Approval by the National Bid Adjudication Committee, NBAC was approved on 11 October 2011 by the following members:

* Mr Thabo Tladi – Acting CD:SCM
* Mr. Paula Mohlala – D:KAM
* Ms. Diana Groenewald – D: Finance management
* Mr. Trevor Tabane – in which capacity was not indicated

However, there are at least 1191 suppliers listed on the prospective supplier list that are able to provide the department stationery, it was therefore not impossible or impracticable to obtain three quotations. The reason for the deviation therefore does not appear to be reasonable and justifiable.

Although the deviation was approved by the NBAC, dated 11 October 2011, the department did not include the deviation in the deviation register.

As per inspection of the procurement batch it was noted that the winning supplier did not submit the tax clearance certificate from SARS.

Per inspection of the invoice number DPW003, dated 27 October 2011, and certification that invoice has been received, dated 27 October 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 08 November 2011. No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

The finding occurred as a result of the fact that:

a) As per discussion with DD: Provisioning and logistics it was noted that the office of the ministry where in need of the stationery and they followed the normal route, by obtaining three quote however the process took longer than expected and as a result they goods where not procured.

b) As per discussion with D:SCM it was noted that the procurement did not go through the proper supply chain process due to being urgent, therefore no report was submitted to supply chain for the deviation and the reasons thereof.

c) As per discussion with DD: Provisioning and logistics it was noted that the department entered into an urgent procurement therefore the department did not see the necessity to obtain the tax clearance as they have already deviated from SCM.

d) As per discussion with DD: Provisioning and logistics it was noted that the reasons for the order to be approved later than the invoice was received was due to the fact that the procurement was of urgency and sitting with the office of the minister.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011.

Impact of the finding:

a) Irregular expenditure being understated with R190 091, 76 due to:

1. Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement.The Treasury Regulations 16A6.1 and PN 8 of 2007/2008,
2. Awards were made to suppliers who did not have tax clearance from SARS that their tax matter are in order and who have not made arrangements with SARS to meet their tax obligations as required by PN 8 of 2007/08 paragraph 6, PPR 16 and TR16A9.1(d)

b) Risk of payments being awarded to favoured suppliers.

1. Since the department did not obtain and evaluate three quotations, the goods may not have been obtained at a reasonable price

d)  Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

*Leadership*

*The department does not effectively and timeously establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes and responsibilities.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

1. Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process. Justifiable evidence must exist to indicate that it was impossible or impracticable to obtain at least three quotations.
2. An original tax certificate should be obtained for all service providers. Where the department is already in possession of an original tax clearance certificate, the batch should be referenced to the certificate.
3. All purchases need to be created and approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

d) Adequate review and monitoring of adherence to laws and regulations needs to be implemented and actions need to be taken against officials that do not adhere to the prescribed laws, rules and regulations.

**Management response**

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

The normal procurement processes were not followed and a ratification memo clearly outlined why the goods were not sourced according to the SCM framework.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| Yes |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director Demand and Acquisition and Finance | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| Yes |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position:* Director Director - Demand & Acquisition

*Date: 6 August 2012*

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

Officials in the department need to understand the legislation governing Supply Chain management and the financial impact thereof.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Training official | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| Yes |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position:* Director Director - Demand & Acquisition

*Date: 6 August 2012*

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

Finance department does not process payment without a Valid Tax Clearance and validated banking details through NT system.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position:* Director Director - Demand & Acquisition

*Date: 6 August 2012*

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

The service was rendered before an official order. The ratification memo was done and approved by the delegated committee.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position:* Director Director - Demand & Acquisition

*Date: 6 August 2012*

**Auditor’s conclusion**

a) Management agrees with the finding. The matter therefore remains unresolved.

b) Although management’s response did not specifically indicate if they agree with the finding,the comment is perceived as being in agreement with the finding. The matter therefore remains unresolved. The matter therefore remains unresolved and contributed to the expenditure being classified as irregular as it was not impossible or impractical to obtain three written quotations.

c) Although management indicated that “Finance department does not process payment without a Valid Tax Clearance and validated banking details through NT system” the tax clearance certificate was not provided. The matter therefore remains unresolved and contributed to the expenditure being classified as irregular.

d) Management agrees with the finding. The matter therefore remains unresolved.

1. **Deviation from supply chain management – SITA OR 051775 – HO Ex 89**

**Audit finding**

Laws, rules and legislation:

a) Public Finance Management Act section 40(1)(a) states:

*“40(1)The accounting officer for a department, trading entity or constitutional institution-*

*a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

The following issues were identified during the audit of the procurement batches below:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| SITA | 152032 | 595 179,06 |
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|  |  |  |
| SITA | 161129 | 595 608,89 |
| SITA | 169182 | 598 463,72 |
| **TOTAL** |  | **1 789 251,67** |

As per inspection of the procurement batch, it was noted that the department has entered into an agreement with SITA to provide Wide Area Network Services. The agreement was entered on 30 August 2005 and was authorised by DP Matlala (C\o CD: Information Services). The agreement stated that the following:

*“The GCCN and internet tariffs as indicated in Annex C and reference below are based on the approved National Treasury for the 2011/2010 rates for the 2004/05 financial year which are normally reviewed and adjusted on the 1 April of each year.”*

However, annexure C, as specified by the SLA (referred to above), was not attached to the procurement batch. We therefore could not confirm that the amount paid by the department was correct and in accordance with the tariffs prescribed by National Treasury. It is also unclear how the department managed to confirm that they were indeed paying the correct amounts in the absence of this annexure.

The finding occurred as result of the fact that:

Through enquiry with the D: IT Application Management it was noted that the annexure C is only applicable between National Treasury and SITA.

Impact of the finding:

a) Non compliance with laws and regulations.

b) The accuracy of goods and services: SITA computer services amounting to R1 194 072,61 could not be confirmed.

## Internal control deficiency

## *Financial and performance management*

*The department 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

a) The department should ensure that they obtain the updated Annexure C to ensure that the correct tariffs were utilised when they are billed.

b) When entering into a contract the department should ensure that all relevant annexures and other relevant documentation is obtained and filed by them for future reference.

c) The department should keep full and proper copies of the contracts entered into by them.

**Management response**

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

**Reason**

The Treasury approved tariffs are not communicated to the Client Department. It is however

noted that the Department will engage Parties, SITA and Treasury for a copy of the tariffs. It

should be noted that SITA does not have competition on this as it is mandated by the SITA ACT

to provide this service to government department.

Name: Dintheng Matlala

Position: Deputy Director

Date: 09/07/2012

**Auditor’s conclusion**

Although cognisance is taken of management’s comment, it remains the responsibility of the department to ensure that all amounts paid are correct.

Tariffs were obtained for some of the items listed on the invoices. The following therefore remain:

a) Tariffs not obtained

|  |  |
| --- | --- |
| **Description** | **Price per invoice** |
| **R** |
| Invoice no: 1133334 |  |
| Data line network service | 130 808,50 |
| Port Cost-Network services | 22 565,84 |
| Invoice no: 1143689 |  |
| Port Cost-Network services | 23 210,58 |
| Data line network service | 133 448,42 |
| Invoice no: 1139584 |  |
| Data line network service | 130 808,50 |
| Port Cost-Network services | 22 995,67 |
| **Total** | **463 837,51** |

b) Tariffs obtained differs from the amounts charged

(i) Invoice number 1133334

|  |  |  |  |
| --- | --- | --- | --- |
| **Service description** | **Total amount inclusive of vat per invoice** | **Total amount inclusive of vat per tariffs** | **Difference** |
| **R** | **R** | **R** |
| Port Cost at 1024kb-Net work services | 48 068,10 | 19 084,74 | 28 983,36 |
| Port Cost at 64kb-Net work services | 13 939,92 | 5 236,98 | 8 02,94 |
| Port Cost at 192kb-Network services | 6 276,84 | 7 083,24 | (806,40) |
| Port Cost at 256kb-Network services | 7 079,40 | 8 007,64 | (928,24) |
| Port Cost at 512kb-Network services | 112 220,46 | 11 698,90 | 100 521,56 |
| Port Cost at 1984kb-Network services | 254 220,00 | 32 932,21 | 221 287,79 |
| **TOTAL** | **441 804,72** | **84 043,71** | **357 761,01** |

(ii) Invoice number - 1143689

|  |  |  |  |
| --- | --- | --- | --- |
| **Service description** | **Total amount inclusive of vat per invoice** | **Total amount inclusive of vat per tariffs** | **Difference** |
| **R** | **R** | **R** |
| Port Cost at 1024kb-Net work services | 48 068,10 | 19 084,74 | 28 983,36 |
| Port Cost at 64kb-Net work services | 13 939,92 | 5 236,98 | 8 702,94 |
| Port Cost at 192kb-Network services | 6 276,84 | 7 083,24 | (806,40) |
| Port Cost at 256kb-Network services | 7 079,40 | 8 007,64 | (928,24) |
| Port Cost at 512kb-Network services | 112 220,46 | 11 698,90 | 100 521,56 |
| Port Cost at 1984kb-Network services | 254 220,00 | 32 932,21 | 221 287,79 |
| **TOTAL** | **441 804,72** | **84 043,71** | **357 761,01** |

(iii) Invoice number - 1139584

|  |  |  |  |
| --- | --- | --- | --- |
| **Service description** | **Total amount inclusive of vat per invoice** | **Total amount inclusive of vat per tariffs** | **Difference** |
| **R** | **R** | **R** |
| Port Cost at 1024kb-Net work services | 48 068,10 | 19 084,74 | 28 983,36 |
| Port Cost at 64kb-Net work services | 13 939,92 | 5 236,98 | 8 702,94 |
| Port Cost at 192kb-Network services | 6 276,84 | 7 083,24 | (806,40) |
| Port Cost at 256kb-Network services | 7 079,40 | 8 007,64 | (928,24) |
| Port Cost at 512kb-Network services | 112 220,46 | 11 698,90 | 100 521,56 |
| Port Cost at 1984kb-Network services | 254 220,00 | 32 932,21 | 221 287,79 |
| **TOTAL** | **441 804,72** | **84 043,71** | **357 761,01** |

The total limitation is therefore is R463 838,06. The extrapolated error amounts to R2 791 685,18

The difference amounts to R1 073 283,03. The extrapolated difference amounts to R6 459 729,34.

a) Tariffs not obtained

| **Description** | **Price per invoice** |
| --- | --- |
| **R** |
| Invoice no: 1133334 |  |
| Data line network service | 114 744,30 |
| Port Cost-Network services | 19 794,60 |
| Invoice no: 1143689 |  |
| Port Cost-Network services | 20 360,16 |
| Invoice no: 1139584 |  |
| Data line network service | 114 744,30 |
| Port Cost-Network services | 20 171,00 |
| **Total** | **289 814,36** |

b) Tariffs obtained differs from the amounts charged

| **Description** | **Price per the invoice** | **Price per approved tariffs obtained** | **Differences** |
| --- | --- | --- | --- |
| **R** | **R** | **R** |
| Invoiceno:1133334 |  | | |
| PostCostat1024kb-Networkservices | 42 165,00 | 16 741,00 | 25 424,00 |
| PostCostNetworkservices | 12 228,00 | 4 594,00 | 7 634,16 |
| PostCostNetworkservices | 5 506,00 | 6 213,00 | (707,37) |
| PostCostNetworkservices | 6 210,00 | 7 024,00 | (814,24) |
| PostCostNetworkservices | 98 439,00 | 10 262,00 | 88 176,80 |
| PostCostNetworkservices | 223 000,00 | 28 888,00 | 194 112,10 |
| Invoiceno:1143689 |  |  |  |
| PostCostat1024kb-Networkservices | 42 165,00 | 16 741,00 | 25 424,00 |
| PostCostNetworkservices | 12 228,00 | 4 594,00 | 7 634,16 |
| PostCostNetworkservices | 5 506,00 | 6 213,00 | (707,37) |
| PostCostNetworkservices | 6 210,00 | 7 024,00 | (814,24) |
| PostCostNetworkservices | 98 439,00 | 10 262,00 | 88 176,80 |
| PostCostNetworkservices | 223 000,00 | 28 888,00 | 194 112,10 |
| Invoiceno:1139584 |  |  |  |
| PostCostat1024kb-Networkservices | 42 165,00 | 16 741,00 | 25 424,00 |
| PostCostNetworkservices | 12 228,00 | 4 594,00 | 7 634,16 |
| PostCostNetworkservices | 5 506,00 | 6 213,00 | (707,37) |
| PostCostNetworkservices | 6 210,00 | 7 024,00 | (814,24) |
| PostCostNetworkservices | 98 439,00 | 10 262,00 | 88 176,80 |
| PostCostNetworkservices | 223 000,00 | 28 888,00 | 194 112,10 |
| **Total** | **1 162 644,00** | **221 166,00** | **941 476,35** |

1. **Deviations from supply chain management – Senex Interiors Pty Ltd – Pretoria region Ex 90**

**Audit Finding**

Laws, rules and regulations:

a) Treasury regulations 16A3.2(a), 16A6.1 and 16A6.4 state:

*“16A3.2 A supply chain management system referred to in paragraph 16A3.1 must- (a) be fair, equitable, transparent, competitive and cost effective;*

*16A6.1 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.*

*16A6.4 If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority 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 or accounting authority*

*16A9.1(e) The accounting officer or accounting authority must reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or ”.*

b) Instruction Note on Enhancing Compliance Monitoring SCM paragraph 3.1.1 states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by not later than 31 August 2011.”*

c) National Treasury practice note dated 21 July 2010 paragraph 3.1.1 and 3.1.2 states:

*“3.1.1 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached*

*Standard Bidding Document (SBD 9) “Certificate of Independent Bid Determination” when inviting price quotations advertised competitive bids, limited bids or proposals. The SBD 9 form should be used with minimum changes that are necessary to address contract and project specific issues.*

*3.1.2 Bidders should be required to complete, sign and submit the Certificate together with the bid documentation at the closing date and time of the bid. If a bidder has failed to submit the SBD 9 together with the bid documentation, the bidder must be requested, in writing, to submit the signed form within seven (7) working days of notification may result in the invalidation of the bid.”*

d) Practice note 8 of 2007/2008 paragraph 3.4.1 and 3.4.3 states:

*“3.4.1 Accounting officers / authorities should invite competitive bids for all procurement above R 500 000*

*3.4.3 Should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in case of a sole supplier, the accounting officer/ authority may procure the required goods or services by other means, such as price quotations or negotiations in accordance with Treasury Regulation 16A6.4.The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer/ authority or his/ her delegate. Accounting officers/ authorities are required to report within ten (10) working days to the relevant treasury and the Auditor-General all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process”.*

e) Practice Note 6 of 2007/08 paragraph 2.3 and 2.5 state:

*“2.3 It is, however, recognized that there will be instances when it would be impractical to invite competitive bids. In this regard, Treasury Regulation 16A6.4 provides for such instances where accounting officers or accounting authorities are allowed to dispense with competitive bidding processes to procure goods and services by other means. This provision is intended for cases of emergency where immediate action is necessary or if the goods and services required are produced or available from sole providers. The reasons for such action must be recorded and approved by the accounting officer or accounting authority.*

*2.5 An effective system of supply chain demand management requires an accounting officer or accounting authority to ensure that the resources required to support the strategic and operational commitments of an institution are properly budgeted for and procured at the correct time. Planning for the procurement of such resources must take into account the period required for competitive bidding processes. It must therefore be emphasized that a lack of proper planning does not constitute a reason for dispensing with prescribed bidding processes.”*

f) SCM guide for accounting officers and authorities paragraph 4.7.5 states:

*“4.7.5.1 In urgent and emergency cases, an institution may dispense with the invitation of bids and may obtain the required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the State.*

*4.7.5.2 Urgent cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. (However, a lack of proper planning should not constitute as an urgent case.)*

*4.7.5.3 Emergency cases are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery.*

*4.7.5.4 The reasons for the urgency/ emergency and for dispensing of competitive bids, should be clearly recorded and approved by the accounting officer/ authority or his/ her delegate.”*

g) SCM policy paragraph 59 states:

*“Members of the Bid Evaluation and Bid Adjudication Committees must be free of any conflict of interest when assessing bids. A Declaration of Interest certificate must be signed by all members who participate in these committees.”*

The following deviations pertaining to procurement of furniture from Senex Interiors and Queens Lifestyle (Bid No HS11/058) were identified:

a) The procurement relates to the purchase of furniture for 285 Julius Jeppe Street, Waterkloof. The department needed to furnish the entire house as a matter of urgency and therefore opted to negotiate directly with the following three suppliers:

1. Wetherlys
2. Queens Life Style
3. Senex Interiors

Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **FANO** | **Total award** | **Items selected** |
| **R** | **R** |
| Senex Interiors | 179464 | 132 973,20 | 25 935,00 |
| **TOTAL** |  |  | 1. **935,00** |

b) The internal memo requesting approval to directly negotiate with the above mentioned suppliers was motivated as follows:

*“During consultation with the client to determine the exact details and features of the items of furniture required, the client indicated the house needs to be ready by the end of June because he does not have an official accommodation in Pretoria. The client appointed his private interior designer indicated that the style of furniture liked by his client can be obtained from Wetherlys, Queens Life Style and Senex Interiors.*

*The furniture required must be acquired as a matter of urgency, due to the time frame given to procure and furnish the house for occupation by the end of June.”*

c) The internal memo was signed on 24 June 2011.

However, per the table below it is evident that the department had more than enough time to procure the goods.

|  |  |  |
| --- | --- | --- |
| **INFORMATION** | **DATE** | **CUMULATIVE NUMBER OF DAYS** |
| Acquisition date per the immoveable asset register of the house | 23 March 2011 | N/A |
| Signed internal memo | 24 June 2011 | 93 |
| Letter of appointment to service provider | 1 August 2011 | 131 |
| Receipt of goods per the invoice | 30 November 2011 | 252 |

Based on the above it can be concluded that it was not impractical or impossible to go out on an open bid. The procurement can therefore not be regarded as urgent but rather a result of a lack of proper planning.

1. Although it was noted that the Acting DG signed the letter of appointment, no documentation was provided indicating that he approved the deviation from inviting competitive bids.
2. No documentation was provided indicating that the winning bidder completed and signed SBD 9 (certificate of independent bid determination) or PA-29 (the department’s equivalent).
3. The procurement was not listed on the procurement plan submitted to National Treasury in accordance with Instruction Note 32. It should be noted that the total expenditure to furnish the house was in excess of R500 000.
4. No documentation was provided, neither in the batch nor the declaration file, indicating that the Bid Adjudication Committee members have declared potential interests (which is normally done on the PA-18 form).

The finding occurred as a result of the fact that:

1. Per inspection of the internal memorandum, there was an urgent need to relocate the client to the new house as he was left with no accommodation and was at that point staying in a hotel.
2. Per discussion with Assistant Director: Tenders it was indicated that the procurement plan in the auditor’s possession is outdated.

Similar findings were reported in the prior financial year. The department indicated that the following action plans will be put in place in the, National Department of Public Works management action plan on the audit report of year ending 31 March 2011:

1. Review policies and business processes and align to NT guidelines.
2. Review the bid documents to enforce compliance.
3. Develop and implement a training plan for SCM Training for all relevant officials including SMS members.

Impact of the finding:

1. Irregular expenditure being understated by R132 973,20 due to:

Goods and services with a transaction value above R500 000 were not procured by means of a competitive bidding process and the deviation was not approved by the accounting officer or his delegate in accordance with the SCM policy. Therefore resulting in non-compliance with Practice Note 6 of 2007/08

1. Due to the fact that competitive bidding process was not followed, the department may have lost a chance to procure goods with the supplier that could have offered the lowest price.
2. The department may unknowingly procure goods and services from employees, political office bearers, SCM role-players, close family members of employees or persons in service of other state institutions that could have influenced the SCM processes.
3. Increased risk of bribery and fraudulent activities taking place.
4. Non-compliance with the following laws and regulations:
5. Instruction Note 32 as the procurement of the furniture was not on the procurement plan submitted.
6. SCM guide for accounting officers and authorities as this procurement does not constitute an emergency.
7. SCM policy paragraph 59 as the declaration of Interest certificate signed by all members of the bid adjudication committee was not submitted.

**Internal control deficiency**

*Leadership*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

1. The department should invite various suppliers for all bids above R500 000 to achieve the most economical procurement.
2. The department should only deviate from SCM policies and procedures in truly urgent and emergency cases as defined in the SCM guide for accounting officers and authorities.
3. All procurement above R500 000 should be listed on the procurement plan submitted to National Treasury in accordance with Instruction Note 32.
4. The department should ensure that all procurements should be included in the procurement plan to ensure proper budgeting.
5. All deviations should be recorded on the deviation register.
6. All bidders should be required to complete a SBD 9 form or the PA-29 (the department’s equivalent) as required by the practice note, in order to identify any possible related party transactions.
7. Bidders who have not completed the SBD 9 form or the PA-29 (the department’s equivalent), should be disqualified.
8. The bid adjudication committee should declare their interest before evaluating and awarding any bid.

**Management response**

a) I am not in agreement with the finding that the Department had more than enough time to procure the goods using the open bid instead of using the negotiated procedure for the following reasons:

1. It was impractical or impossible to go out on an open bid taking into account the time frame it takes when following the open bid processes.
2. Cognisance must be taken of the fact that applicable processes ought to be followed prior the initiation of the procurement processes, for example, in instances of newly acquired houses, the Prestige Directorate will arrange with the client to view the possible official accommodation. It is only upon approval by the client that prompts the Prestige Directorate to start the process of procuring furniture as the houses varies from one house to the other and the taste of each client is taken into consideration. In this case, the client took 2 months (between April and May) to decide or confirm the house he prefers, and procurement processes only started beginning of June 2011, and the client requested that the house be ready by end of June 2011 which resulted in the procurement be regarded as urgent.
3. Below is how the process was unfolded which is evident that no time was wasted:
4. As soon as the house was chosen, Prestige consulted with the relevant client to determine the exact details and features of the furniture required which formed the basis of the specifications for the required furniture.
5. On the 8th June the PA 25 was compiled and approved by the CD: SCM on the 10th June 2011.
6. Between the 10th June and 17th June the client was engaged to determine their requirements.
7. Internal memo to negotiate with the service providers was sent to Bid committee on the 24th June and was approved on the 30th June 2011.
8. Between 1st July to 21 July the Department was in the process of negotiating with the service providers following the prescribed processes for a negotiated procedure which includes submission of quotations and Bid Evaluation Report to the Bid Adjudication Committee.
9. The Bid adjudication committee approved the negotiated amount on the 22 July 2011.
10. 1st August a letter of appointment to service providers was issued.
11. Delivery of goods started from August till November in phases as some of the items were custom made.
12. Should the Department opted to use the open bid it would have taken longer than the negotiated procedure to finalize the prescribed processes to be followed when using the open bid.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| n/a | n/a |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| n/a | n/a |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | n/a | |

*Name:* Eulala Kruger

*Position:*

*Date:*

b) I am not in agreement with the finding for the following reason: That the SNBAC approved the deviation on the 30/06/2011 as delegated by the Acting: Director General. Please see the attachment.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| n/a |  |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

*Name:* Eulala Kruger

*Position:* Acting CD:SCM

*Date:* 24 July 2012

c) I am in agreement with the finding. The PA29 was provided to the bidder to complete but was not completed by bidder. The service provider was not disqualified as they were the only bidder invited to bid.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To ensure bid documents are fully completed before adjudication | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

d) I am in not agreement with the finding. Though the furniture was for one house, the procurement of furniture was treated as three different projects which were estimated below R500 000,00. They were therefore not part of the procurement plan.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| n/a | n/a |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

*Name:* Eulala Kruger

*Position:* Acting CD:SCM

*Date:* 24 July 2012

e) I am in agreement with the finding for the following reason:

All the SNBAC members signed the PA- 18.2 declaring their potential interests as required by National Treasury Practice note.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | Yes | No |
| n/a | n/a |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

Name: Eulala Kruger

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: Acting CD:SCM

Date: 24 July 2012

**Auditor’s Conclusion**

1. The following inefficiencies in the supply chain management process was identified in management’s response:
2. The client was allowed two months decide on specifications for the property.
3. The internal memo to go out on a negotiated process was only sent to the Bid Adjudication Committee was only sent on 24 June 2011, approximately 24 days after the department started the procurement process.
4. The bid adjudication committee only approved the internal memo on 30 June 2011, 6 days after the internal memo was submitted.
5. As indicated in management’s comment they took 21 days, from 1 July 2011 to 21 July 2011 to negotiate with service providers.
6. Although the bid adjudication committee approved the negotiated price on 22 July 2011 the letter to the appoint the service provider was only sent on 1 August 2011, nine days later.

From the aforementioned it is evident that the department had sufficient time to go out on an open bidding process.

The matter therefore remains unresolved and will be included in the management report.

1. Item 16 (page 11) of the SCM delegations states that the lowest ranked official that may approve the acquisition of goods or services by means other than inviting competitive bids is the DG. Therefore the fact that the deviation was approved by the SNBAC is not sufficient.

The matter therefore remains unresolved.

1. Management is in agreement with the finding, although they have indicated that only one bidder was invited, the bidder should have still completed the required documentation.

The matter therefore remains unresolved.

1. Even though the procurement was split into three, all three components related to the purchase of furniture for a single house and should therefore have been included in the procurement plan.
2. Although management has indicated that the members of the SNBAC signed a declaration of interest (PA-18.2), no documentation was provided as proof.

The matter therefore remains unresolved.

1. **Deviations pertaining to the supplier list** **Ex 91**

**Audit Finding**

Laws, rules and legislation:

a) Practice Note 8 of 2007/ 2008 paragraph 5.1, 5.2 and 5.3 states:

*“5.1 Accounting officers/ authorities should compile a list of prospective suppliers to be used for the procurement requirements in terms of paragraphs 3.1 to 3.3 above. This list should also be used effectively to promote Black Economic Empowerment through the participation of black owned enterprises, black empowered enterprises, black women-owned enterprises (as defined in the Strategy for Broad-Based Black Economic Empowerment issued by the Department of Trade and Industry) as well as promotion of businesses owned by other Historically Disadvantaged Individuals (HDIs).*

*5.2 Accounting officers/ authorities should at least once a year, through local representative newspapers or by any other means, invite prospective suppliers to apply for evaluation and listing as prospective suppliers. The list should be updated at least quarterly in order to accommodate especially newly established black owned and empowered businesses and other newly established HDI suppliers.*

*5.3 Once the list has been compiled per commodity and type of service, price quotations should be invited there from. The invitation of price quotations from the compiled list of prospective suppliers per commodity or service should be done on a rotational basis in such a manner that ongoing competition amongst suppliers is promoted. Prospective suppliers must be allowed to submit applications for listing any time.”*

b) Treasury Regulations 16A9.1 (a) and (c); 16A9.2(a)(i) and (ii); 16A8.1 and 16A8.5 states the following:

*“16A9.1 The accounting officer or authority must-*

*(a) take all reasonable steps to prevent abuse of the supply cain management system;*

*(c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;*

*16A9.2 The accounting officer or accounting authority-*

1. *may disregard the bid of any bidder if that bidder, or any of its directors-*
2. *have abused the supply chain management system;*
3. *have committed fraud or any improper conduct in relation to such system;*

*“16A8.3 A supply chain management official or other role player-*

1. *must recognise and disclose any conflict of interest that may arise;*
2. *must treat all suppliers and potential suppliers equitably;*
3. *may not use their position for private gain or to improperly benefit another person;*
4. *must ensure that they do not compromise the credibility or integrity of the supply chain management system through acceptance of gifts or hospitality or any other act;*
5. *must be scrupulous in the use of public property; and*
6. *must assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.*

*16A8.5 An official in the supply chain management unit who becomes aware of a breach of a failure to comply with any aspect of the supply chain management system must report the breach or failure to the accounting officer or accounting authority, in writing.”*

The following deviations pertaining to the prospective supplier list were noted:

a) Even though the following supplier is noted by National Treasury as a person prohibited from doing business with the public sector, the supplier is listed as a prospective supplier on the Department’s database:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUPPLIER NUMBER** | **COMPANY NAME** | **COMPANY REGISTRATION NUMBER** | **TELEPHONE NUMBER** | **FAX NUMBER** |
| J9267 | KGWERANO ASSET FINANCE | 199901033107 | (012)427-9017 | (012)440-2342 |

Please see Annexure A (TAB 6).

b) Contrary to the legislation listed above the, it was identified that there are approximately 101 suppliers on the department’s supplier register who have been duplicated. Duplication entails that these suppliers have been listed more than once on the supplier register with the same company name, company registration number, telephone number and fax number.

Considering that the department invites suppliers to bid on a rotational basis; these suppliers are therefore circumventing the rotation process, by being able to be selected more frequently.

Please see Annexure A (TAB 1) for a detailed breakdown of the suppliers identified.

a) Non-compliant with the legislation listed above, it was identified that there are currently approximately 183 suppliers on the supplier register that have been listed more than once, representing each region in which they operate.

Since the department is using a single supplier register for the entire country, the above mentioned may result in the suppliers standing an unfair advantage as each region has the opportunity to be selected to bid; thereby circumventing the rotation process.

Please see Annexure A (TAB 2) for a detailed breakdown of the suppliers identified.

b) Despite the legislation listed above, it was identified that there are currently approximately 23 suppliers on the supplier register whose company registration number is being used by at least one other company on the same supplier register.

Please see Annexure A (TAB 3) for a detailed breakdown of the suppliers identified.

c) Non-compliant with the legislation listed above, it was identified that there are currently approximately 574 suppliers whose telephone or fax number is being used by at least one other supplier (i.e. a supplier with a different company registration number) on the same prospective supplier list.

This suggests that there are possibly 1 478 suppliers whose contact information may be incorrectly recorded or who may be fictitious.

Please see Annexure A (TAB 4) for a detailed breakdown of the suppliers identified.

d) Furthermore it was also identified that there are 375 suppliers per the supplier register who do not have any contact information such as a telephone or fax number.

Although it was indicated that a detailed prospective supplier list will be provided indicating the supplier’s cell phone numbers, as at 29 February 2012, the list has not yet been provided.

Please see Annexure A (TAB 5) for a detailed breakdown of the suppliers identified.

e) A supplier list pertaining to the procurement of prestige assets were not provided.I

f) addition to the findings listed above the following general issues were noted:

i) Supplier information such as company registration numbers, telephone numbers and fax numbers are recorded with unusual characters in between (such as spaces, commas, hyphens etc) making it difficult to identify duplicates or possible fictitious suppliers.

ii) The supplier information is not recorded in a consistent format, such as with area codes etc, for telephone and fax numbers.

iii) Not all suppliers are recorded with a supplier number

iv) Not all of the fields of the supplier register are completed

v) Numerous suppliers do not have the required number of digits (12) in their company registration number

vi) Numerous suppliers do not have the required number of digits (ten) in their telephone or fax number.

vii) The registration number of some of the service providers appears to be incorrect.

Potential impact of the findings raised above:

a) The department may unconsciously engage in business with a person prohibited from doing business with the public sector, resulting in a non-compliance with TR16A9.1(c).

b) Non-compliance with Practice Note 8 of 2007/ 2008 paragraph 5.3. As suppliers are duplicated on the supplier register there is a risk that fair competition is not being practiced, as certain suppliers may be allowed to bid more frequently than others.

c) Suppliers listed on the supplier register may be fictitious or the register used may be incomplete.

d) There is a risk that fraudulent supply chain practices are being conducted.

Reason for the deviation:

The following reasons were provided for the deviations listed above:

a) The department has not yet cleansed the supplier database; therefore prohibited suppliers are still listed on the database.

b) A company with more than one branch is registered more than once, to represent each branch from which they operate.

c) As some company’s operate primarily from their head office in Johannesburg, this may result in different branches of the company having the exact telephone and fax number.

d) When suppliers change their company name, they do not change their company registration number. The supplier with the new company name is simply added to the supplier database instead of amending the suppliers existing details on the supplier database, resulting in the supplier being listed more than once with different company names but the same company registration number.

e) Some suppliers share the same office or use the contact numbers of other suppliers resulting in different suppliers on the database with the same contact information.

f) Some suppliers on the database do have any contact information, therefore there are no telephone or fax numbers listed for them.

g) The general issues identified above, is due to staff being trained on the live system and not the demo; any detail recorded is not deleted. This may also be attributed to human error.

h) It was also noted that when existing suppliers on the database re-apply for registration they are simply re-added to the database resulting in the supplier appearing more than once.

i) The system does not report error messages when incorrect or incomplete information is captured.

j) It was further noted that the data capturers do not have the authority to amend the details of existing suppliers on the database, or to rectify any mistakes made. This can only be done by the Deputy Director, who does not have sufficient time to make any adjustments.

**Internal control deficiency**

## Financial and Performance Management

*a) The department did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.*

*b) The department did not procure goods and service in accordance with the supply chain management requirements*

**Recommendation**

a) The department should inspect National Treasury’s database of prohibited persons on a regular basis and update the prospective supplier list accordingly, to avoid non-compliance with TR16A9.1(c).

b) Considering that the department is using a single supplier list for the entire country, the department should ensure that each supplier is listed only once irrespective of the number of regions from which the supplier can operate.

c) The supplier list should be regularly inspected for duplications, by an appropriately delegated official.

d) The department should refrain from recorded telephone, fax, and company registration numbers with commas, hyphens, spaces or similar characters in between.

All numbers should be written in the exact same format, to enable duplicates to be easily identified.

An appropriately delegated official should regularly inspect the supplier list to ensure that the above is being complied with.

e) Applications to be registered on the supplier register should specifically state that suppliers who operate in more than one region should only apply once for registration.

f) The applications received should be sorted and filtered to identify duplications.

g) When loading new applicants on the supplier database an appropriately delegated official should inspect the supplier database to ensure that the supplier is not already recorded as a prospective supplier.

h) Supplier’s contact information should be verified and updated on a regular basis, by an appropriately delegated official.

i) A CIPRO search should be performed on all suppliers prior to registration on the supplier database to identify fictitious suppliers.

j) Suppliers who submit incorrect or fraudulent information should be prohibited from registration on the supplier register.

k) All fields of the supplier register should be completed in full. This should be checked by an appropriately delegated official.

**Management response**

I am in agreement with the finding as the department has put measures in place to prevent certain activities. We have also send letters to vendors for updates of their records.

We have different official that check the whole process of supplier register. We need to take cognizance that our database dates as far back as 2005 hence number of letter send to shows an effort in communicating new requirement for compliance purpose.

a) Messer Kgwerano Asset Finance is one of the service providers that the department previously used. They were uploaded from LOGIS into e-Proqure system after migration. We have quite a number of service providers listed on our supplier register and part of data cleansing will be to eliminate supplier that are prohibited by Treasury.

One of the preventative methods in place is that, when pro-quote select a service provider for a service, after evaluation that specific vendor will be subjected the screening process.

The screening process entails checking the following:

* The status with Companies and Intellectual Property Commission;
* Treasury prohibition status
* SARS matter and;

b) As part of our data cleansing we ensure that such errors are corrected.

c) The Department of Public Works allows suppliers with national footprint to be registered for all office, hence when a region needs a service, the search selection criteria will enlist the area of operation for that particular commodity.

d) This problem emanate from CIPC during the registration of companies. A shelf company can be sold to one company and when that company gets dormant it will be reserves and be sold to another company with the same registration number and company name hence before we engage, we confirm with CICP for confirmation on members listed, personal particulars and so forth. I believe DPW is not only to deal with.

e) The Department of Trade and Industry permits one individual to register 5 companies trading with different commodities. The Department of Public Works is at no point allowed to restrict suppliers from doing such. The Department of Public Works has criteria which suppliers must meet to be registered on the database, once those requirements are meet we register a supplier irrespective of how many companies the individual intends to register with the Department. We treat each application separately the same with SARS.

f) The previous RFI requested a supplier database. IT used their own discretion to formulate a report. It important that the requester details what is required. SCM does not host the system that generates the report.

We need to take into cognizance that our mandate as Department of Public Works is to promote the emerging service providers, which results in dealing with service providers who do not have a proper infrastructure where they operate, hence we allow them to use cellphone number as a contact details. We have since corrected the criteria for qualification and accreditation.

*Name:* Salome Malebye

*Position :Director – Demand and Acquisition*

*Date: 13 March 2012*

**Auditor’s conclusion**

a)Management agrees with the finding. Although cognisance is taken of management’s preventative controls, it must be ensured that prohibited suppliers are timeously removed from the database.

Additional CAATS procedures performed on the database revealed that the following prohibited suppliers are registered on the database. It was however confirmed that no business were concluded with these services providers.

|  |  |  |
| --- | --- | --- |
| **Vendor Id** | **Vendor Name** | **Comp Trading Name** |
| 1966 | BAY CITY MOTORS CC | BAG CITY MOTORS CC |
| 4446 | MATUMA BUSINESS ENTERPRISE | MATUMA BUSINESS ENTERPRISE |

b) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

Additional CAATS procedures were however performed at year end and there were 217 service providers that appear more than once on the database. As indicated in the table below one of them appears eight times on the database. This is only an extract of four service providers.[[1]](#footnote-1)

|  |  |
| --- | --- |
| **SERVICE PROVIDER** | **TIMES ON THE DATABASE** |
| AURECON SOUTH AFRICA (PTY) LTD | 8 |
| UWP CONSULTING PTY LTD | 6 |
| DAVIS LANGDON FARROW LAING (PTY) LTD | 6 |
| SSI ENGINEERS AND ENVIRONMENTAL CONSULTANTS (PTY) | 6 |

c) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

Additional CAATS procedures were however performed at year end on duplication of service providers on name and same region and there were 35 suppliers that duplicated in the same region. The table indicates the number of service providers duplicated per region. Most of the service providers appears only twice in the region.

|  |  |
| --- | --- |
| **Region** | **Number of service providers duplicated** |
| Eastern Cape | 4 |
| Gauteng | 15 |
| KwaZulu-Natal | 5 |
| Limpopo | 6 |
| Mpumalanga | 1 |
| North West | 2 |
| Western Cape | 2 |
| **Grand Total** | **35** |

d) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

e) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

Additional CAATS procedures were however performed at year end and the following were still noted:

i) There were 139 service providers who share a telephone number.

ii) There were 282 service providers who share a fax number

iii) There were 201 service providers who share a fax number in the same region.

Iv There were 115 service providers who share a teleophone number in the same region.

f) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

Additional CAATS procedures were however performed at year end and the following were still noted:

1. There were 4 871 service providers that did not have a telephone number.
2. There were 5 486 service providers without a fax number.
3. There were 47 service providers without a physical address.
4. There were 46 service providers without a postal address.

v) There were 39 service providers that do not have a telephone number, a fax number, a physical or a postal address. The department did business with the two listed in the table below.

|  |  |
| --- | --- |
| **Name** | **R** |
| Goldee Trading 27 CC  [Procurement] | 17 700 |
| The Workforce Group  [Receipt] | 500 |

vi) There was one vendor, vendor number 12751, which does not have a name.

vii) There were 101 service providers for which either the company's or the close corporation number were not recorded.

viii) There were 1 076 service providers without a contact person.

g) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

h) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial year’s audit.

1. **Supply chain Management deviations – Motseng Investments – Pretoria Region Ex 92**

**Audit Finding**

Laws, rules and legislation:

a) PMFA

(i) Section 38(1)(b) – general responsibilities of accounting officers

“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”

(ii) Section 38(1)(a) – general responsibilities of accounting officers

“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”

1. Section 38(1)(c)(ii) – general responsibilities of accounting officers

“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”

(iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—

(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or

(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”

(v) Section45(c) – Responsibilities of other officials

“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”

b) Treasury Regulations 9.1.1 and 9.1.2 states:

“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.

9.1.2 When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management”

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

" 8.2.1. An official of an institution may not spend or commit public moneys except with the approval ( either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.

8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."

d) Supply chain circular of NT pertaining, dated 24 April 2012, to the postponement of the implementation of sub-paragraph 3.9.4 of Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

“3.1 Taking cognisance of paragraph 2.3 above, sub-paragraph 3.9.4, as contained in Instruction Note No. 32 dated 31 May 2011 is also postponed for implementation pending the issuance of a revised Instruction Note.

3.3 Institutions are, however, required to forward motivations for all expansions in excess of the threshold to the relevant treasuries and to the Auditor General within 10 (ten) working days after the Accounting Officer or Accounting Authority has granted approval for the deviation.

3.4 Such motivations must include, among others, the contract number, the description of the contract, the name of the contractor, the original contract amount, the value and the percentage of the deviation and the reason for the deviation”

e) Annexure D of the Ministerial Handbook – paragraph 3.9(c)

“The Director-General in the Department of Public Works shall in addition compile a check-list of all the things that the department will do and this check-list will be send t to the Director-General in The Presidency as overall co-ordinator of the implementation (d)”

f) Department of Public Works delegation of powers in terms of the Public Finance Management Act dated 17 January 2005, signed by the then Accounting Officer; Themba Meveli James Maseko make provision in item 24 on page 22 pertaining to Treasury Regulation 8.2.2 for the authority to authorise payments or transfers to the following limits within areas of competence and budgetary limits:

|  |  |
| --- | --- |
| **LOWEST RANK OF OFFICIAL PER DELEGATIONS** | **LIMIT**  **R** |
| Senior Admin Officer | 100 000,00 |
| Assistant Director or Equivalent | 1 000 00,00 |
| Deputy Director or Equivalent | 5 000 000,00 |
| Directors | 10 000 000,00 |
| Chief Directors | 20 000 000,00 |
| Regional Managers (Regardless of Rank) | 20 000 000,00 |
| DDG’s | Unlimited |

The following non-compliance issues were identified during the audit of the respective procurement batch:

Batch: 159808 relates to the procurement of catering equipment for the funeral of the late Dr Albertina Sisulu.

Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for information on the payment selected for testing:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENT (PTY) LTD | 159808 | 1. 967 127,22 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, M & M Hiring Marquee CC, to render the service. According to the web site of M & M Hiring Marquee CC the company was formed in 1992 and are a hundred percent owned by black man.

Please see the table below for a break-down of invoice 106215, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by M & M Hiring Marquee CC to Motseng (including transport costs). | 9 372 750,02 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R9 372 750,02\*12%)* | 1 124 730,00 |
| Total amount (Including VAT) | 10 497 480,02 |
| VAT @ 14% | 1 469 647,20 |
| **Total amount charged to DPW (including VAT)** | **11 967 127,22** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between M & M Hiring Marquee CC and the Department of Public Works.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the service provider could have been avoided had the service been provided by the department without using a service provider or if the service been procured directly from M & M Hiring Marquee CC.

b) Invoice 106215, dated 24 June 2011, was certified that the service has been executed satisfactorily on 06 July 2011; however the order was approved on 15 July 2011. The service was therefore rendered before the expense was approved.

There was an e-mail attached form Mr. Ntwana, acting chief director prestige, dated 6 June 2011 instructing Thokozani Dlamini and Ebrhim Chohan to appoint a service provider to start putting u the infrastructure on all sites in preparation for the funeral on 11 June 2011. He indicated that the client already appointed a service provider to put infrastructure at the family home before the President announced that the funeral will be an official funeral category 1 and that it would be appreciated if the officials indicated above cold use the same service provider to avoid confusion.

The following other deviations were noted:

(i) The invoice, invoice 106215, is dated 24 June 2011.

(ii) The manual requisition form was signed on 5 July 2011 by the chief user clerk. Although it was also signed by the chief user it was not dated.

(iii) The LOGIS procurement instruction appears to be generated on 5 July 2011 as that is the date of the report

(iv) The LOGIS procurement advice was printed on 6 July 2011 and was only signed by the senior admin officer

(v) The invoice, invoice 106215, was certified that the service has been executed satisfactorily on 06 July 2011

(vi) The order date, order number 0101601, is 6 July 2011. This order was approved on 15 July 2011 by the DDG:KAM

(vii) On the LOGIS payment checklist signed by the acting deputy director, it was indicated that the pre-payment was not pre-authorised by the delegatd official in terms of the financial delegations. Then reference was made to the order, but as indicated above the order was only approved on 15 July 2011.

The service was therefore rendered before the expense was approved.

No other internal memo, or similar document, was provided indicating that the expense was approved before the service was rendered. No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

c) Furthermore, the department did not indicate with the blue stamp the date that the invoice was received by the finance department.

d) As per inspection of the invoice: INV106215 it was noted that the invoice was approved by the Acting Chief Director: N Ntwana, who per the finance delegation has the authority to approve the payment.

However the acting letter attached indicated that he acted as chief director prestige with effect from 7 March 2011 for a period of three months or until the post is filled whichever come first. His acting period therefore ended on 7 June 2011. The funeral was on 11 June 2011. The invoice is dated 24 June 2011 and he certified the invoice on 6 July 2011, therefore outside his acting period.

e) Annexure D of the Ministerial Handbook – paragraph 3.9(c)

The check-list of all the things that the department will do provided by the Director-General in the Department of Public Works send to the Director-General in The Presidency as overall co-ordinator of the implementation (d) was not attached to the batch. It could therefore not be confirmed if the services provided were in line with the requirements in the checklist.

f) A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

(i) MS C Motsisi – the previous Chief Financial Officer

(ii) Mr T Tabane – the Chief Director SCM

(iii) Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) As the Motseng Facilities Management contract is with SIU it could not be determined if;

(i) Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.

(ii) There was also no documentation attached to prove that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (e) did not indicate the original contract amount and an amount for the extension.

(iii) If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

Reason for the deviation:

a) As per discussion with the assistant director: prestige it was noted that a contract exists between the Department of Public Works and Motseng Investments. In terms of the contract, Motseng will be appointed as the supplier for functions and renovations required at short notice. Motseng in turn sub-contracts the function/renovation and charges a 12% profit. He further added that under the circumstances the rates charged by Motseng are “reasonable”.

b) As per discussion with the Assistant Director:Prestige it was noted that prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. Due to this contract being in place, prestige will, in certain instances, proceed with dealings with Motseng Investments before the government order has been approved as most of the dealings where Motseng Investments is involved, are projects that are needed to be finalised as soon as possible.

Potential impact of the findings raised above:

a) The most economical option to provide services have not been considered and this resulted in spending R1 282 192,20 (R1 124 730,00\*114/100) more on outsourcing a function that could have been performed internally.

b) It could not be confirmed that goods and services with a transaction value above R500 000 were not procured by means of a competitive bidding process and the deviation was not approved by the accounting officer or his delegate in accordance with the SCM policy, TR16A6.4 and PN 6 of 2007/08 as the contract and other pertinent information was seized by SIU.

c) Due to the fact that the department indicated that the purchase was performed in terms of Motseng Facilities Management contract, it was accepted that there was prior approval in place to incur the expenditure, however as funerals and the cost thereof is not known in advance prior approvals in line with the delegations should be obtained. The absence thereof is considered to be a control risk.

d) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

e) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) It could not be confirmed if the department complied with Annexure D of the Ministerial Handbook – paragraph 3.9(c)

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented.

| **Action by management** | **Target date** | **Progress to date** |
| --- | --- | --- |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

**Internal control deficiency**

*Leadership*

*a) The department did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity.*

*b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) A post-performance assessment of procurement should be performed in order to determine if any expenditure incurred was fruitless and wasteful or irregular and any such expenditure should be investigated by management.

b) The extent to which the department needs to rent certain of the items to stage events, it should be investigated why the department does not buy these equipment?

c) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

d) The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.

e) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

The Department acknowledges the audit findings and wishes to respond to each findings as follows:

a) Motseng Investment was appointed as facility manager for the Prestige in the department. The Department agreed with the service provider that they will charge a commission of 12% which is acceptable. The Department further requested that the service provider includes the invoice where they bought their material or the other contracting party includes the invoice where they bought their material or the other contracting party in order to secure transparency and see how the 12% is charged. While it is acknowledged that the Department could have saved the 12% charged by the service provider if the Department had procured directly with M&M Hiring Marquee CC, such arrangement would have meant that Prestige officials needed to be on all sites as opposed to a facility manager managing the whole event and interacting with the Department.

b) It is acknowledged that service was rendered before an order was approved, however this was based on the current contract that the Department had with the facility manager. While order numbers for other services within FM contract are issued for the duration of the contract, it was not possible to issue an order number in advance for this specific service (funeral) as they are not projected. However the contract was approved and the service was within the approved contract.

c) The Department acknowledges this deficiency of not submitting the invoice at a central point. The function of receiving invoices has been centralised to Registry and no invoice is processed by Finance if registry stamp is not affixed to the invoice.

d) Acting letter of Noloyiso Ntwana…

e) The Department acknowledges with the audit finding. The Department is in terms of Paragraph 3.9(d) responsible for providing the necessary infrastructure and related services. The check-list was not complied as the Director-General of the Department was part of the funeral committee that the Director-General of the Presidency chaired. The responsibility of each department was discussed in that committee which served the purpose of providing a checklist-list. The as per the invoice that the department paid was limited to what Paragraph 3.9(d) provided for.

f) The Department disagrees with the audit finding. While it is acknowledged that the said proclamation by the President of the Republic of South Africa was not included of the payment batch, proof is attached hereto the response that the funeral was designated by the President of the Republic of South Africa as an official funeral category 1.

g) The Ministerial Handbook and the State, Official and Provincial Official Funeral Policy manual can never prescribe the costs to be incurred per funeral. Furthermore the Department is responsible for implementing policy directives while the development is the responsibility of another department, the DPSA in this regard. They prescribe that the amount must be reasonable which implies that a reasonable man’s judgment must be applied to arrive at the cost of the funeral.

h) While the Department acknowledges that Motseng Facilities Management contract is one of the contracts being investigated by the SIU, at the time of conclusion and extension of contract, there was not prima facie evidence at the disposal of the department that suggests any irregularities in the award of the work. Furthermore the service provider has not been charged and found guilty of any irregulities. However should it transpire that there were irregularities in the award of any work to the service provider, the Department reserves the right to claim any amounts paid. The department disagrees with the audit team’s findings that the accounting officer did not take effective and appropriate steps to prevent irregular expenditure in terms of section 38(1)(c)(ii) as there has not been proven case of irregular expenditure.

Name: Ms M Fatyele-Lindie

Position: Acting Director General

Date: 2012-08-24

**Auditor’s conclusion**

a) Management’s comment is acknowledged however the following is noted:

The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

If the department had been adequately capacitated in line with their mandate, they would not have needed to procure these services, but could have rather performed it themselves.

The procurement of goods and services from Motseng, is therefore not considered to be economical, efficient or effective.

The matter remains unresolved.

b) Management’s comment is noted. The matter is resolved.

c) Management agrees with the finding. The matter therefore remains unresolved. The corrective action will be followed up in the 2012/2013 financial year.

d) Management’s comment is acknowledged, however the following was noted per inspection of the Acting appointment letter submitted with their response:

(i) Ms N Ntwana is appointed to act in the capacity of the Chief Director: Prestige with effect from 7 March 2011 for a period of three months or until the post is filled, whichever comes first.

(ii) The acting period therefore ended on 7 June 2011 (three months after appointment).

(iii) The funeral was on 11 June 2011 and the invoice was signed on 6 July 2011, after the acting period.

From the above it is clear that Ms N Ntwana acted outside her acting period. The matter therefore remains unresolved.

e) Management’s comment is noted, however no minutes of meetings or other documentation was provided as evidence. The matter therefore remains unresolved.

f) The proclamation signed by the President, dated 3 June 2011, was provided with management’s response. The matter is therefore resolved. Management must however ensure that they are in possession of a copy of such proclamations and attached it to the batches for payment to ensure that the department incur only cost in line with the proclamation.

g) Although cognisance is taken of management comment and it is acknowledged that this matter cannot be resolved by only the department, there should be some guidance as to what represent “reasonable cost”. This matter needs to be addressed between all the relevant role players. In the absence of some sort of guidance or thresholds it makes it almost impossible for officials at the department to determine what is extremely excessive and what constitute reasonable cost.

h) It is acknowledged that the matter is still under investigation with SIU, but as indicated in communication of factual finding 303 there are matters that arose that renders the contract of Motseng irregular.

1. **Deviations from Supply Chain Management – Motseng Investment – Pretoria Region Ex 93**

Laws, rules and legislation:

a) PMFA

(i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

(ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

(iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

1. Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

1. Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Practice Note 8 of 2007/08 states:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers*

*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.”*

*6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

d) Treasury Regulations 8.2.1 and 8.2.2 also state that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

The following issues were identified during the audit of the procurement batch listed below. The service provider provided equipment for the hosting of the Human Resource Development Council meeting by President JG Zuman:

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 168095 | 210 728,82 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Schick Hiring Services CC t/a Sheek to render the service. Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 107345, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Schick Hiring Services CC t/a Sheek to Motseng (including transport costs). | 165 044,50 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 188 150,73\*12%)* | 19 805,34 |
| Total amount (Excluding VAT) | 184 849,84 |
| VAT @ 14% | 25 878,98 |
| **Total amount charged to DPW (including VAT)** | **210 728,82** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Schick Hiring Services CC t/a Sheek and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Schick Hiring Services CC t/a Sheek.

It was further noted that attached to the batch was documentation from Motseng Facilities Management stating the procurement process for requesting quotations were followed by them. They have invited quotations from four service providers and two responded. The reason why they had chosen Shick Hiring Servce was on the basis of providing the lowest price. Both service providers were 100% black owned and submitted all the required documentation.

1. Four service providers listed as being invited to submit quotations:

* Shick Hiring Services
* Nnanota Events
* Tattoo Promotions
* Perpetual Events

1. Service providers submitted their RFP

* Shick Hiring Services
* Tattoo Promotions

It is therefore not evident why, if Motseng Facilities Management can get four service providers that provide these services and two to respond, it is necessary for the department to incur the additional cost.

b) Per inspection of the invoice 107345, dated 19 August 2011, and certification that invoice has been received by department, dated 22 August 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 07 September 2011.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

It was also noted that the department did not indicate with the blue stamp the date on which the invoice was received by the finance department.

c) Attached to the batch was a copy of the PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

d) The matters listed below were noted pertaining to the Logis payment checklist attached to the payment batch.

1. The checklist did require in 1.2 that is should be indicated if a minimum of three quotations were obtained. The checklist indicated “Yes”, although there were no quotations attached. Only the invoice of Motseng Facilities Management was attached.
2. The checklist does not make provision for officials to include a comment in instances where three quotations were not obtained. They should assess whether the reasons provided for not obtaining of three written quotations are acceptable. Thus for example if it was an emergency as defined by SCM regulations, was it demonstrated that it was impossible of impractical to obtain three quotations?
3. There was no indication or comment pertaining to tax clearance certificates. There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.
4. The checklist required in 1.4 that it should be indicated if approval to deviate from Pro-quote was obtained. The latter was not completed nor was there any comment indicated.

Reason for the deviation:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

Potential impact of the findings raised above:

a) The most economical option to provide services have not been considered and this resulted in spending R22 578,09 (R19 805,34\*114/100) more on outsourcing a function that could have been performed internally.

1. The procurement of R188 150,73 is considered to be irregular expenditure due to the following:
2. extension to the Motseng Facilities Management contract even through it was possible to comply with the requirement.
3. An original, valid tax clearance certificate as required by paragraph 6.1 of Practice Note 8 of 2007/08 was not submitted.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented.

|  |  |  |
| --- | --- | --- |
| **Action by management** | **Target date** | **Progress to date** |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## Financial and performance management

a) The department did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.

b) The department did not procure goods and services in accordance with the supply chain management requirements and deviations as defined by supply chain management legislation are not approved and reported to those charged with governance.

Similar findings were noted in the previous financial year. However per the SCOPA action plan the department does not appear to have any actions in place to address the issue.

## Recommendation

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.

c) A post-performance assessment of procurement should be performed in order to determine if the utilisaiton of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

d) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

e) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

f) The checklist implemented by the department should ensure that all compliance matters are addressed. It should specifically be ensured that matters that resulted in irregular expenditure in the prior financial years are addressed to prevent a reoccurrence thereof.

g) A certified copy of the tax clearance certificate should be attached to the payment batch with a reference to where the original, valid tax clearance certificate is filed. The checklist should make provisions that it was confirmed that the copy is attached, that it is referenced to the original and that it is still valid.

**Management response**

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

The Department of Public Works appointed Motseng Facilities Management Contracor. Their contract included management of Prestige Events at a charge of 12% management fee. The Department does not get involved in their procurement processes and does not know what their Supply Chain Management Policies.

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date: 06 June 2012*

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

An internal memo was not a requirement at the time the service was rendered. Circular 33 of 2011 only came into effect after approval by the Acting DG on the 07 November 2011.

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date:06 June 2012*

c) I am in agreement with the finding for the following reasons:

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date:06 June 2012*

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

The check list does not have the information as stipulated on (i) to (iv) of the finding

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date:06 June 2012*

**Auditor’s conclusion**

1. Management’s comment if acknowledged however the following is noted:

The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

The procurement of goods and services from Motseng, is therefore not considered to be econcomical, efficient or effective.

The matter remains unresolved.

1. The fact that the department did not generate an order before receipt of the goods represents a control weakness. Although management is not in agreement with the finding no documentation was provided indicating that the control was adhered to.

The matter therefore remains unresolved.

1. Management is in agreement with the finding, the matter is therefore unresolved.
2. Although management has indicated that the checklist does not provide for the above mentioned requirements, inspected the Logis payment checklist on batch 168095 and noted that the requirements are listed as indicated above.

The matter therefore remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R210 728,82 is therefore considered to be irregular.

1. **Supply chain Management deviations – Motseng Investments – Pretoria Region** **Ex 94**

Audit Finding

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

v) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

d) Instruction note on enhancing compliance monitoring SCM paragraph 3.1.1.states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.”*

e) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 153449, as indicated in the table below, relates to the procurement of hiring of catering equipment for National Wards Ceremony 27 April 2011 visit.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 153449 | 3 983 280,00 |

a) From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Vertical International Holdings (Pty) Ltd to render the service. Please note that since the contract and other pertinent information relating to Motseng Investments is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 105358, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **\*BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Vertical International Holdings (pty) ltd to Motseng (including transport costs). | 3 119 736,84 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 3 119 736,84\*12%)* | 374 368,42 |
| Total amount (Excluding VAT) | 3 494 105,26 |
| VAT @ 14% | 489 174,74 |
| **Total amount charged to DPW (including VAT)** | 1. **983 280,00** |

b) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Vertical International Holdings (Pty) Ltd and the Department of Public Works.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Vertical International Holdings (Pty) Ltd.

c) Per inspection of the invoice 105358, dated 30 April 2011, and certification that invoice has been received by department, dated 10 May 2011, we noted that services were rendered before the order was issued and approved. The National Ward Ceremony was held on 27 April 2011. The order was approved on 20 May 2011.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

d) The procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.

e) A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

i) MS C Motsisi – the previous Chief Financial Officer0

ii) Mr T Tabane – the Chief Director SCM

iii) Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

Impact of the finding:

a) The most economical option to provide services have not been considered and this resulted in spending R426 780,00 (R374 268,42\*114/100) more on outsourcing a function that could have been performed internally.

b) The non compliance with Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R3 556 500,00 being classified as irregular as the department did not submit the original, valid tax clearance certificate as required by paragraph 6.1.

c) Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.

d) None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1 issued by NT.

e) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented. It should be noted that the procurement was not included in the tender deviation register provided.

| **Action by management** | **Target date** | **Progress to date** |
| --- | --- | --- |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## *Financial and performance management*

*a) The department did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.*

*b) The department did not procure goods and services in accordance with the supply chain management requirements and then did not report it to those charged with governance and disclosed it as irregular expenditure in the financial statements.*

*c) The department did not review and monitor compliance with applicable laws and regulations.*

*d) The department did not procure goods and services in accordance with the supply chain management requirements.*

## Recommendation

a) A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.

c) A post-performance assessment of procurement should be performed in order to determine if the utilisation of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

d) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

e) All planned procurement above R500 000,00 should be reported to National Treasury in line with Instruction Note 32.

f) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

a) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Corrective action to be taken | Remove Events Management from Motseng Facilities Management Contract | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Chief Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

b) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Corrective action to be taken | An order need to be issued before the service is rendered. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

c) I am in agreement with the finding for the following reasons

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Corrective action to be taken | The National Events will be included in the Department’s procurement plan. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

d) I am in agreement with the finding for the following reasons:

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

e) I am not in agreement with the finding for the following reasons

The valid original Tax Clearance Certificate was attached with the submission to the Special National Bid Adjudication Committee requesting approval to extend.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

**Auditor’s conclusion**

a-d) Management is in agreement with the finding, the matter therefore remains unresolved.

e) Management’s comment is noted. The original tax clearance certificate for the extensions was not obtained. The matter remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R3 983 280,00 is therefore considered to be irregular.

1. **SCM - 153448 - Motseng Investment (Ex 95)**

Audit Finding

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv)Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

iv)Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

d) Instruction note on enhancing compliance monitoring SCM paragraph 3.1.1.states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.”*

e) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement:

Batch 153448, as indicated in the table below, relates to the procurement of hiring of equipment for the Outreach program for Mantuli 17 April 2011 visit.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 153448 | 1 766 654,53 |

1. From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Oratilwe Management t/a Exclusive Management services to render the service. Please note that since the contract and other pertinent information for Motseng Investment is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 105350, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Oratilwe Management t/a Exclusive Management service to Motseng (including transport costs). | 1 383 658,00 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 1 383 658,00\*12%)* | 166 038,96 |
| Total amount (Excluding VAT) | 1 549 696,96 |
| VAT @ 14% | 216 957,57 |
| **Total amount charged to DPW (including VAT)** | 1. **766 654,53** |

1. From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Oratilwe Management t/a Exclusive Management service and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.
2. Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Oratilwe Management t/a Exclusive Management Service.
3. Per inspection of the invoice 105350, dated 30 April 2011, and certification that invoice has been received by department, dated 09 May 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 11 May 2011, two days after the invoice was received and stamped certifying that the service was received.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

1. The procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.
2. A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

1. There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

Potential impact of the findings raised above:

a) The most economical option to provide services have not been considered and this resulted in spending R189 284,41 (R166 038,96\*114/100) more on outsourcing a function that could have been performed internally.

b) The non compliance with Practice Note 8 of 2007/08 may possibly contribute to the expenditure of R1 577 370,12 being classified as irregular as the department did not submit the original, valid tax clearance certificate as required by paragraph 6.1.

c) Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.

d) None compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM paragraph 3.1.1 issued by NT.

e) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

f) Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

g) The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

## Internal control deficiency

## Leadership

*a) The department did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity.*

*b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

## Recommendation

a) A competitive bid process should be embarked upon as required by the PFMA and Treasury Regulations.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.

c) A post-performance assessment of procurement should be performed in order to determine if any expenditure incurred was fruitless and wasteful or irregular and any such expenditure should be investigated by management.

d) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental order or via an internal memo.

e) All planned procurement should be reported to National Treasury in line with Instruction Note 32.

f) The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

g) A post-performance assessment of procurement should be performed in order to determine if the utilisation of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

**Management response**

a) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Remove Events Management from Motseng Facilities Management Contract | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Chief Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

b) I am in agreement with the finding for the following reasons:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | An order will be issued before the service is rendered. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | **No** |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: Prestige | |
| Estimated completion date for corrective action | 01 August 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The Spousal Outreach Programmes cannot be part of the procurement plan for security reasons. The requests get sent to the Department by the Presidency upon them receiving the confirmation from the Spousal Office.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

d) I am in agreement with the finding for the following reasons:

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The valid original Tax Clearance Certificate was attached with the submission to the Special National Bid Adjudication Committee requesting approval to extend.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

**Auditor’s conclusion**

a-b) Management is in agreement with the finding, the matter therefore remains unresolved.

c) Although management is not in agreement with the finding, their reasons for not including the expenditure in the procurement plan do not appear to be valid. The department should be able to disclose the above mentioned expenditure to National Treasury. The department is not required to disclose sensitive matters; just the name of the event and cost will suffice.

The matter remains unresolved.

d) Management is in agreement with the finding, the matter therefore remains unresolved.

1. Management’s comment is noted. The original tax clearance certificate for the extensions was not obtained. The matter remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R1 766 654,53 is therefore considered to be irregular.

1. **Contract Extension – Gemini Moon t/a XL Nexus Travel – PTA Region Ex 97**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act section 38(1)(c)(ii) states:

*“38(1) The accounting officer for a department, trading entity or constitutional institution-*

*(c) must take effective and appropriate steps to-*

*(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct;”*

b) Treasury regulations 16A9.1(d) and 16A9.2(a) states:

*“16A9.1 The accounting officer must-*

*(d) reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations.*

*16A9.2 The accounting officer or accounting authority-*

*(a) may disregard the bid of any bidder if that bidder, or any of its directors-*

*(i) have abused the institutions’ supply chain management system;*

*(ii) have committed fraud or any other improper conduct in relation to such system; or*

*(iii) have failed to perform on any previous contract;”*

c) Practice Note 8 of 2007/2008 paragraphs 6.1 and 6.2 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

d) Practice Note Supply Chain Management 4 of 2006 paragraphs 2 and 3 states:

*“2 In order to give effect to this provision, a new standard bidding documentation is provided to assist accounting officers/authorities to assess cases of abuse against the supply chain management system. This standard bidding document can be customized and provided to all potential bidders for the supply of goods and services or disposal of assets and goods that are no longer required. It must be used for all bids invited with effect from 1 April 2006.*

*3 Bidders are required to complete SBD 8, sign the declaration and submit the form with each bid. The information furnished by the bidder should be used to ensure that when goods and services are being procured or disposed of, all reasonable steps are taken to combat the abuse of the supply chain management system.”*

e) Practice Note 7 of 2009/2010 paragraph 4 and 4.1.2 states:

*“4 Accounting officers and accounting authorities are required to implement the following measures in order to address the findings and to give effect to the recommendations of the Auditor-General and ensure compliance with the prescripts of the Treasury Regulations and the Public Service Act, 1994 where any conflict of interest may arise.*

*4.1.2 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.”*

f) Supply Chain Management policy paragraph 59 requires that:

*“Members of the Bid evaluation and Bid adjudication committees must be free of any conflict of interest when assessing bids. A declaration of Interest certificate must be signed by all the members who participate in these committees.”*

g) General Regulations of the Preferential Procurement Policy Framework Act 5 of 2000 paragraph 16 states:

*“No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.”*

**Background:**

The following deviations pertaining to the procurement of travel management services (HP07/19) were noted were reported with communication of factual finding 108 pertaining to Head Office in the previous year:

| **Supplier** | **Fano** | **R** |
| --- | --- | --- |
| Gemini Moon Trading | 118717 | 97 307,00 |
| Gemini Moon Trading | 118723 | 97 307,00 |
| Gemini Moon Trading | 120200 | 160 114,00 |
| **Total** |  | **354 728,00** |

a) No documentation was provided including the PA-18 (Declaration of interest and confidentiality by the specification committee) indicating that the bid specification committee and the bid adjudication committee have declared their interests.

b) No documentation was attached evidencing that the supplier has submitted an tax clearance certificate as required by Treasury regulations 16A9.1 (d), Practice Note 8 of 2007/2008 and the General Regulations of the Preferential Procurement Policy Framework.

c) No documentation was provided indicating that the bidder completed and submitted SBD 8 or PA-11 (the department’s equivalent).

d) No documentation was provided indicating that the bidder completed and submitted SBD 4 or PA-11 (the department’s equivalent).

e) A completed PA-16 (preference certificate) was not provided.

f) No documentation was provided evidencing that the contract entered into between the department and the supplier includes contract performance measures and methods. Therefore we were unable to determine the manner in which the department monitors non-performance in terms of the contract and the consequences thereof.

The following matters were noted in the current financial year:

1. Although management did not submit a management comment on the finding raised in the previous year, the amount of R354 728,00 (as reported in the AGSA finding of the previous year illustrated in the table above) was included in the irregular expenditure disclosure note for the current year – 2011/12. Management is however not allowed to only include the amounts listed in the finding, as it constitutes only a sample of three payments to this service provider. An extract of payments to this service provider in the previous year, not disclosed as irregular expenditure, amounted to R24 733 888,80 as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DESCRIPTION** | | **GEMINI MOON TRADING 7 (PTY) LTD** | **NEXUS** | **TOTAL** |
|  | | **R** | **R** | **R** |
| Total per general ledger for this beneficiary | | 25 067 397,65 | 21 219,15 | 25 088 616,80 |
| Less amount reported in prior year and included in irregular expenditure | 118717 | 97 307,00 | 0,00 | 97 307,00 |
| 118723 | 97 307,00 | 0,00 | 97 307,00 |
| 120200 | 160 114,00 | 0,00 | 160 114,00 |
| **Total payments to service providers in prior year excluding the matters reported in the prior year** | | **24 712 669,65** | **21 219,15** | **24 733 888,80** |

1. The following payment was selected in the current financial year:

|  |  |  |  |
| --- | --- | --- | --- |
| **Supplier** | **Fano** | **Value of item selected**  **R** | **Total paid**  **R** |
| Gemini Moon Trading | 152791 | 71 474,00 | 75 934,00 |

According to the detail extracted from the general ledger of the current year the payments listed below pertain to Gemini Moon t/a XL Nexus Travel**.** It is not evident if they were also incurred in terms of tender number HP07/19. If they do pertain to the same contract the amounts should also have been included in the irregular expenditure of the current year.

| **FANO** | **R** |
| --- | --- |
| 150984 | 664,00 |
| 150990 | 1 004,00 |
| 150991 | 504,00 |
| 150992 | 664,00 |
| 150993 | 604,00 |
| 152433 | 864,00 |
| 152784 | 5 099,05 |
| 152785 | 817,00 |
| 152787 | 5 449,00 |
| 152791 | 75 934,00 |
| 152792 | 2 145,00 |
| 158401 | 913,00 |
| **Total** | **94 661,05** |

1. No documentation was attached evidencing that the supplier has submitted an tax clearance certificate as required by Treasury Regulations 16A9.1(d), Practice Note 8 of 2007/2008 and the General Regulations of the Preferential Procurement Policy Framework. Therefore also to cover the period pertaining to the extension of the contract.
2. As per inspection of the procurement batch 152791 it was noted that the department procured accommodation through Nexus Travel agency for the period 22 February to 31 May 2010. It was also noted that the department had a contract with Gemini Moon t/a XL Nexus Travel for the period 01 April 2008 till 31 March 2010.

As at 31 March 2010 the contract came to an end however the procurement was not covered in the contract as from 01 April 2010 to 31 May 2010. Per enquiry with department we noted that the department extended the contract with Gemini Moon t/a XL Nexus Travel on a month to month basis until September 2010. The extensions were approved by either the DG or the acting DG of the specific month.

However the documentation approving the extension to the contract did not indicate the reasons for the extension as well as the terms or conditions for the extension.

The finding occurred as a result of the fact that:

a) The department was not aware of the requirements of Practice Note 7 of 2009/ 2010 as well as Supply Chain Management 4 of 2006 and the consequences of non-compliance.

b) The department was only relying on the SARS website vendor search that they perform to validate the tax affairs of the supplier.

1. The department does not have proper procedures in place to ensure that all the relevant bidding documentation is obtained and filed prior to awarding of bids.
2. The processed put in place by management to identify irregular expenditure were not effective.
3. As per discussion with the Assistant Director: Travel and Transport it was noted that the contract was extended based on the terms of the actual contract and the department was at the time of extension did have any service provider for accommodation and travel.

Impact of the finding:

a) Irregular expenditure being understated with R24 733 888,80 pertaining to the previous year and R94 661,05 for the current financial year due to the fact that awards were made to suppliers who did not have tax clearance from SARS that their tax matters are in order and who have not made arrangements with SARS to meet their tax obligations as required by PPR 16, TR16A9.1(d) and PN 8 of 2007/08 paragraph 6.

b) Due to the fact that the PA-16, preference certificate, not being provided the HDI points of the service providers could not be determined. Therefore the compliance with PPPF Act and its regulations could not be confirmed.

c) Non-compliance with the following legislation:

(i) Public Finance Management Act section 38(1)(c)(ii)

(ii) Treasury Regulations 16A9.1(d) and 16A9.2(a)

(iii) Supply Chain Management Policy paragraph 59

(iv) General Regulations of the Preferential Procurement Policy Framework paragraph 16.

(v) Practice Note 7 of 2009/ 2010

The fact that no tax clearance certificate was submitted by the winning supplier was also reported in the 2009-10 financial year. Although no actions were implemented to specifically address the issue. Per inspection of the audit action plan it was noted that the following actions will be implemented:

a) Establish a compliance unit

b) Improve the checklist in the SCM section

c) Enforce compliance with the prescripts

**Internal control deficiency**

*Leadership*

*The department does not effectively and timeously establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes and responsibilities.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) Management should establish internal controls that promote transparency, clearly communicate these controls to staff and ensure understanding thereof in order to satisfy the adherence to the prescribed legislation.

b) The officials needs to confirm that they have obtained the completed SBD(4) and SBD(8) or the PA-11 (the department’s equivalent) from suppliers before awarding bids.

c) Actions need to be taken against officials that do not adhere to the prescribed laws, rules and regulations.

d) In instances where the Department is already in possession of the bidder’s original tax clearance certificate, a certified copy of the tax clearance certificate should be attached to the tender documents.

e) All members of the bid evaluation/ specification committee and bid adjudication committee should be required to declare their interests prior to evaluating and awarding bids.

f) When extensions of contracts are approved the reasons for doing so, the financial implications and the terms or conditions should be stipulated.

g) Management needs to assess the whole population when recording irregular expenditure and not only the matters reported by the auditors.

**Management response**

No management response has been received.

**Auditor’s conclusion**

Although this finding was issued on 18 July 2012 to management, at 8 August 2012, no response has been received from management. The matter therefore remains unresolved.

1. **Deviations from supply chain management – North Natal Tissue – Pretoria Region Ex 99**

**Audit finding**

Laws, rules and legislation:

1. Public Finance Management Act section 38(1)(a)(ii) and 38(1)(b):

*“38(1) The accounting officer for a department, trading entity or constitutional institution-*

1. *must ensure that that department, trading entity or constitutional institution has and maintains-*
2. *a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of section 76 and 77;*
3. *is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;*
4. PPPF Act section 2(a)(1)(a) – Framework for the implementation of the preferential procurement policy.

“An organ of state must determine its preferential procurement policy and implement it within the following framework:

1. A preference point system must be followed”
2. Treasury Regulations 16A6.5 and 16A9.1(d) states:

*“16A6.5 The accounting officer or accounting authority may opt to participate in transversal term contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.*

*16A9.1(d) The accounting officer or accounting authority must reject any bid from a supplier who fails to provide written proof from the South African Revenue Services that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;”*

1. Practice Note 8 of 2007/08 paragraphs 3.3.1, 3.3.2 and 3.3.3 states:

*“3.3.1 Accounting officer/ authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many prospective suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.*

*6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).”*

1. The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

f) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001, (PPR) paragraph 3(1) requires that:

*“3. The 80/20 preference point system- (1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

*Where*

**

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

*16 No contract may be awarded to a person who has failed to submit an orginal Tax Clearance Certificate from the South African Revenue Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.”*

g) In terms of Practice Note 7 of 2009/10, effective date of 2 October 2009, paragraphs 4.1.2 and 4.2 requires the following pertaining to SBD 4 forms:

*“4.1.2   With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.*

*4.2       Use of the SBD 4 when establishing lists of potential / prospective suppliers when obtaining quotations  The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

The following non compliance issue was identified during the audit of the following procurement batch:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUPPLIER** | **BATCH NUMBER** | **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST**  **[INCLUDING VAT]**  **R** |
| North Natal Tissue | 152701 | X1 Ply toilet paper | 250 | 39 900,00 |
| **GRAND TOTAL** | | | | **39 900,00** |

1. The department requested quotations from the following suppliers for the procurement of toilet papers (tissue):
2. North Natal Tissue (Pty) Ltd
3. Shaneal Distributors cc
4. Wazama Procurement Paper Solutions

Contrary to the legislation listed above, only Shaneal Distributors is listed on the supplier register. No documentation was provided indicating that the deviation was approved by the delegated official and the reasons thereof.

b) Furthermore, considering the department is using the Pro-quote system to source quotations and the system is unable to list a supplier that is not listed in its database; it is not evident through which process these suppliers are identified to be invited to submit quotations.

c) As the database should be updated quarterly, it is not evident why these suppliers were not added to the supplier list.

d) The department is participating in a transversal contract issued by National Treasury (RT 14/2010R) for the period 1 December 2010 to 30 November 2012, in which the department can purchase toilet paper from suppliers listed in the contract at the price stipulated in the contract.

None of the suppliers listed above, is listed as a supplier of toilet paper on the transversal contract.

e) The suppliers listed in the transversal contract are able to provide the goods at a lower rate; the procurement is therefore not considered to be economical. Please see the table below:

| **DESCRIPTION** | **RATE** | **QUANTITY** | **TOTAL AMOUNT**  **R** |
| --- | --- | --- | --- |
| Winning supplier – Natal North Tissue | R159,60 for a pack of 48 toilet papers | 250 | 39 900,00 |
| Transversal contract -  Martiq 171cc JV Bucebo General Trading | R124,00 for a pack of 48 toilet papers | 250 | 31 000,00 |
| **Difference** |  |  | **8 900,00** |

f) No documentation was attached indicating that the preference point system was used and preference points were awarded for price and equity ownership by HDI, in the evaluation and selection of prospective suppliers. The documentation therefore not attached to the batch is the PA-16:3 - Preference certificate for quotations or the PA-20 – the scoring model. The department just selected the supplier with the lowest bid.

g) No documentation was attached indicating that the supplier has completed SBD 4 (declaration of interest) or the PA-11 (the department’s equivalent). The latter is a document compiled by the department which contain all the same information to be declared as per the SBD(4).

h) As per inspection of the procurement batch it was noted that the winning supplier did not submit an original tax clearance certificate from SARS.

The finding occurred as a result of the fact that:

1. As per discussion with SAO: (Prestige Cleaning material) it was noted that the suppliers invited are listed on their supplier register, together with their banking details and all other relevant information.
2. As per discussion with the SAO: (Prestige Cleaning material) it was noted that the department is participating in the transversal contract issued by National Treasury, however they only became aware of this on 24 March 2012. Since it was the financial year end and the department had a need for toilet paper before 31 March 2012, the procurement was considered to be urgent and the above suppliers were invited to submit quotations.

c) As per discussion with the SAO: (Prestige Cleaning material) it was noted that the department did not complete the PA-20 (scoring model), nor did they request the suppliers to complete the PA16.3 (Preference point certificate). No points were calculated; department just selected the supplier with the lowest quote.

d) As per discussion with the SAO: (Prestige Cleaning material) it was noted that SCM did not inform her that the supplier needed to complete a PA-11 (declaration of interest)/ SBD 4 document.

e) As per discussion with the SAO: (Prestige Cleaning material) it was noted that SCM did not inform her that the supplier needed to submit an original tax clearance certificate.

Impact of the finding:

a) Fruitless and Wasteful expenditure of R8 900,00, due to the fact that the department purchased the goods at a higher price than available under the transversal contract.

b) Irregular expenditure of R31 000,00 (excluding the fruitless and wasteful expenditure noted above) as result of:

1. The auditee procured goods and services through means other than the transversal contract while the goods or services were available through a transversal contract that the auditee participates in as required by TR16A6.5”
2. The preference point system was not applied in the procurement of goods and services above R30 000 (Vat included) as required in terms of PPPF Act section 2(a).
3. Awards were made to suppliers who did not have tax clearance from SARS that their tax matter are in order and who have not made arrangements with SARS to meet their tax obligations as required by PPR 16, TR16A9.1(d) and PN 8 of 2007/08 paragraph 6.

c) Increased risk of bribery and fraudulent activities taking place.

d) Increased risk of payments being made to favoured suppliers.

e) Non compliance with:

1. PN 7 of 2009/10 as suppliers to whom awards were made did not submit declarations to declare that they are in the service of the auditee or that a director/ member/ principal shareholder/ stakeholder is in the service of the auditee.
2. Contrarily to the requirements of Practice Note 8 of 2007/08 and paragraphs 49 and 50 of the departments SCM policies requests for quotations from suppliers that are not on the prospective supplier list.

f) The department may procure goods and services with employees, political office bearers, SCM role-players, close family members of employees or persons in service of the department or other state institutions.

## Internal control deficiency

## *Leadership*

*The department does not effectively and timeously establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes and responsibilities.*

## *Financial and performance management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

## Recommendation

1. The department should only contract with suppliers listed on the Transversal Contract (RT 14/2010R) for the purchase of items under the contract.
2. Where the department is participating in a transversal contract, the department should not solicit bids for the same or similar service during the tenure of the contract.
3. All employees should be aware of the transversal contracts the department is participating in.
4. In cases where the department did not use the transversal contract to procure goods and services the department should ensured that the PA -20(Scoring Model) is used to evaluate the winning supplier in cases where the pro-quotes is not operating.

It should also be ensured that the PA-16:3: (Preference certificate for Quotation) is attached indicating that the preference point system to be used and preference points to be awarded for price and equity ownership by HDI, in the evaluation and selection of prospective suppliers.

1. The supplier should be required to complete and submit that the required SBD 4 declarations or the PA-11 (the department’s equivalent) together with other bidding documentation when applying for the bid.
2. Original Tax clearance certificates should always be obtained and attached to the procurement documentation in accordance with Treasury Regulation 16A9.1 (d) and Practice Note 8 of 2007/2008.

If the department is already in possession of the supplier original tax clearance certificate reference should be made to it in the procurement batch.

.**Management response**

**.**

I am in agreement with the finding

Cause: An urgent need was identified and quotations were solicited from the LOGIS database.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Information on Transversal contracts will be communicated to all and deviations for quotations are approved by the relevant delegated authority. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On- going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: Suppliers were sourced from the LOGIS database

Action plan: Deviations for quotations are approved by the relevant delegated authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Deviations for quotations are approved by the relevant delegated authority. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: Suppliers were sourced from the LOGIS database

Action plan: Deviations for quotations are approved by the relevant delegated authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Deviations for quotations are approved by the relevant delegated authority. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: The region was not aware of the participation in the transversal contract.

Action plan: All relevant parties will be made aware of the Department’s participation in the transversal contracts

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Information on Transversal contracts will be communicated to all and deviations for quotations are approved by the relevant delegated authority. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD:SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: The region was not aware of the participation in the transversal contract.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Information on Transversal contracts will be communicated to all and deviations for quotations are approved by the relevant delegated authority. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: The correct procurement process was not followed due to the urgency of the matter

Action plan: Deviations for quotations are approved by the relevant delegated authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | All relevant documentation should be attached during the procurement process | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD:SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: The correct procurement process was not followed due to the urgency of the matter

Action: Deviations for quotations are approved by the relevant delegated authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | All relevant documentation should be attached during the procurement process | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On Going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

I am in agreement with the finding

Cause: The correct procurement process was not followed due to the urgency of the matter

Action: Deviations for quotations are approved by the relevant delegated authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | All relevant documentation should be attached during the procurement process | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | On going | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: J Thobejane

Position: DD: SCM

Date: 17/07/2012

**Auditor’s conclusion**

a) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial audit.

b) Management agrees with the finding. Matter remains unresolved.

c) Management agrees with the finding. Matter remains unresolved.

d) Management agrees with the finding. The corrective actions indicated by management will be followed up in the next financial audit.

e) Management agrees with the finding. Fruitless and wasteful expenditure was therefore understated with R8 900.

f) Management agrees with the finding. Matter remains unresolved. As proper procurement processes were not followed the expenditure amounting to R31 000 is considered to be irregular expenditure.

g) Management agrees with the finding. The non compliance will be reported.

h) Management agrees with the finding. The matter remains unresolved and contributed to the expenditure being classified as irregular.

1. **SCM - Motseng Investments – FANO169143 Ex 101**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act:

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

v) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

9.1.2   *When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

9.1.5 *The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Practice Note 8 of 2007/08 states:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers*

*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.”*

*6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

d) Treasury Regulations 8.2.1 and 8.2.2 also state that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

The deviations listed below were identified pertaining to the procurement of electrical appliances from Motseng Facilities Management. Please see the table below for detail on payment selected for testing:

|  |  |  |
| --- | --- | --- |
| **FANO number** | **Total awarded** | **Items selected** |
| **R** | **R** |
| 169143 | 52 863,96 | 22 511,99 |
| 9 407,99 |

Please note that since the contract with Motseng Facilities Management and other pertinent information is with the Special Investigation Unit. We were unable to perform all of the necessary procurement procedures.

The following items were procured:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **QUANTITY** | **PRICE (INCLD VAT)**  **R** |
| Fridge | 1 | 22 511,99 |
| Dishwasher | 1 | 8 848,00 |
| Tumble dryer | 1 | 9 407,99 |
| Microwave oven | 1 | 3 919,99 |
| Washing Machine | 1 | 8 175,99 |
| **TOTAL** |  | **52 863,96** |

1. Contrary to the legislation listed above it was noted that the department did not obtain and evaluate three quotations.

Despite there being at least 388 suppliers listed on the supplier register, as being able to provide the department with appliances, the department opted to procure the goods directly from Motseng Facilities Management.

No reasons were provided indicating the reason for the deviation.

1. It was further noted that Motseng Facilities Management followed their internal procurement process and obtained three quotations from the following three companies:

i) Home Hyper City

ii) Game Stores

iii) House and Home

Motseng Facilities Management then, merely acted as a middle man between the Department and Home Hyper City, by charging the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

The items procured are ordinary household items that are readily available.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Hyper City.

Please see the table below for a break-down of amount charged by Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Home Hyper City to Motseng (excld VAT) | 41 403,07 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R 41 403,07\*12%)* | 4 968,37 |
| Total amount (Excluding VAT) | 46 371,44 |
| VAT @ 14% | 6 492,00 |
| **Total amount charged to DPW (including VAT)** | **52 863,44** |

Based on the above it is evident that Motseng Facilities Management was able to follow procurement procedures and obtain three quotations. It is therefore not clear why the department could not do the same instead of incurring the additional cost.

1. A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

i) MS C Motsisi – the previous Chief Financial Officer

ii) Mr T Tabane – the Chief Director SCM

iii) Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

1. As the Motseng Facilities Management contract is with SIU it could not be determined if;

i) Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.

ii) There was also no documentation attached to proof that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (e) did not indicate the original contract amount and an amount for the extension.

If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

1. There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.

The finding occurred as a result of the fact that:

As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

Impact of the finding:

1. Fruitless and wasteful expenditure incurred of R5 663,94 (R4 968,37\*114/100).
2. Irregular expenditure incurred of R47 199,50 (excluding the fruitless and wasteful expenditure noted above), due to:
3. The department not obtaining three quotes as required by SCM policies and procedures as required by PN 8 of 2007/08 even though it possible to do so.
4. An original tax clearance certificate as required by paragraph 6.1 of PN  8 of 2007/2008 was not submitted.
5. Increased risk of bribery and fraudulent activities taking place.
6. Non compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM issued by NT.
7. Non compliance with supply chain circular of NT dated 24 April 2012.
8. Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.
9. Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions, indicated by management, being implemented.

| **Action by management** | **Target date** | **Progress to date** |
| --- | --- | --- |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## Leadership

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and performance management

The department did not review and monitor compliance with applicable laws and regulations.

## Recommendation

1. The department should obtain and evaluate three quotations are required by Practice Note 8 of 2007/ 2008 to avoid paying unnecessary fees to other suppliers.
2. Where the department deems it necessary to extend a contract with a supplier the department should request the supplier to furnish updated documentation such as an original tax clearance certificate covering the period of the extension.
3. Where the department is already in possession of the tax clearance certificate or initial tax clearance certificate submitted covers the period of the extension the department should make reference to it in the payment batch.
4. The department must timeously update their prospective supplier list to include suppliers that can deliver services to avoid paying unnecessary fees.
5. A post-performance assessment of procurement should be performed in order to determine if the utilisaiton of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.
6. The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

**Management response**

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

Motseng FM is contracted to facilitate the procurement of goods and services on behalf of the department for all the Prestige Clients and its facilities as per contract agreement.

As per contract agreement, signed by Motseng and Head office, Motseng as the contracted service provider has its own data base of suppliers of which the department does not have control of.

.

Name: K. A. TSATSI

Position: DD – PRESTIGE TECHNICAL

Date: 13 July 2012

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

The contract between Motseng FM and the department allows Motseng to procure services utilizing their data base on behalf of the department. The contract further allows Motseng a 12% handling fee or profit on services rendered per contract.

The contract further allows Motseng to keep stock or procure the electric appliances for Prestige Clients (Ministerial house) for ease of replacement when needs arise. The above is as per the signed contract between Motseng and the department and we cannot deviate from that.

*Name:* K. A. TSATSI

*Position: DD – PRESTIGE TECHNICAL*

*Date:13 July 2012*

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

*Name:* K. A. TSATSI

*Position: DD – PRESTIGE TECHNICAL*

*Date:13 July 2012*

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

All approval of extensions for Motseng FM was done by Head Office – SNBAC.

*Name:* K. A. TSATSI

*Position: DD – PRESTIGE TECHNICAL*

*Date:13 July 2012*

1. I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | A copy of the tax clearance certificate will be attached to every claim. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Admin officer to check availability of such certificate on every payment. | |
| Estimated completion date for corrective action |  | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

Name: K. A. TSATSI

Position: DD – PRESTIGE TECHNICAL

Date:13 July 2012

**Auditor’s conclusion**

a-b) Although management has indicated that they are not in agreement with the finding, their reasons are not valid. The items purchased above were to furnish a new property and not to replace items of existing properties.

Furthermore, the department does have an SCM function who is equipped with a supplier database to procure goods and services. It is was therefore not necessary for the department to source quotations and procure goods via Motseng.

The matter therefore remains unresolved.

c) Although management has indicated that they are not in agreement with the finding, no reasons were provided. The matter therefore remains unresolved.

d) Although management has indicated that they are not in agreement with the finding, the reasons submitted my management does not address the finding. The matter therefore remains unresolved.

e) Management is in agreement with the finding, the matter therefore remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R47 199,50 is therefore considered to be irregular.

1. **Deviations from supply chain management – Essel Trading – Pretoria Region Ex 104**

a) Treasury Regulation 16A3.2 requires that:

*“A supply chain management system referred to in paragraph 16A3.1 must:*

*(a)       be fair, equitable, transparent, competitive and cost effective*

*(b)      be consistent with the Preferential Procurement Policy Framework Act No. 5 of 2000*

*(c)      be consistent with the Broad Based Black Economic Empowerment Act No.53 of 2003.”*

b) Practice note 8 of 2007/2008 paragraph 3.3.1 states that:

*“Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.”*

c) The department’s SCM policy paragraphs 49 and 50a states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

d) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 paragraph 3(1) requires that:

*“The 80/20 preference point system- (1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

*Where*

**

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

The following deviations were noted:

Batch number 157180 relates to the procurement of office furniture. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **BEN NAME** | **FANO** | **AMOUNT AWARDED** | **AMOUNT SELECTED** |
| **R** | **R** |
| ESSEL TRADING | 157180 | 111 499,00 | 20 800,00 |

The classification per the general ledger:

|  |  |
| --- | --- |
| **ITEM** | **R** |
| DOMESTIC FURNITURE | 56 599,00 |
| F&O/EQP<R5000:DOMESTIC FURNITURE | 4 900,00 |
| F&O/EQP<R5000:OFFICE FURNITURE | 19 600,00 |
| INV STA&PRNT:STATIONERY | 1 200,00 |
| OFFICE FURNITURE | 29 200,00 |
| **TOTAL** | **111 499,00** |

1. The department invited the following suppliers to submit quotations:

(i) P Mash Project Management (Essel Trading)

(ii) Cecil Nurse

(iii) Kayro's Decorating Planet

(iv) Surface Design

(v) Comfort Creations

Contrary to the requirements listed above, a request for a quotation was submitted to Comfort Creations who is not a prospective supplier listed on the prospective supplier list, provided for audit purposes.

b) Although P Mash Project Management, which was on the prospective supplier list, submitted a quotation, it was noted that P Mash Project Management is trading as Essel Trading. The following discrepancies were identified which cast a doubt as to the validity of the supplier “Essel Trading”:

Per the CIPC, Companies and Intellectual Property Commission, P Mash is not trading as Essel Trading – it is a standard practice that should a trading name is different from the registered name it will be specifically indicated as such;

Although P Mash Project Management is registered for VAT, the invoice received from Essel Trading does not include VAT.

As per inspection of quotation number 105B0057B from P Mash Project Management it was noted that the bank account number stipulated in the quotation differed from that of Essel Trading as stipulated on invoice number DPW06/01 as indicated below.

Account number as per the quotation from P Mash Project Management: 406261441

Account number as per the invoice from Essel Trading: 9092894511

1. The difference in bank accounts reported in the second bullet of paragraph (b)(iii) above is a concern seeing that the department wrote off a large amount in the prior year pertaining to payments being made into the incorrect bank accounts. It is not evident how the department followed up the differences in banking details and confirmed that the amount was paid into the correct bank account and therefore to the correct service provider.
2. It was also noted that P Mash Project Management purchased the furniture from Forest Office Furniture.

Furniture purchased from Forest Office Furniture as per delivery note number: 690, dated 01 June 2011, was delivered to the same address as Public Works Pretoria regional office. The delivery note, dated 01 June 2011, was authorised by B Nefale specifying that the “Goods ordered where received in good condition”. The following information was therefore indicated on the delivery note:

**P Mash**

AVN Buildings

Corner Skinner

6th floor

Public Works

It was noted that two delivery notes were attached to the batch. The first delivery note, 690 from Forrest Furniture to P Mash Trading was signed by B. Nefale a department official.

The second delivery note, Del01 from Essel Trading to the department. The delivery note was also signed by B. Nefale.

Therefore from the information provided above it is clear that P Mash Project Management merely acted as a middle man between Forest Office Furniture and the department. It is not evident if additional cost was paid, as the department did not procure directly from Forest Office Furniture.

e) Furthermore it was noted that Forest Office Furniture was included in the approved prospective suppliers list. It is therefore not evident why the department did not invite them to quote.

f) It also raise the concern that based on the rotation of the pro-quote system Forest Office Furniture should not have provided services to the department at this point. The latter is confirmed by the extract from the general ledger that indicates that there were transactions with Forest Office Furniture in June 2011. The table below indicate services provided by Forest Office Furniture which was paid in June. The total amount of the payment amounted to R253 537,14 (reference FANO 157343).

| **ITEM LEVEL** | **R** |
| --- | --- |
| F&O/EQP<R5000:OFFICE FURNITURE | 98 144,88 |
| O/P:COURIER & DELIVERY SERVS | 570,00 |
| OFFICE FURNITURE | 154 822,26 |
| **TOTAL** | **253 537,14** |

1. As per inspection of the department’s PA-20(Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the Preferential Procurement Policy Framework Act. Please note that although an incorrect formula was used it does not affect the outcome.

Please refer to the table below for differences identified in the point calculations:

| **SUPPLIER EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| --- | --- | --- | --- |
| P Mash Project Management (Essel Trading) | 87,42 | 85,1 | (1,61) |
| Kayro’s Decorating Planet | 80,66 | 75,85 | (4,81) |
| Surface Design | 49,09 | (8,39) | (57,48) |

h) It was noted that Essel Trading has not charged VAT. As a result, according to the preference points for price, Essel Trading was lower than the other suppliers. However had Essel Trading charged VAT, the preference points for price calculated for Essel Trading would have been lower than that of Kayro’s Decorating Planet and therefore Kayro’s Decorating Planet would have obtained the highest preference points.

It is a concern that if P Mash Project Management is trading as Essel Trading, that Essel Trading is not charging VAT. In doing the latter they came in at a lower price and therefore achieved a higher score for price.

i) As Forest Office Furniture which is on the prospective supplier list, provided the furniture they should have been assessed in line with the requirements Preferential Procurement Policy Framework Act. As the latter did not occur it is not evident if P Mash Project Management would have obtained the highest score.

Impact of the finding:

a) Non compliance with Practice note 8 of 2007/2008 paragraph 3.3.1

b) There is a risk that quotations may not have been received from valid suppliers.

c) Non Compliance with Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 paragraph 3(1)

d) Possible irregular expenditure due to non compliance with Treasury Regulation 16A3.2 of R111 499.

The finding occurred as a result of the fact that:

a) As per discussion with DD: Supplier’s Register (SCM) it was noted that the department uses a separate suppliers list for the procurement of prestige assets, the suppliers are not included in the supplier’s database. Per inspection of the separate database it was noted that Comfort Creations and Essel Trading were included in the database.

b) As per discussion with the assistant director: procurement, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

c) As per discussion with ASD: Finance the difference in the bank accounts do not have much effect on the payment because the bank account on the Invoice matches the account number on the system and that is what is important he also noted the fact that all prestige quotations are done at Head Office and that they are only in charge of the payment.

## Internal control deficiency

## Leadership

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

## Recommendation

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers

c) The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were correctly applied and preference points were correctly calculated.

d) It is recommended that the department report service providers, who are registered for VAT, who exclude VAT from their invoices to come in at a lower price to NT. Government is losing VAT income on business they do with VAT vendors due this practice.

e) This matter needs to be investigated to determine why the procurement was received from Forest Office Furniture, while P Mash Project Management provided the quotation and the invoice was from Essel Trading. This investigation should also confirm that the officials did not circumvent SCM processes pertaining to the rotation of suppliers. It should also confirm that no additional cost was incurred by not procuring directly from Forest Office Furniture.

.

**Management response**

a) I am in agreement with the finding for the following reasons

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To ensure that all vendors that trade with DPW are listed on the supplier database otherwise request enlisted through NBAC once the database is closed | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director - DAM | |
| Estimated completion date for corrective action | End September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Entities changes or amend names and Supplier register is required to keep records of such change | |

b) I am not in agreement with the finding for the following reasons

1. P Mash Project Management was trading as Essel Trading prior 28th May 2010, when change took place the department was forwarded relevant document hence on the date of transaction our current records reflect P Mash Project Management.
2. In relation to the invoice submitted to finance, quotation unit will investigate that, finance is required to match, quotation, delivery note and invoice before processing payment.
3. The difference in banking details will be investigated and report will be provided by finance.

c) I am not in agreement with the finding for the following reasons

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To investigate the matter and report on findings, were possible try recover the monies as recorded | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

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

The Architect had specified the furniture which is being manufactured by Forest for standardization and maintaining the same look and feel. The quotation was not sourced directly from Forest Furniture but P Mash Project Management sourced directly from the manufacturer. The department should not accept or sign off delivery notes form other service providers as part of process flow. The departmental policy does not confine the department to only trade with manufacturer therefore suppliers are encouraged to source and sell at an acceptable premium.

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

The department solicited quotations by inviting 5 suppliers from a limited prestige supplier list with the hope that at least 3 will respond.

f) The PA-20.1 scoring model is a standard form used to calculate points manually. When using the electronic version, the system automatically take the total score to the nearest decimal hence if you compare PA-16 and electronic calculation you will realize a slide change. It is conceded however that the scoring model that was used was based on the CIDB formula!

To correct the finding of the audit report for the year ending 31 March 2011, a decision was taken to include the prestige environment on Proquote. An advert was placed in the two national newspapers (City Press and Sunday Times) to invite prestige suppliers to apply onto DPW Supplier Register database. The currently manually used suppliers were send letters to register onto the database which the response was not satisfactorily. The ones that responded to the advert were successfully registered onto DPW database. Currently prestige database is done manually. A decision was made by management having seen the number of service providers registered on Supplier Register database that we should move away from manual system and use Proqoute.

DPW started using Proqoute for any prestige services but the system was allocating wrong service providers due to the misalignment of ICN numbers and item codes. We are in a process for correcting the ICN numbers and item codes and linking them to the correct suppliers, only then we will be able to fully use Proqoute for any prestige services.

*Name:* Eulala Kruger

*Position: Acting – Chief Director – Supply Chain Management*

*Date: 28 June 2012*

**Auditor’s conclusion:**

1. Management agrees with the finding. The corrective actions indicated by management will be followed up in the next audit.

The following matters remain unresolved:

1. P Mash Project Management was trading as Essel Trading prior 28th May 2010, when change took place the department was forwarded relevant document hence on the date of transaction our current records reflect P Mash Project Management.

The department has not indicated which documentation it has received that indicated that P Mash Project Management was trading as Essel Trading. In addition, the most relevant document is the document from CIPC, (Companies and Intellectual Property Commission,). CIPC is currently indicating that P Mash is not trading as Essel Trading. The documentation was also not attached to management’s response.

The matter relating to the invoice is under investigation and is therefore unresolved.

The difference in banking details will be investigated and report will be provided by finance and as a result the matter is unresolved.

1. Management has not responded to the finding as to how the department followed up the differences in banking details and confirmed that the amount was paid into the correct bank account and therefore to the correct service provider. The matter is therefore unresolved.
2. It was indicated that the furniture was manufactured by Forest Furniture, which is a registered supplier on the database. It is therefore not evident why the procurement was made via P Mash Project Management. P Mash Project Management merely acted as a middle man between Forest Office Furniture and the department. The matter therefore remains unresolved.
3. Based on management’s response, it is still not evident why the department did not invite Forest Office Furniture to quote. We do acknowledge however that the department has solicited quotations by inviting 5 suppliers. However, it should be mentioned that as management has said that the prestige supplier list is “limited”, and as a result management should update the prestige supplier list to include additional service providers. It must be highlighted that the commodities listed on the prestige supplier list are readily available. The matter remains unresolved.
4. Management did not respond to the fact that services were procured in Jun 2011 from Office Furniture and based on the rotation they may not have been considered to provide a quotation. The matter therefore remains unresolved.
5. Management’s response is being perceived as being in agreement with the finding. The matter therefore remains unresolved.
6. Management did not respond to the matter and it therefore remains unresolved.
7. Management did not respond to the matter and it therefore remains unresolved.
8. **Deviation from SCM: Maphale Motuba Creations CC – Pretoria regional office Ex 118**

**Audit Finding**

Laws, rules and regulations:

1. PFMA section 38(1)(c)(ii) states:

*“(1)the accounting officer for a department, trading entity or constitutional institution-*

*(c)must take effective and appropriate steps to*-

*(ii)prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

1. Practice note 8 of 2007/2008 paragraph 3.3.1, 3.3.2 and 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000 (including VAT):

*“3.3.1 Accounting officers/ authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

c) Treasury Regulation 16A6.1

“*16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

*64. the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective”*

The following deviations relating to the procurement of furniture on the 21 September 2011from Maphale Motuba Creations CC has been noted:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **SUPPLIER NAME** | **FANO** | **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST [INCLUDING VAT]** | **R** |
| Maphale Motuba Creations CC | 167711 | Curtain | 1 | R7 820,40 | 7 820,40 |
| Chest of drawers | 1 | R7 890,00 | 7 890,00 |
| Lace (Voile) | 1 | R889,20 | 889,20 |
| **Total** |  |  | 1. 559,60 |

d) Only two quotations were obtained. The quotations were received from Maphale Motuba Creations CC R16 599,60 and Nana Design R20 041,20.

e) The deviation has been approved by D: Demand and Acquisition who according to the SCM. Delegations can authorise deviations with regards to quotations. However the reasons for not obtaining three written quotations do not appear reasonable or justifiable as there are 1 244 service providers listed on the prospective supplier list who supply furniture. There is not a specific commodity indicated for curtains on the prospective supplier list.

f) It was recorded that Senex could not be reached as their contact details are non-existent. It has however been confirmed that services were procured from Senex both before and after this transaction took place. This further confirm the conclusion that the department could have obtained three written quotations.

Impact of the finding:

a) Irregular expenditure was understated with R16 559,60 due to deviations being approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement of Practice Note 8 of 2007/2008.

b) Since the department did not obtain and evaluate three quotations the goods may not have been obtained at a reasonable price.

c) Risk of payments being awarded to favoured suppliers.

d) Increased risk of bribery and fraudulent activities.

The finding occurred as a result of the fact that:

As per discussion with the Assistant Director: Finance it was noted that according to the internal memo a request for the quotation of curtains and the chest of drawer was issued. However, only two suppliers responded to the request and one supplier could not be reached, due to non-existence of contact numbers.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

**Internal control deficiency**

*Leadership*

a) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities

b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and performance management

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) The department should obtain and evaluate three quotations where necessary in line with SCM regulations.

b) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

c) This case must be investigated for possible undue influence in the process and appropriate action must be taken against the affected official or role player in accordance with the policies and procedures of the department.

**Management response**

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

DPW invited quotes from the manual list of prestige suppliers and received two responses. The necessary approval was obtained to deviate from the relevant authority.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | Yes | No |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| **DESCRIPTION** | RESPONSE | |
| Does management agree with the root cause indicated | Yes | No |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* BassieKgasoane

*Position: Chief Director: Prestige*

*Date: 22 June 2012*

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

The prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office as from 2009.

A manual list adopted from Pretoria Regional Office specifically for prestige is categorized as follows:

| **Type of commodity** | **Number of Service Providers on the list** |
| --- | --- |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning material | 03 |
| Linen | 05 |
| Kitchen wear | 01 |
| Cut glass | 02 |
| Antique furniture | 02 |
| Repair work of silverware and furniture | 04 |
| Household and electrical appliance | 03 |
| Banquet and set up | 02 |

It is a requirement that all prestige service providers must be vetted and NIA cleared.

A total number of 1244 mentioned above are General Goods and Services supplierswhich are registered on Supplier Register database and they are not NIA cleared to be used for acquisition of prestige.

According to the manual list indicated in a table above a total number of 14 service providers for furniture and 09 for curtains are currently used for the procurement of prestige. Due to limited number of prestige suppliers, these results into less than three quotations obtained and evaluated, hence the necessary approvals by the delegated authority. So the reasons are justifiable. However a process is unfolding to register prestige suppliers into DPW Supplier Register database.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Implement Proqoute System for prestige environment | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: DAM | |
| Estimated completion date for corrective action | End of September | |
|  |  | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | No |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | By virtue of implementing the Proqoute system for prestige, the Department was improving internal controls. The identified root cause is the misalignment of the ICN numbers within Supplier Module to allow Proqoute to invite only NIA cleared suppliers for prestige acquisition. | |

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date: 22 June 2012*

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

DPW acknowledges that Senex at the time of invitation of this specific quotation was unreachable, not that the contact details were not in existence.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To craft the submissions in such a manner that language is not misinterpreted | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: DAM | |
| Estimated completion date for corrective action | End September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date: 22 June 2012*

**Auditors conclusions**

1. This matter is considered not to be resolved as the prestige supplier list should be updated to include additional service providers. Once the prestige supplier list is updated, the department will have the opportunity to invite additional suppliers and as a result give the department the opportunity to obtain three quotations.
2. It is not evident why the prestige supplier list is limited to a total number of 14 service providers for furniture and nine for curtains as per the Ministerial Handbook paragraph C (i) the furnishing of state-owned residences is limited to the provision, and maintenance of ordinary household furniture, mattresses, pillows, carpets, beds, stoves, refrigerators, freeze’s, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers. As a result the prestige supplier list should be updated to include additional service providers. In addition, an analysis should be done to determine which of the 1 244 service providers listed on the prospective supplier list who supply furniture can be used to supply furniture for prestige. As a result the matter remains unresolved.
3. Since Senex is a supplier listed on the supplier register, for this specific procurement it appears that the department deliberately failed to contact Senex to allow Maphale Motuba to win. The matter therefore remains unresolved.
4. **Deviation from SCM: Maphale Motuba Creations CC – PTA regional office Ex 119**

**Audit Finding**

Laws, rules and legislation:

1. PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

1. In terms of Practice Note 8 of 2007/8 paragraph 3.3.1, 3.3.2 and 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000(including VAT):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

1. Treasury Regulation 16A6.3

*“16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective”*

d) In terms of the Preferential Procurement Policy Regulations GRN R725 of 10 August 2001 section 3:

*The following formula must be used to calculate the points for price*

*in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000.Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

1. Supply chain management policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The following deviations relating to the procurement of curtains from Maphale Motuba Creations CC on the 17 November 2011 has been noted:

|  |  |  |
| --- | --- | --- |
| **SUPPLIER NAME** | **FANO** | **R** |
| Maphale Motuba Creations CC | 175408 | 139 807,83 |

1. Only two quotations were obtained. The quotations were received from Maphale Motuba Creations CC R139 807,83 and Into Fabrics R156 392,04.
2. The deviation has been approved by D: Demand and Acquisition. The reason for the deviation was that requests were sent to the following suppliers:
3. Maphale Motuba
4. Into Fabrics
5. Sehlahlane projects
6. Surface Design
7. XI Interior
8. However, the following suppliers could not be reached due to non-existence of their contact details:
9. Motse Interior
10. Montso’s Curtain
11. J Kekana
12. Legae La Batho
13. Rivhongo Vhonani
14. On the closing date, only the following two suppliers responded and provided quotations:
15. Maphale Motuba
16. Into fabrics

It does not appear reasonable or justifiable that the department did not obtain three written quotations as there are 198 suppliers listed on the prospective supplier list who supply linen and soft finishing’s.

1. IX Interior, Legae La Batho and Motso’s Curtain were invited to quote but were not listed on the department’s prospective supplier list.
2. We recalculated the preference point awarded and we found differences between our   
   calculation and the Scoring Model Calculations of PA20.3. A difference of 1,01 was identified   
   between our calculation and the department’s calculation. However, the results do not   
   materially change the outcome. The HDI calculation for the losing bidder was not in line with what was filled in by the shareholders per PA 16-3.

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **RECALCULATED AMOUNT** | **AMOUNT PER SCORING MODEL** | **DIFFERENCE** |
| Into fabrics | 88,51 | 89,52 | 1,01 |

Impact of the finding:

1. The expenditure of R139 207,83 is considered to be irregular due to the fact that deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement of Practice Note 8 of 2007/2008
2. Quotations were obtained from service providers who were not on the approved prospective supplier list, while there are sufficient suppliers listed who can provide the service.
3. Non Compliance with Preferential Procurement Policy Framework Act 5 Of 2000 GN R725 as points was incorrectly calculated.
4. Risk of payments being awarded to favoured suppliers.
5. Since the department did not obtain and evaluate three quotations, nor were all of the   
    quotations requested from suppliers on the prospective supplier list, the goods may not have   
    been obtained at a reasonable price.
6. Increased risk of bribery and fraudulent activities.

The finding occurred as a result of the fact that:

As per discussion with the senior administration officer: prestige it was noted that according to the internal memo a request for the quotation of curtains was issued to five suppliers. On the closing date only two suppliers responded to the request. All quotations are obtained at head office, and as a result head office is the one that deals with the procurement process and regional office only deals with payments.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011.

**Internal control deficiency**

*Leadership*

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and performance management

The department did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

a) The department should obtain and evaluate three quotations.

b) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

c) The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers.

d) Procurement between R30 000 and R500 000 should be accurately evaluated in terms of the PPPFA.

**Management response**

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

The department solicited quotations by inviting 5 suppliers from a limited supplier list with the hope that at least 3 will respond. On the closing date only 2 responded and the necessary approvals were requested from relevant delegated authority to continue with the deviation (annexure A).

To correct the finding of the audit report for the year ending 31 March 2011, a decision was taken to include the prestige environment on proqute. An advert was placed in the two national newspapers (City Press and Sunday Times) to invite prestige suppliers to apply onto DPW Supplier Register database. The currently manually used suppliers were send letters to register onto the database which the response was not satisfactorily. The once responded on the advert were successfully registered onto DPW database. Currently prestige database is done manually. A decision was made by management having seen the number of service providers registered on Supplier Register database that we should move away from manual system and use Proqoute. We started using Proqoute for any prestige services but the system was allocating wrong service providers due to the misalignment of ICN numbers and item codes. We are in a process for correcting the ICN numbers and item codes and linking them to the correct suppliers, only then we will be able to fully use Proqoute for any prestige services.

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

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

The department has limited Prestige suppliers registered on the departmental database therefore it is reasonable to request the necessary approvals to deviate if five or more suppliers were invited and less responses were received.

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

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

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

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

The PA-20.1 scoring model is a standard form used to calculate points manually. When using the electronic version, the system automatically take the total score to the nearest decimal hence if you compare PA-16 and electronic calculation you will realize a slide change.

The HDI calculation for the losing bidder is in line with what is been claimed on PA16.3 by the shareholders. They claimed 90+10 for HDI and 90+10 for women and 0 for Disabled subsequently the PA20 reflect that their total score claimed is 18 points of which 14 for HDI and 4 for Women (annexure B).

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

**Auditor’s conclusion**

1. Managements response has been noted however this matter is considered not to be resolved as the prestige supplier list should be updated to include additional service providers. Once the prestige supplier list is updated, the department will have the opportunity to invite additional suppliers and as a result give the department the opportunity to obtain three quotations.
2. Management’s response has been noted however, it is not evident why the prestige supplier list is limited to a total number of 14 service providers for furniture and nine for curtains.

The Ministerial Handbook paragraph C(i) states that “*the furnishing of State-owned residences is limited to the provision, and maintenance of ordinary household furniture, mattresses, pillows, carpets, beds, stoves, refrigerators, freeze’s, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers.”*

Management must ensure that sufficient suppliers are available on the prospective supplier list to ensure that the department can comply with SCM processes.

As a result the matter is considered to be unresolved.

1. Although it is noted that management has provided us with the prospective supplier list, it is recommended a separate database be maintained to prevent suppliers being added and removed.

It is confirmed that Motso’s Curtain was on the prestige service provider list. Legae La Batho was on a hand written paper provided to the comment, while IX Interior was not on the list.

As a result the matter is considered to be unresolved.

d) Although management is not in agreement with the finding and has indicated that the difference noted is a rounding error, the following was noted:

1. The formula per the PA-20 (scoring model) used to calculate the point is not in accordance with the formula per the PPFR.
2. Not all of the differences noted above can be attributed to rounding differences.

The matter therefore remains unresolved.

1. **Deviations from supply chain management requirements –Senex Interiors (Pty) Ltd - Pretoria regional office** **Ex 120**

**Audit Finding**

Laws, rules and legislation:

a) PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

b) Treasury Regulation 16A3 states:

*“16A3.1The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must be fair, equitable, transparent, competitive and cost effective”*

c) Practice note 8 of 2007/8 paragraphs 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

d*)* Supply chain management policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The deviations listed below relate to the procurement of furniture from Senex Interiors (Pty) Ltd. Please see the table below for information on the payment selected for testing:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CLASSIFICATION OF ITEMS PURCHASED SELECTED FOR TESTING** | **BATCH NUMBER** | **DATE** | **TOTAL VALUE OF AWARD** | **R** |
| DOMESTIC FURNITURE | 168091 | 2011/09/23 | 106 450,00 | 14 200,00 |
| F&O/EQP<R5000:DOMESTIC FURNITURE | 10 170,00 |
| F&O/EQP<R5000:LINEN&SOFT FURNISH | 14 400,00 |

Contrary to the legislation listed above the department did not obtain and evaluate three written quotations as required by Practice Note 8. Quotations were requested from the services providers listed below. Only one other service provider, Ledor Creations, responded but later sent a letter stating that goods have been discontinued and no response was received from the rest of suppliers. The department therefore only obtained a quotation from Senex Interiors (Pty) Ltd.

1. Ledor Creations
2. Legae la Batho
3. Surface Design
4. Nana Design
5. Senex Interior (Pty) Ltd
6. IX Interior
7. Sehlahlane Projects

Although the deviation for not obtaining three quotations has been approved by the D:Demand and Acquisition Management, the reasons do not appear reasonable or justifiable as there are currently 1 244 suppliers on the list that is able to provide the department with furniture.

As theofficials of the department must have either had the contact detail or know if the service providers listed below (see point b), which were not on the prospective supplier list, do and can provide furniture it is not evident why so many of them did not respond.

Furthermore, out of the seven suppliers from whom quotations were requested, three of the suppliers were not listed on the department’s prospective supplier list. Please see below:

1. Ledor Creations
2. IX Interior
3. Legae la Batho

`

No documentation was provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list as there is so many service providers on the prospective supplier list that can provide furniture. As a result the department did not comply with practice note 8 of 2007/8 paragraph 3.3.2, which clearly indicates it is only allowable in instances where no suitable suppliers are available on the supplier list. The department further also did not comply with paragraph 49 of its own supply chain management policy.

In addition, considering that the pro-quote system can only recommend a supplier that is listed on the supplier database, it is unclear where the department obtained the suppliers information from.

Moreover, the company registration number of the winning supplier per the prospective supplier list, DO 675, does not agree to the company registration number per the invoice/quotation of 1986/000948/07.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance (Mpho Selepe) it was noted that a request was sent to seven suppliers. Only one supplier responded and provided a quotation being Senex Interior.

The ASD: Finance (Mpho Selepe) also noted that, all quotations for prestige are done at head office and as a result head office personnel are responsible for the choice of suppliers. Therefore he does not understand why some of the suppliers chosen are not on the prospective supplier list as regional office only deals with the payment.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011

Impact of the finding:

a) Irregular expenditure was understated with R106 450 due to deviations being approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement in terms of Practice Note 8 of 2007/2008.

b) Risk of payments being awarded to favoured suppliers.

c) The department did not obtain and evaluate three quotations, nor were all of the quotations requested from suppliers on the prospective supplier list, the goods may therefore not have been obtained at the most reasonable price.

d) Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

*Leadership*

a) Management did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity

b) Management did not effectively exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

c) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities

## Financial and performance management

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

**Recommendation**

1. In cases where requests for a quotation are submitted and less than three quotations are received, the department should follow up the reason for non submission with the respective suppliers, these reasons should be documented on the procurement batch.
2. The department should request quotations from suppliers on the supplier register.
3. In cases where the suppliers per the supplier register is unable to provide the goods desired, the department may then request quotations from other suppliers after the appropriate approval has been obtained.
4. Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.
5. The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers.
6. The matter listed below should be investigated and the required disciplinary actions taken if applicable. It cannot be acceptable for the department that there is this number of deviations where there quotations cannot be obtained. It should further be investigating why the officials keep on requesting quotations from service providers who do not respond and then utilise the latter as motivation for not obtaining three written quotations.

**Management response**

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

An invintation was send to seven (7) approved prestige service providers and only a single vendor responded. Public works has to render service within a specific turnaround time hence deviations are there to be utilized in case the department is unable to receive three quotations. The director SCM was delegated to approve such deviations.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Follow internal control I place | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Dir: DAM*

*Date: 25 July 2012*

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

Practice Note 8 of 2007/2008 allows procurement officers to source from other possible service providers, depending of the goods and service required.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Dir: DAM*

*Date: 25 July 2012*

c) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To re-evalvuate suppliers approved for prestige procurement | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Dir: DAM*

*Date: 25 July 2012*

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Officials are required to check details of the suppliers on the CIPC system before confirmation of the transaction | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Salome Malebye

*Position: Dir: DAM*

*Date: 25 July 2012*

**Auditor’s conclusion**

a) It is not evident why the prestige supplier list is limited to a total number of 14 service providers for furniture and nine for curtains as per the Ministerial Handbook paragraph C(i) the furnishing of state-owned residences is limited to the provision, and maintenance of ordinary household furniture, mattresses, pillows, carpets, beds, stoves, refrigerators, freeze’s, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers. As a result the prestige supplier list should be updated to include additional service providers.

In addition, an analysis should be done to determine which of the 1 244 service providers listed on the prospective supplier list who, supply furniture can be used to supply furniture for prestige. As a result the matter remains unresolved.

b)The matter is considered not to be resolved as practice note 8 of 2007/8 paragraph 3.3.2, clearly indicates it is only allowable in instances where no suitable suppliers are available on the supplier list. The department further also did not comply with paragraph 49 of their own supply chain management policy.

c) Management is in agreement with the finding and as a result the matter is considered not to be resolved.

d) Although management did not indicate if they agree or not with the finding managements commented that officials are required to check details of the suppliers on the CIPC system before confirmation of the transaction. However as the company registration number of the winning supplier per the prospective supplier list, DO 675, does not agree to the company registration number per the invoice/quotation of 1986/000948/07 it is not evident that officials checked the details of the suppliers on the CIPC system before confirmation of the transaction. As a result the matter is considered to be unresolved.

1. **Deviations from supply chain management requirements – Mosiwa Building Enterprise CC – Pretoria regional office Ex 121**

**Audit Finding**

Laws, rules and legislation:

1. PFMA paragraph 38(1)(c)(ii) states:

*“(1)The accounting officer for a department, trading entity or constitutional institution-*

*(c)must take effective and appropriate steps to*-

*(ii)prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

1. Practice note 8 of 2007/2008 paragraphs 3.3.1, 3.3.2 and 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000 (including VAT):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

c) Treasury Regulation 16A3

*“16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective”*
2. Supply chain management policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The following deviations relating to the procurement of carpets on the 28 September 2011 from Mosiwa Building Enterprise CC have been noted. Please refer to the below table for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER NAME** | **FANO NUMBER** | **DATE** | **R** |
| Mosiwa Building Enterprise CC | 168789 | 28 September 2011 | 1. 760,00 |

1. The department did not obtain and evaluate three written quotations as required by Practice Note 8 of 2007/08. The following suppliers were invited to quote and onlyMosiwa Building Enterprise CC responded:
2. J Kekana
3. Tem Decor
4. Slavana Interior
5. Motso's Enterprise
6. Kelar Carpets
7. Waterhouse
8. GollesBotbyl
9. Mosiwa Building Enterprises

b) As per inspection of the internal memo, the approval of the deviation was done by D:SCM(Demand and Aquisition).The reason for not obtaining three quotations was that J Kekana could not be reached as per fax report, Waterhouse does not provide the requested service and no response was received from the rest of suppliers.

The reasons for not obtaining three written quotations do not appear reasonable or justifiable as carpets are a commodity that is readily available. Although there is not a specific commodity indicated for carpets on the prospective supplier list, as the department frequently needs to purchase this commodity there should be numerous service providers on the database to provide carpets.

As the officials of the department must have either had the contact detail or know if the service providers listed below, which were not on the prospective supplier list, do and can provide carpets it is not evident why so many of them did not respond.

c) The suppliers listed below were invited to submit quotations but were not listed on the department’s prospective supplier list.

i) Tem Decor

1. Slavana Interior
2. Motso’s Enterprise
3. Kelar Carpets
4. Waterhouse
5. Gilles Botbyl

No documentation has been provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list. As a result the department was not allowed to apply practice note 8 of 2007/8 paragraph 3.3.2, which clearly indicates it is only applicable in instances where no suitable suppliers are available on the supplier list.

Impact of the finding:

1. The non compliance with Practice Note 8 of 2007/2008 may possibly contribute to the expenditure of R95 760being classified as irregular.
2. Risk of payments being awarded to favoured suppliers.
3. Since the department did not obtain and evaluate three quotations, the goods may not   
    have beenobtained at a reasonable price.
4. Increased risk of bribery and fraudulent activities.

The finding occurred as a result of the fact that:

As per discussion with the Assistant Director of Finance, it was noted that according to the internal memo a request for the quotation of carpets was issued. However one suppler could not be reached and Waterhouse did not provide the service. As a result only one supplier responded.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

**Internal control deficiency**

*Leadership*

*a) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

*b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) The department should obtain and evaluate three quotations.

b) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the prescribed procurement process.

c) The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers.

**Management response**

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

The prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office as from 2009.A manual list adopted from Pretoria Regional Office specifically for prestige is categorized as follows:

| **Type of commodity** | **Number of Service Providers on the list** |
| --- | --- |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning material | 03 |
| Linen | 05 |
| Kitchen wear | 01 |
| Cut glass | 02 |

|  |  |
| --- | --- |
| **Type of commodity** | **Number of Service Providers on the list** |
| Antique furniture | 02 |
| Repair work of silverware and furniture | 04 |
| Household and electrical appliance | 03 |
| Banquet and set up | 02 |

It is a requirement prestige service providers must be vetted and NIA cleared.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Implement Proqoute system for acquisition of prestige suppliers | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | No |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | Director: Demand and Acquisition | | |
| Estimated completion date for corrective action: | End of September 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  | No | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | The national Treasury Practice Note allow DPW to source outside the database. | | |

*Name:*Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date:*

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

As indicated above the DPW followed a manual process in obtaining quotations from a prestige list of service providers. There were two attempts to obtain quotations from the listed service providers and due to service delivery requirements and cost of procurement considerations the DPW had to finalize the process rather than engage in another process of inviting quotations that would in all probability yield the same result. The reasons for deviation are therefore justifiable and reasonable.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Upload prestige service providers on to the Supplier Register database of the Department after they have been security vetted | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | × |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: DAM | |
| Estimated completion date for corrective action | End of September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | × |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | The fact that the process of approval of the deviation went through a recording process of the reasons for deviation as well as the duly delegated authority approved the deviation indicates that there was due management oversight in the process. | |

*Name: Bassie Kgasoane*

*Position: Chief Director - Prestige*

*Date: 22 June 2012*

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

The prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office as from 2009 as indicated in management response in paragraph a) above.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Upload the prestige vendors in the Supplier Register Database | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: DAM | |
| Estimated completion date for corrective action | End September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name: Bassie Kgasoane*

*Position: Chief Director: Prestige*

*Date: 21 June 2012*

**Auditor’s conclusion**

a) &b) Management’s comments are noted however, this matter is considered not to be resolved as the prestige supplier list should be updated to include additional service providers. Once the prestige supplier list is updated, the department will have the opportunity to invite additional suppliers and as a result give the department the opportunity to obtain three quotations.

According to the table included in management’s comment none of the suppliers were specifically indicated as supplying carpets.

The prestige supplier list is limited to a total number of 14 service providers for furniture and nine for curtains.

The Ministerial Handbook paragraph C (i) states that:

*“The furnishing of State-owned residences is limited to the provision, and maintenance of ordinary household furniture, mattresses, pillows, carpets, beds, stoves, refrigerators, freeze’s, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers.”*

As a result the prestige supplier list should be updated to include additional service providers. In addition, an analysis should be done to determine which of the 1 244 service providers listed on the prospective supplier list who supply furniture can be used to supply furniture for prestige, therefore also carpets. Enough suppliers should be vetted to ensure that there are enough available to provide quotations.

As also indicated in the finding, carpets are a commodity that is readily available, and it is therefore not impractical or impossible to obtain three quotations. As a result the matter remains unresolved.

c) It is acknowledged that a manual supplier list for prestige services was provided. It was confirmed that the suppliers listed in the finding were on the manual supplier list submitted

The corrective action by management that the prestige vendors will be uploaded in the supplier register database will be verified in the next year’s audit.

1. **Limitation of scope - Umkhaya Property Management** **Ex 123**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act sections 40 and 41 states the following:

1. section 40(1)

*“The accounting officer for a department, trading entity or constitutional institution-*

*(a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

ii) section 41

*“An accounting officer for a department, trading entity or constitutional institution 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”*

b) Treasury Regulations 17.2.1 states:

*“Accounting officers of institutions must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows-*

*information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or*

*information relating to more than one financial year – for one after the date of the audit report for the last of the financial years to which the information relates.”*

A contract between the department and Umkhaya Property Management, together with other relevant documentation was requested (RFI 139) on 23 March 2012 and was due on 27 March 2012, however as at 2 May 2012 no information has yet been received.

Impact of the finding:

a) Non compliance with Section 40 and41 of the Public Finance Management Act

b) Non compliance with Treasury Regulations 17.2.1.

c) Compliance with SCM procedures pertaining to the payment of R200 950 could not be confirmed.

The finding occurred as a result of the fact that:

The internal memo approving the extension of the contract together with other internal memo’s indicating that the supplier has been successfully awarded the contract is the only information available for audit purposes.

**Internal control deficiency**

Financial and performance management

*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 all information requested be provided to the AGSA within three days from the date of request.

**Management response**

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

We do not have contracts documents at cleaning, maintenance, UCA, special projects such as water and energy and waste and other contract. We use the specification and the appointment letter as a basis or as a contract. I am not sure if legal services ever advise if we needed contracts like those at Property Acquisitions (Leasing) and Disposal for the other programmes.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | **N/A** | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **X** |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **X** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* Ndivhoni Mathivha

*Position: DD in the office of Director Property*

*Date:2012/05/18*

**Auditor’s conclusion**

The procurement pertains to the appointment of consultants for the valuation of state-owned properties. Only the documentation listed below for the procurement of these services was provided. From the documents listed the following were noted:

a) A letter of appointment: PTQ10/006: Pretoria Professional Valuers

The letter of appointment dated 29 April 2010, signed by the then acting regional manager on 3 May 2010 indicated that the tendered amount of R196 900, including VAT. It was stated that the appointment is subject to all the conditions and terms embodied in the departments official standard tender documents in the DPW bid form as well as the standard departmental letter of appointment for professional valuers.

It was further indicated amongst others that the appointment is subjected to the following terms:

1. The service provider must submit to the department a detailed proposal explaining the work to be done from the beginning to the end.
2. Arrangements should be made with the department in circumstances wherein valuation cannot be completed within the estimated timeframe.

b) An approved procurement strategy indicated that the estimated cost is R400 000, but may vary due to the difference in property values in different areas.

c) PA-01 Approval of procurement strategy approved on 1 December 2009 indicate the following under the terms of appointment:

(i) Each consultant will be given an opportunity to bid

(ii) Two companies will be appointed for the project as a lot of urgent properties needs to be valued due to time constraints and the financial year nearing its end.

1. The following service providers were listed:

* Isigodio consulting services – Ms L Mabuza
* Udengezi Investments – Zamani Msomi
* Little Swit Investment 479 (Pty)
* Tshavhudi Properties – Tsietsi Madonsela

1. The financial implication will amount to R400 000 but may vary due to the differences in property values in different areas.

(v) The PA12 approval by the sub bid adjudication committee on 10 December 2010 to indicate the approval of the appointment of the professional valuers subject to the list of companies being expanded to eight to be used on the nominated procedure.

d) An internal memo pertaining to the conclusion of the 2009/10 performance management cycle for SMS members signed by the acting director general on 28 February 2012. This memo was attached to the motivation to extend the appointment of Umkhaya Investments CC for the valuation of state-owned properties for a period of twelve months. The memo states amongst others:

*“During the meeting of the Moderation Committee convened to moderate the Annual Appraisal results of all SMS members (excluding the Deputy Directors General) to conclude the 2009/10 Performance Management Cycle for SMS members a decision was taken to advice the Minister not to award Performance bonuses for the 2009-2010 Performance Management Cycle to SMS members.*

*This decision was based on the fact that the Department once again received a qualified Audit report from the Auditor General and it was deemed appropriate that SMS members as a collective should accept shared responsibility for the state of affairs in the Department”*

e) A request for the regional bid adjudication committee to approve the extension for the appointment of consultants (Umkhaya Investment CC) for the valuation of state-owned properties for a period of twelve months. As part of the motivation for the extension of the contract of the professional valuers the following were noted:

(i) It is with great concern that it was noted that as indicated below the motivation for the extension amongst others were that SMS members did not receive performance bonuses due to qualified audit reports. To ensure clean audit reports for a next year’s audit report can never be a reason for the non adherence to tender requirements nor can the fact that SMS members did not receive performance bonuses be.

*“2.1 For some time now the Department of Public Works has received qualified Audit Reports from the Auditor-General, in particular with regards to the Asset Register, and as a result, SMS members did not receive performance bonuses.”*

(ii) As indicated below an extension was requested since the rand value of the service rendered by the service provider has been exceeded.

“*3.5 Since the rand value of the services rendered by the Service Provider to the department has now exceeded the tendered amount in terms of the approval granted, the Service Provider is unable to render further services to the Department until approval is granted by the Regional Bid Adjudication Committee to extend the contract for a further period”*

(iii) It was indicated in paragraph 3.6 that the service provider will be compensated on the basis of payment for approved valuation reports. It was stipulated that the service provider will be required to submit a minimum of 20 approved valuation reports per month with a ceiling of 100 approved valuation reports per month over the 12-month period. The service provider will be paid variable rates per the approved valuation report in accordance with the type of property being valued as per the fee structure indicated below, which excludes VAT;

|  |  |  |
| --- | --- | --- |
| **Classification** | **Type** | **Fee per approved valuation report** |
| **R** |
| Residential | Houses | 4 235 |
| Single quarters | 3 630 |
| Commercial | Offices | 3 630 |
| Stores | 1 815 |
| Miscellaneous | 3 025 |
| Parking | 1 815 |
| Parking | Vacant Land | 2 420 |

(iv) The request was also approved by Mr. Ndivhoni Mathivha, the acting assistant director on 9 June 2011.

f) The PA-12 approval by the sub bid committee to approve the actual extension was not submitted. It could therefore not be confirmed if the amounts spend in access of the original amount approved of R196 900 was appropriately approved. as required by TR 8.2 which requires that:

*" 8.2.1  An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

An extract of the general ledgers of payments to Umkhaya Property Management was made and it was determined that there were no payments in the 2010-2011 financial year to them. In the 2011-2012 on this requested payment of R200 950 was made to the mentioned service provider.

Impact of aforementioned:

1. It could not be confirmed if the service provider did in fact submit the required documentation as required in the letter of appointment.
2. As the following documentation was not submitted it could not be confirm if SCM procedures were adhered to pertaining to the procurement of R196 900:
3. Tender documentation
4. PA-11 (Declaration of interest and bidders past SCM practices)
5. PA-12 (Approval of the bid adjudication committee) – for the extension
6. PA-21 (Bid evaluation report)
7. PA-18 (Declaration of interest by the bid adjudication and evaluation committees)
8. PA-20 (Scoring model)
9. PA-16 (Preference certificate)
10. PA-04 (Notice and invitation to tender)
11. PA-13 (Register for receiving Bids/ tenders)
12. PA-29 (Certificate of independent bid determination)
13. The R4 050 in access of the original amount approved of R196 600 is considered to be irregular as proof that it was appropriately approved as required by TR8.2 was not provided
14. The amount of R196 900 is considered to be irregular due to awards were made to suppliers who did not have tax clearance from SARS that their tax matter are in order and who have not made arrangements with SARS to meet their tax obligations.
15. **Deviations from supply chain management requirements – Profteam CC. Ex 124**

**Audit Finding**

Laws, rules and legislation:

a) PFMA

i) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

ii) Section 45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue.*

b) Treasury Regulation 16A6.3(c) states:

“*bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine*.”

The following deviations relating to the procurement of a notebook from Profteam CC has been noted. Please see the table below for information on the payment selected for testing

|  |  |  |  |
| --- | --- | --- | --- |
| **Supplier** | **Tender number** | **Description of items** | **Total cost [Including vat]** |
| Profteam CC | HP01/02 | Procurement for professional services: the updating of the Civil engineering manual. | R479 940,00 |

Per inspection of the tender documentation it was noted that the bid was advertised on 2 July 2010 and the closing date for the bid was 21 July 2010 at 11:00 am. The public invitation for the following competitive bid was advertised for 19 days which was for a period shorter than the required 21 days and the deviation was not approved in accordance with the SCM policy requirements. The actual amount paid in the current year, FANO number 158436, amounted to R479 940.

Impact of the finding:

a) Irregular expenditure being understated with R479 940 due to:

Public invitations for the competitive bids were advertised for a period shorter than the required 21 days and the deviation was not approved in accordance with the SCM policy requirements as required in terms of TR 16A6.3(c).

**Internal control deficiency**

## Financial and Performance Management

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) Competitive bids must be advertised for the required number of days to ensure a process that is fair.

b) Proper planning must be exercised to avoid advertising for a shorter period which may result a process which is not fair.

**Management response**

I am not in agreement with the finding. The approval was within the ambit of the National Treasury Regulations16A6.3(c) and was duly approved by the delegated authority (NBAC).

The rationale behind the approval of less than 21 day period was that the single professional discipline tender offers can be compiled within relatively shorter time frames (two and a half weeks) as the price is based on standard council fee scales and scope of services. The time is mostly necessary for the compilation and collation of returnable documentation which are issued by the Department. It is this reasoning that gave effect to Circular 2 of 2008/09 by the Accounting Officer on which the approval was based.

See attached Circular.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

*Name:* Eulala Kruger

*Position: CD: SCM*

*Date: July 23, 2012*

**Auditor’s conclusion**

Although management is not in agreement with the finding, the following is noted:

1. Treasury Regulations 16A6.3(c) listed above indicates that the department may deviate from advertising the bid for 21 days if the procurement is considered to be urgent and then it must be approved by the accounting officer.
2. The fact that the tender documentation can be compiled within a shorter period of time does not mean that the procurement is urgent.

Based on the above the matter remains unresolved.

1. **Suppliers VAT numbers not recorded on the system Ex 126**

**Audit Finding**

Laws, rules and Regulations:

1. Public Finance Management Act Section 40(1)(a) states:

*“40(1)The accounting officer for a department, trading entity or constitutional institution-*

1. *must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*
2. Treasury Regulations 16A9.1(e) and (f)(i) states:

*“The accounting officer or accounting authority must-*

*(e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*(f) cancel a contract awarded to a supplier of goods and services –*

*(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or”*

It was found that the following suppliers are SARS registered VAT vendors however no VAT numbers were recorded on the BAS system.

|  |  |  |
| --- | --- | --- |
| **SUPPLIER** | **SUPPLIER NO.** | **VAT REGISTRATION NO.** |
| LESEDI CORPORATE TECHNOLOGY | 281153 | 4460150669 |
| TIPP FOCUS CONSULTING CC | 285295 | 4820218719 |
| REMOTEQ SOLUTIONS | 280774 | 4800210728 |
| PROFTEAM CC | 285294 | 4910235789 |
| NAMBITI TECHNOLOGIES | 283964 | 4940166715 |
| NEO TECHNOLOGIES (PTY) LTD | 280739 | 4950198939 |
| MOTSENG INVESTMENTS | 280641 | 4030214839 |
| ALCARI 710 | 284905 | 4460228341 |
| MAPHALE MOTUBA CREATIONS CC | 280574 | 4400185122 |

Impact of the finding:

a) VAT vendors not charging VAT on vatable supplies, thereby submitting a lower quote in order to win the bid or quotation.

b) The department will not be able to identify possible fictitious quotations and invoices, as they do not have all the details of the supplier on hand, when making a payment.

The finding occurred as a result of the fact that:

As per discussion with the Assistant Director: Supplier Register she indicated that suppliers do not always inform the department with new and additional information once registered on the department’s database.

**Internal control deficiency**

*Financial management*

*The department does not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.*

**Recommendation**

Before a payment is made the department should match the invoice against the supplier’s information on the system for any change that might have occurred for example banking details, contact details, physical address, company registration number and VAT number.

**Management response**

The Department acknowledges the audit finding with regard VAT number not appearing on BAS. This is due to configuration of LOGIS system where the information interfaces to BAS system. Currently LOGIS does not make provision for VAT number when capturing entities. Supplier details are, in exceptional circumstances, captured directly on BAS where a provision is made to capture the VAT number. However BAS will only show the latest available interfaced information from the sub-system (LOGIS) which will then interface to BAS when payment is processed.

It should be noted that before a payment is made, among the information that the department checks is the VAT number quoted on the invoice against SARS to authenticate the VAT number claimed, if any. However, the department does not verify instances where the “registered” suppliers do not charge VAT as this does not have an impact on the final amount that the department will eventually pay to the service provider.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken: | **NO** | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | **No** |
|  | **X** |
| If yes, what corrections will be made to the population? |  | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | |
| Position of official responsible to take corrective action: |  | |
| Estimated completion date for corrective action: |  | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | **X** |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | |

*Name: Lesetja Toona*

*Position: Director: Inspectorate & Compliance*

*Date:*

**Auditor’s conclusion**

Management’s response is perceived as being in agreement with the audit finding. It was verified during the procurement testing that the department does do VAT vendor searches and copies of the latter are attached to the payment batches.

As instances were identified where service providers who are VAT vendors but did not charge VAT in and received the award it is recommended that procedures be implemented to ensure that the VAT registration number is captured on BAS.

1. **SCM -PTA region Motseng SCOA Classification Ex 158**

**Audit Finding**

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

v) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1. The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

“9.1.2. *When an official of an institution discovers unauthorised, irregular or fruitless   
and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

“9.1.5.*The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

b) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1. An official of an institution may not spend or commit public moneys except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2    Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

c) PFMA Section 40 paragraph 40 (1) (a)

*“ The accounting officer for a department, trading entity or constitutional institution must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

d) Practice Note 8 of 2007/08 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

The following issues were identified during the audit of the procurement Batch 160335 listed in the table below. The service provider provided, Venetian blinds as indicated in the table below.

|  |  |  |  |
| --- | --- | --- | --- |
| **Description of items** | **Quantity** | **Unit cost [Including VAT** | **Total cost**  **[Including VAT]** |
| **R** | **R** |
| Venettian blinds plains | 14 | 482,55 | 6 755,71 |
| Artisan (labour) | 12 | 274,49 | 3 293,87 |
| **Total** |  |  | **10 049,58** |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, Pahamo Construction and Projects, to render the service. Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 105244, received from Motseng Facilities Management:

|  |  |
| --- | --- |
| **BREAK-DOWN** | **R** |
| Total amount of the goods and services charged by Pahamo Construction and Projects to Motseng (including transport costs). | 6 131,16 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R6 131,16\*44%)* | 2 684,25 |
| Total amount (Excluding VAT) | 8 815,41 |
| VAT @ 14% | 1 234,16 |
| **Total amount charged to DPW (including VAT)** | **10 049,58** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Pahamo Construction and Projects and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

Planning and consideration of the best value for money options is integral to demand management in deciding to outsource a function opposed to performing the function internally. The service provided appears not to be of a specialised nature and the 12% profit made by the department without using a service provider or if the service has been procured directly from Pahamo Construction and Projects.

b) Per inspection of the invoice 105244, dated 29 April 2011, and certification that invoice has been received by department, dated 22 June 2011, we noted that services were rendered before the order was issued and approved. The order was approved on 27 June 2011.

No documentation was provided indicating reasons for the deviation from the applicable internal controls and legislation.

It was also noted that no internal memo was provided indicating that the expense was approved prior to receipt of the service.

c) As per inspection of the SCOA it was noted that blinds should be disclosed as F&O/EQP<R5000:LINEN&SOFT FURNISH, however it was noted that the department has disclosed as F&O/EQP<R5000:DOMESTIC FURNITURE, therefore blinds were incorrectly classified.

Although the assets are less than R5 000,00 as disclosed as goods and services in the Statement of Financial Performance will not be affected, please note that the incorrect classification will affect the line item as disclosed in the general ledger.

d) A PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011 was attached to batch 168 095. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

i) MS C Motsisi – the previous Chief Financial Officer

ii) Mr T Tabane – the Chief Director SCM

iii) Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

1. There was also not a tax clearance certificate attached to the payment. Seeing that the contract was extended it is therefore not evident if it was ensured that the department is still in possession of an original, still valid tax clearance certificate.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

Impact of the finding:

1. The most economical option to provide services may not have been obtained as additional cost of R3 060,05(2 684,25\*114/100) was incurred on outsourcing a function that could have been performed internally. The R3 060,05 is therefore considered to be fruitless and wasteful expenditure.
2. The non compliance may possibly contribute to the expenditure of R6 989,52 being classified as irregular as the deviations were approved for the invitation of at least three written price quotations, as required by Practice Note 8 of 2007/08, by approving the extension to the Motseng Facilities Management contract even though it was possible to comply with the requirement..

1. F&O/EQP<R5000:DOMESTIC FURNITURE being overstated by R10 049,58 and F&O/EQP<R5000:LINEN&SOFT FURNISH being understated by R10 049,58. The latter will however have no impact on the disclosure in the financial statements.
2. Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.
3. Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.
4. The fact that an order is approved after the expenditure was incurred is considered to be a control weakness.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented.

|  |  |  |
| --- | --- | --- |
| **Action by management** | **Target date** | **Progress to date** |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

## Leadership

The department did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity.

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and Performance Management

The department did not effectively review and monitor compliance with applicable laws and regulations

## Recommendation

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services needed to avoid paying unnecessary fees.

c) All purchases need to be approved prior to the receipt of goods and services either by way of a governmental purchase order or via an internal memo.

d) The department should only use one stamp to indicate the date on which the invoice was received to avoid confusion.

e) A post-performance assessment of procurement should be performed in order to determine if any expenditure incurred was fruitless and wasteful or irregular and any such expenditure should be investigated by management.

f) The department should ensure that the official responsible to record the goods and services procured should records the goods per SCOA’s, to ensure that goods are recorded to the correct accounts.

g) All accounts recorded should be monitored and reviewed by delegated official who is senior to the official who record before the compilation of the financial statements.

h)The reasons for the extension of a contract being investigated by the SIU should be investigated to determine if there was financial misconduct. If appropriate the required disciplinary actions need to be instigated against the relevant officials.

i) It should further be investigated why the services of Motseng Facilities Management was used and not quotations obtained for the procurement of items such as blinds that is readily available and for which it should not be difficult for the department to obtain.

**Management response**

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

The Department of Public Works appointed Motseng Facilities Management Contractor. Their contract included purchase of furniture and equipments at a charge of 12% management fee. The Department does not get involved in their procurement processes and does not know what their Supply Chain Management Policies are.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

An internal memo was not a requirement at the time the service was rendered. Circular 33 of 2011 only came into effect after approval by the Acting DG on the 07 November 2011.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

As per LOGIS system, blinds are disclosed or classified under Domestic Furniture. See attached report from LOGIS for ease of reference. The blinds were captured as per the ICN created on the LOGIS system for blinds which automatically links or classify the description of blinds to the Asset Category Code: Domestic Furniture. (Please note that item creation (ICN) including the linking of those items on LOGIS is the responsibility of Head Office: Logistics Management Unit).

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

d) I am in agreement with the finding for the following reasons:

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

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

The original valid Tax Clearance Certificate of Motseng Facilities Management was attached on the submission to the SNBAC requesting approval to extend the contract.

*Name:* Bassie Kgasoane

*Position:* Chief Director: Prestige

*Date:* 20 June 2012

**Auditor’s conclusion**

1. The department procured facilities management services from Motseng. Since it is part of the department’s mandate to perform this function, the department should have had the necessary skills, resources and time available to perform the function.

The department has the capacity, necessary skills, resources and time available to obtain quotations for heaters.

The procurement of blinds through Motseng, is therefore not considered to be economical, efficient or effective. The R3 060,05 will be reported as fruitless and wasteful expenditure.

The matter remains unresolved.

1. Although management is not in agreement with the finding no documentation was provided indicating that the order was created before the goods were received. The matter therefore remains unresolved.
2. Managements comment is noted, however per the SCOAs blinds should be disclosed as linen and soft furnishings. The matter therefore remains unresolved.
3. Management is in agreement with the finding. The matter therefore remains unresolved.
4. Although management is not in agreement with the finding, the original tax clearance certificate received upon extension of the contract was not provided. The matter therefore remains unresolved.

As reported in communication of factual finding 303, the documentation at SIU was subsequently audited. Due to the matters reported in the finding all procurement in terms of the Motseng Facilities Management contract is considered to be irregular. The total amount of R6 989,52 is therefore considered to be irregular.

## SCM Motseng 186188 PTA region Service rendered before approval (Ex 159)

## Audit finding

Laws, rules and legislation:

a) PMFA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—n appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

iv) Section 81(1) – Financial misconduct by officials in departments and constitutional

institutions

*“An accounting officer for a department or a constitutional institution commits an act of financial misconduct if that accounting officer wilfully or negligently—*

*(a) fails to comply with a requirement of section 38, 39, 40, 41 or 42; or*

*(b) makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.”*

1. Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 states that:

*“9.1.1. The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

*9.1.2.* *When an official of an institution discovers unauthorised, irregular or fruitless   
and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40 (4) (b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.*

*9.1.5. The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.”*

c) Treasury Regulations 8.2.1 and 8.2.2 also states that:

*" 8.2.1.An official of an institution may not spend or commit public moneys except with   
 the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.*

*8.2.2   Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure compliance with any limitations or conditions attached to the delegation or authorisation."*

d) Instruction note on enhancing compliance monitoring SCM paragraph 3.1.1.states:

*“Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.”*

e) Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

*“3.1.1 Accounting officers of departments and constitutional institutions must submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/ or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by no later than 31 August 2011.*

*3.9.3 In order to mitigate such practices, accounting officers and authorities are directed that, from the date of this instruction note taking effect, contracts may be expanded or varied by not more than 20% or R20 million (including all applicable taxes) for construction related goods, works and/or services and 15% or R15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lower amount. The relevant treasury may, however, decrease these thresholds for institutions reporting to them.*

*3.9.4 Any deviation in excess of these thresholds will only be allowed subject to the prior written approval of the relevant treasury. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted to the relevant treasury where goods reasons exist. ”*

f) Supply chain circular of NT pertaining, dated 24 April 2012, to the postponement of the implementation of sub-paragraph 3.9.4 of Instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011, states:

“*3.1 Taking cognisance of paragraph 2.3 above, sub-paragraph 3.9.4, as contained in Instruction Note No. 32 dated 31 May 2011 is also postponed for implementation pending the issuance of a revised Instruction Note.*

*3.3 Institutions are, however, required to forward motivations for all expansions in excess of the threshold to the relevant treasuries and to the Auditor General within 10 (ten) working days after the Accounting Officer or Accounting Authority has granted approval for the deviation.*

*3.4 Such motivations must include, among others, the contract number, the description of the contract, the name of the contractor, the original contract amount, the value and the percentage of the deviation and the reason for the deviation”*

g) D*epartment of Public Works delegation of powers in terms of the Public Finance Management Act dated 17 January 2005, signed by the then Accounting Officer; Themba Meveli James Maseko make provision in item 24 on page 22 pertaining to TR 8.2.2 for the authority to authorise payments or transfers to the following limits within areas of competence and budgetary limits:*

|  |  |
| --- | --- |
| **LOWEST RANK OF OFFICIAL PER DELEGATIONS** | **LIMIT**  **R** |
| Senior admin officer | 100 000,00 |
| Assistant director or equivalent | 1 000 000,00 |
| Deputy director or equivalent | 5 000 000,00 |
| Directors | 10 000 000,00 |
| Chief directors | 20 000 000,00 |
| Regional managers (regardless of rank) | 20 000 000,00 |
| Deputy Director General’s | Unlimited |

Batch 186188, as indicated in the table below, relates to the procurement of hiring of catering equipment for Head of State visit in Bloemfontein from 4 to 10 January 2012.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| MOTSENG INVESTMENTS | 186188 | 5 748 835,41 |

From the documentation provided it was noted that Motseng Investments made use of a subcontractor, VIH (Vetical International Holding), to render the service. Please note that since Motseng Investments’ contract and other pertinent information is with the Special Investigation Unit we were unable to perform all of the necessary procurement procedures, however the following issues were noted based on the information provided.

Please see the table below for a break-down of invoice 109791, received from Motseng Facilities Management:

| **BREAK-DOWN** | **R** |
| --- | --- |
| Total amount of the goods and services charged by Vetical International Holding to Motseng (including transport costs). | 4 502 534,00 |
| 12% Profit and attendance fee charged by Motseng Facilities Management *(R4 502 534,00\*12%)* | 540 304,08 |
| Total amount (Excluding VAT) | 5 042 838,08 |
| VAT @ 14% | 705 997,33 |
| **Total amount charged to DPW (including VAT)** | **5 748 835,41** |

a) From the information stated above it is clear that Motseng Facilities Management merely acted as a middle man between Vetical International Holding and the Department of Public Works. It appears as if Motseng Facilities Management performs the procurement functions on behalf of the department (i.e. obtaining quotations and awarding of the bid to a selected supplier); then proceeds to charge the department a 12% “handling fee” on the cost of the service charged by the winning supplier.

The 12% profit made by the service provider could have been avoided had the department performed the procurement process themselves in line with the supply chain practice notes issued by National Treasury.

b) In a request for the extension of the prestige portfolio – facilities management contract: WCS 044107 (Motseng FM and SuperFecta Trading 209 CC the following was noted:

1. It was requested that the contract the existing contract of facilities management contracts with Motseng FM and SuperFecta Trading 209 CC be extended on a month to month basis for a period not exceeding six months from 1 February 2012.
2. The background indicated the following:

* The current contracts operational in Pretoria and Johannesburg areas started on 1 February 2008 and ended on 31 January 2011.
* The prestige united has requested two previous extensions which were granted, namely;
  + The first was granted for the period of three months from 1 February 2012 until 30 April 2011.
  + The second and at that stage current extension was granted for the period of nine months starting from 1 May 2011 until 31 January 2012
* Under the current status it was indicated that the tender has already been advertised and that they are in the briefing stage. It was also indicated that:

*“All the necessary time frames were shortened with the intention of meeting the end date of the current FM contracts which is the 31 January 2012 but with the situation as in now cannot be met.”*

* The request was signed by the acting DDG – ICR & KAM on 31 January 2012.
* The approval requested was for a month to month basis starting on 1 February 2012.
* The PA12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 3 February 2012.
* The committee members approving the extension on the PA12 was:
  + MS C Motsisi – the previous Chief Financial Officer
  + Mr. T Tabane – the Chief Director SCM
  + Ms J Prinsloo – the Chief Director: Trading Account
  + Ms L. Bici – the Deputy Director General: Policy

As indicated in paragraph (c) below the extension granted on 28 April 2011 ended on 31 December 2011.

Therefore as the extension as mentioned in the previous paragraph only started on 1 February 2012 and the last extension ended on 31 December 2011, the procurement incurred in January 2012, was not approved by the delegated officials as required by TR8.2

c) Attached to batch 168095 was a copy of the PA-12 – approval by the sub/ special/ national/ regional bid adjudication committee signed by the previous CFO on 28 April 2011. The title of the document is;

“WCS no 044107: Prestige Facilities: Prestige Portfoli – Facilities Management Contract (Motseng Facilities Management) Request for Extention)”

The committee members approving the extension was:

1. MS C Motsisi – the previous Chief Financial Officer
2. Mr. T Tabane – the Chief Director SCM
3. Ms J Prinsloo – the Chief Director: Trading Account

The latter was indicated as a comment on the PA-12:

“Approval is granted for 9 months - 31/12/2011. Approval is for the extension and not the budget. This is the second and final extension. The region must put in place a new contract before the expiry of this contract.”

Although national bid adjudication committee instructed the regions to put in place a new contract before the expiry date in April 2011, they had not done so by the end of January 2012 and had to again request for an extension of these contracts.

d) The previous CFO, other officials and the Acting Accounting Officer were aware that the Motseng Facilities Management contract is under investigation by SIU.

The Acting Accounting Officer did therefore not take effective and appropriate steps to prevent irregular expenditure as required in terms of section 38(1)(c)(ii) of the PMFA. In terms of section 81(1) of the PFMA the latter constitutes financial misconduct.

The previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not comply with section 45(c) of the PFMA as they did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contracts.

e) Per inspection of the invoice 109791, dated 31 January 2012, and certification that invoice has been received by department, dated 03 February 2012, we noted that services were rendered before the order was issued and approved. The order was approved on 21 February 2012.

No documentation was provided indicating reasons for the deviation from the applicable internal controls.

f) The above procurement was not listed in the procurement plan submitted to treasury as part of the department’s planned procurement for the year.

g) As per inspection of the BAS Payment advice number 019131 dated 24 February 2012 it was noted that the payment was authorised by Deputy Director (DD): SCM (Thobejane) who per the finance delegation can only approve amounts up to R5 million and therefore did not have the authority to approve the payment of R5 748 835,41.

h) As the Motseng Facilities Management contract is with SIU it could not be determined if;

1. Expenditure incurred was above the threshold indicated in the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM, effective from 31 May 2011.
2. There was also no documentation attached to proof that the deviation was approved by the accounting officer. In the absence of the contract it could not be determined if the accounting officer should have approved the extension. It should further be noted that the extension reported in paragraph (b) did not indicate the original contract amount and an amount for the extension.
3. If the matter should have been reported to the AGSA and NT within ten working days from the approval by the accounting offer as required by supply chain circular of NT dated 24 April 2012.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Interior – Prestige, it was noted that Prestige has a contract with Motseng Investments to render a variety of goods and services by way of sub-contractors. In this contract a profit margin was approved for Motseng Investments. He mentioned that the Department of Public Works: Prestige will not always be able to deal directly with the sub-contractor as these suppliers are not located on the prospective supplier lists. He however agrees that there might be certain other suppliers on the prospective supplier listing that might be able to render similar services, even at a cheaper price, but he noted that as most of the dealings, where they involve Motseng Investments, relates to projects that they need to finalise as soon as possible and there is not always time to follow a quotation procedure as it is time consuming. Involving Motseng Investments from the start is a much more time efficient process.

b) As per discussion with Senior Administration Officer: Prestige (Monica) it was noted that procurement with Motseng Investment is different as the department will place an order with Motseng Investment without issuing the government order form and once service has been rendered the department will then issue/approve a “Government order”.

c) As per discussion with the ASD: Finance (SCM) it was noted that department only included suppliers that are intended to do business with from August 2011 going forward, however for all the suppliers that they already have business/contract with were not included in the procurement plan.

d) Assistant Director: Financial (Mpho) explained that the deputy directors had been delegated capacity to authorise this payment. However, he could not provide written proof of the authorisation.

Impact of the finding:

a) The most economical option to provide services have not been obtained as additional cost of R615 946,65(R540 304,08\*114/100) was incurred on outsourcing a function that could have been performed internally. The R615 946,65 is therefore considered to be fruitless and wasteful expenditure.

b) The non compliance with TR8.2 may possibly contribute to the expenditure of R5 132 888.76 being classified as irregular as contracts were amended or extended without approval by a delegated official as required by TR8.2

c) Sufficient appropriate audit evidence could not be obtained that goods and services with a transaction value of over R500 000 were procured by means of a competitive bidding process as per the requirements of TR 16A6.1, TR 16A6.4 and National Treasury Practice Note 6 and 8 of 2007/08 due to the fact that the contract and other pertinent information was seized by the SIU.

d) Non compliance with the instruction note on enhancing compliance monitoring and improving transparency and accountability in SCM issued by NT.

e) Non compliance with supply chain circular of NT dated 24 April 2012.

f) Non compliance with section 38(1)(c)(ii) as the accounting officer did not take appropriate and effective steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

1. Non compliance with section 45(c) as the previous CFO, the Chief Director SCM and the Chief Director: Trading Account did not take effective and appropriate steps to prevent irregular expenditure with the extension of the Motseng Facilities Management contract.

Similar findings were also reported in the 2010-2011 financial year. Management indicated in their audit action plan, page 9, that the actions by management listed below will be implemented with the target dates as also indicated below. This procurement was however incurred prior to the corrective actions indicated by management being implemented.

|  |  |  |
| --- | --- | --- |
| **Action by management** | **Target date** | **Progress to date** |
| Improve the checklists for payment of invoices to include confirmation of procurement process | Dec 2011 | Completed. The checklists have been improved.  The compliance unit is currently testing compliance throughout the department. |
| Enforce monthly reporting by improving the reporting templates. | Dec 2011 | While some of the regions are complying with the monthly reporting, we have discovered that other regions have not complied.  We are in the process of implementing disciplinary measures. |
| Compliance and Inspectorate unit to conduct random checking | May 2012 | The compliance unit is currently testing compliance throughout the department. |

## Internal control deficiency

*Leadership*

a) Management did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity

b) Management did not effectively exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

c) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities

## Financial and performance management

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

## Recommendation

a) It should be investigated why the region did not timeously start get new contracts in place as instructed in the extension document of 28 April 2011. Disciplinary actions need to be taken if required.

b) The department must timeously update their prospective supplier list to include suppliers that can deliver services needed to avoid paying unnecessary fees.

c) All purchases need to be approved prior to the receipt of goods and services by way of a governmental purchase order.

d) All planned procurement above R500 000,00 should be reported to National Treasury in line with Instruction Note 32.

e) A post-performance assessment of procurement should be performed in order to determine if the utilisation of the resources of the institutions were effective, efficient and transparent as required in terms of TR10.1.2.

f) Should an employee be temporarily delegated a higher level of authorisation, such delegation should be in writing and signed by the relevant parties. A copy of the document should be attached to the printout of the BAS payment included in the tender documentation.

1. **Deviations from supply chain management –Khorako Multimedia CC – Pretoria regional office Ex 161**

**Audit Finding**

Laws, rules and legislation:

1. PFMA section 38(1)(c)(ii) states:

*“(1)* *the accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

1. Section 44 of the Public Finance Management Act states:

*“(1) The accounting officer for a department, trading entity or constitutional institution may:*

*(a) in writing  delegate any of the powers entrusted or delegated to the accounting officer in terms of this Act, to an official in that department, trading entity or constitutional institution; or*

*(b) instruct any official in that department, trading entity or constitutional institution to perform any of the duties assigned to the accounting officer in terms of this Act.*

1. Practice Note 8 of 2007/08 states:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers*

*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.”*

1. Department of Public Works delegation of powers in terms of the Public Finance Management Act dated 17 January 2005, signed by the then Accounting Officer; Themba Meveli James Maseko make provision in item 24 on page 22 pertaining to Treasury Regulation 8.2.2 for the authority to authorise payments or transfers to the following limits within areas of competence and budgetary limits:

| **LOWEST RANK OF OFFICIAL PER DELEGATIONS** | **LIMIT**  **R** |
| --- | --- |
| Senior Admin Officer | 100 000,00 |
| Assistant Director or Equivalent | 1 000 00,00 |
| Deputy Director or Equivalent | 5 000 000,00 |
| Directors | 10 000 000,00 |
| Chief Directors | 20 000 000,00 |
| Regional Managers (Regardless of Rank) | 20 000 000,00 |
| DDG’s | Unlimited |

1. Treasury Regulations 16A6.1 states:

*“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.”*

1. In terms of the PPPFA selection 2(1)(e)

“Bid documentation specify that evaluation and adjudication criteria which include the preference point system(80/20 or 90/10) to be used, 80/20 preference point system is applicable to amounts below R500 000(i.e. quotes) and 90/10 to those above(i.e. competitive bidding)”

The following issues were identified during the audit of procurement batch listed below. The service provider provided a shredder. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **Beneficiary name** | **FANO Number** | **DATE** | **R** |
| Khorako Multimedia CC | 179469 | 2011/12/19 | * + 1. 06,40 |

a) The department only obtained two quotations from Khorako Multimedia CC and Arctech (Pty) Ltd. Both suppliers were on the prospective supplier list. The department did therefore not obtain and evaluate three written quotations as required by Practice Note 8 of 2007/08.

No internal memorandum was issued requesting approval to award quotation where less than three quotations were received.

According to the prospective supplier list Khorako Mutimedia CC is listed under electric and electronic components. There are 213 suppliers on the prospective supplier list that can provide electric and electronic components. Furthermore there are 605 suppliers on the prospective supplier list that can provide stationery. It should therefore be possible for the department to at least obtain three quotations.

b) The payment made to Khorako Multimedia, for the amount of R47 606,40,40 was authorised by a state accountant. A state accountant is not a delegated official in terms of approved delegations issued by the Accounting Officer.

c) As per inspection of procurement batch no PA-20, scoring model, was attached. Compliance with the PPPFA selection 2(1)(e) could therefore not be confirmed.

The finding occurred as a result of the fact that:

a) As per discussion with the Assistant Director: Finance it was noted that a request for quotations was received from two suppliers. As quotations are done at head office the ASD does not understand why no internal memo was issued for the deviation and why only 2 quotations were received

b) As per discussion with the Assistant Director: Financial it was noted that the person who authorises the payment, is the highest delegated official on the tax invoice that certifies that the goods or services have been executed satisfactorily in accordance with the contract agreement/tariff and the supplier is entitled to this payment. He also noted that there are no delegations on the Logis payment as opposed to BAS.

Matters pertaining to quotations were also raised in the prior financial year. It has been indicated in the action plan that the controls pertaining to three quotes have been improved. All deviations are first interrogated by the director of supply chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

Impact of the finding:

a) Irregular expenditure being understated with R47 606,40 due to:

(i) The non compliance with Practice Note 8 of 2007/2008 as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement.

(ii) It could not be confirmed if the preference point system was applied in the procurement of goods and services above R30 000 (Vat included), as required by the PPPF Act, as the PA-20 was not attached to the batch.

b) Risk of payments being awarded to favoured suppliers.

c)    Increased risk of bribery and fraudulent activities.

d) Since the department did not obtain and evaluate three quotations, nor were all of the   
quotations requested from suppliers on the prospective supplier list, the goods may not have been obtained at a reasonable price.

**Internal control deficiency**

*Leadership*

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and performance management

The department did not effectively review and monitor compliance with applicable laws and regulations.

**Recommendation**

a) The department should obtain and evaluate three quotations.

b) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

c) All payments should be authorised by an official with the appropriate rank as indicated by the delegation issued by the Accounting Officer: Department of Public Works.

d) Actions need to be taken against officials who fail to comply with these delegations.

e) The irregular expenditure should be included in the disclosure note to the financial statements.

f) Procurement between R30 000 and R500 000 should be evaluated in terms of the PPPFA

**Management response**

a) I am not in agreement with the finding for the following reasons

The Department invited the following 10 suppliers to quote;

Izinkwazi Supplies

Mpho Maintenance and General Services

Khalake Trading

Moseng Trading Services

Nobantu Tiki Cleaning and Projects

Julia Creation Fingers

Kgomo-Nkomo Manufacturing CC

Arctec Graphics

Khorako Multimedia

Jabulile Computer Distribution

Only 2 suppliers responded to the invite (Khorako and Arctec)

The process to get at least 3 quotations or more was followed as we have invited 10 suppliers from Pro-quote.

The internal SCM Directive stated that approval from the delegated authority can be obtained if only one service provider responded, in this instance two responded. The practice was only implemented in December 2011.

Action plan: Approval for not obtaining three quotes is already implemented and authorized by the Director: Finance

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | DD: SCM | |
| Estimated completion date for corrective action | Implemented in December 2011 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* J Thobejane

*Position: DD: SCM*

*Date: 04/07/2012*

b) I am not in agreement with the finding for the following reasons [The State Accountant can approve up any amount (on the system, i.e. BAS or LOGIS) as long as the actual authorisation of expenditure (meaning certification of an invoice) is done by a duly delegated official in terms of Financial Delegations. Attached is a copy of Delegations, see Item 24 TR 8.2.2]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* *Mpho Selepe*

*Position: Deputy Director*

*Date: 28/06/2012*

c) I am not in agreement with the finding for the following reasons

The Tender evaluation report as per the PPPFA criteria is attached in the submission. The Pro quote system automatically generates a tender evaluation scoring model, not PA 20.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* J Thobejane

*Position: DD: SCM*

*Date: 04/07/2012*

b) No internal memorandum was issued requesting approval to award quotation where less than three quotations were received. The practice of obtaining approval from the delegated authority if only one service provider responded is not sufficient as approval should be obtained if three or less quotations has been received. As a result this matter is considered to be unresolved.

c) Managements commented have been noted and the delegations as well as the invoice has been have been inspected. The expenditure was approved by the admin officer who is equivalent to the state accountant. Therefore the matter is not resolved.

1. Management’s comments have been noted. However no tender evaluation report has been attached. As a result the matter is not resolved.

**Auditor’s conclusion:**

a) Managements comments have been noted and more specifically the statement where management states that the process is to “get at least 3 quotations or more.” As management has only received two quotations the process to “get at least 3 quotations or more” has not been followed. Although cognisance is taken of management comment that they have invited ten suppliers but only received two quotations as is evident from the table below quotations were sourced from some suppliers who did not indicate that they provide this type of service.

|  |  |
| --- | --- |
| **Service provider** | **Commodities** |
| Izinkwazi Supplies | CLEANING EQUIPMENT AND SUPPLIES , HIRE, TV, RADIO AND MUSICAL EQUIPMENT , BATTERIES, COMPUTER SOFTWARE AND HARDWARE ACCESSORIES, CONTAINERS AND PACKAGING SUPPLIES, FURNITURE, KITCHEN AND FOOD APPLIANCES, LABOUR SAVING DEVICES AND ACCESSORIES, PHOTOGRAPHIC EQUIPMENT, SOUND RECORDING AND REPRODUCING EQUIPMENT, STATIONERY, VIDEO RECORDING AND REPRODUCING EQUIPMENT |
| Mpho Maintenance and General Services | TOOLS, HAND AND MACHINE (ALL)  SERVICE |
| Khalake Trading | NOT ON THE SUPPLIER LIST WITH THE COMMODITIES |
| Moseng Trading Services | SERVICE |
| Nobantu Tiki Cleaning and Projects | CLEANING EQUIPMENT AND SUPPLIES,  KITCHEN AND FOOD APPLIANCES, LABOUR SAVING DEVICES AND ACCESSORIES, LINEN |
| Julia Creation Fingers | BUILDING MATERIAL, CLOTHING, COMMUNICATION EQUIPMENT AND ACCESSORIES, ELECTRIC AND ELECTRONIC COMPONENTS, ELECTRICAL INSULATION AND WIRES AND BRUSHES, KITCHEN AND FOOD APPLIANCES, LABOUR SAVING DEVICES AND ACCESSORIES LIGHTING, LINEN, MEASURE AND TEST EQUIPMENT, PAINT,SEALER,ADHESIVE AND ACCESSORIES, PUBLICATIONS, BOOKS AND FORMS REFRIDGERATION,AIR CONDITIONING,AIR CIRCULATING, STATIONERY TOOLS, HAND AND MACHINE (ALL), TV, RADIO AND MUSICAL EQUIPMENT VIDEO RECORDING AND REPRODUCING EQUIPMENT, CLEANING EQUIPMENT AND SUPPLIES, CONTAINERS AND PACKAGING SUPPLIES FURNITURE , ENERAL HARDWARE, MISCELLANEOUS SIGNS AND ACCESSORIES PLUMBING, HEATERS,FUEL AND GAS BURNING EQUIPMENT |
| Kgomo-Nkomo Manufacturing CC | NOT ON PROSPECTIVE SUPPLIER LIST |
| Arctec Graphics | NOT ON THE SUPPLIER LIST WITH THE COMMODITIES |
| Khorako Multimedia | NOT ON THE SUPPLIER LIST WITH THE COMMODITIES |
| Jabulile Computer Distribution | NOT ON THE SUPPLIER LIST WITH THE COMMODITIES |

b) No internal memorandum was issued requesting approval to award quotation where less than three quotations were received. The practice of obtaining approval from the delegated authority if only one service provider responded is not sufficient as approval should be obtained if three or less quotations has been received. As a result this matter is considered to be unresolved.

c) Managements commented have been noted and the delegations as well as the invoice has been have been inspected. The expenditure was approved by the admin officer who is equivalent to the state accountant. Therefore the matter is not resolved.

d) Management’s comments have been noted. However no tender evaluation report has been attached. As a result the matter is not resolved.

1. **Deviations from supply chain management requirements – Maphale Motuba Creations CC – Pretoria regional office Ex 163**

**Audit Finding**

Laws, rules and legislation:

1. PFMA
2. Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

1. Treasury Regulations 16A3.1 and 16A3.2 states:

“*16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective”*

1. Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000(including VAT):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

1. Practice note 7 of 2009/10 paragraph 4.2

*“The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

1. Supply chain management policy paragraph 49 states:

*A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The following issues were identified during the audit of the procurement batch listed below pertaining to the procurement of furniture from Maphale Motuba Creations CC.

|  |  |  |  |
| --- | --- | --- | --- |
| **FANO Number** | **Date** | **Awarded and spent in current year** | **Value of items selected for testing** |
| **R** | **R** |
| 171813 | 2011/12/19 | 384 110,13 | 55 597,57 |
| 35 312,64 |

a) Requests for quotations were sent to ten suppliers of which the following was not listed on the departments prospective supplier list:

1. Ledor Creations
2. IX Interior
3. Elrika Interiors
4. Comfort Creations

b) No documentation was provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list. There are currently 1 244 service providers listed on the prospective supplier list who could supply furniture. As a result the department was not allowed to apply practice note 8 of 2007/8 paragraph 3.3.2, which clearly indicates it is only applicable in instances where no suitable suppliers are available on the supplier list.

c) The department has not evaluated whether the service provider has an interest in the department as no SBD 4 (Declaration of interest) was attached.

The finding occurred as a result of the fact that:

As per discussion with Assistant Director: Finance, it was noted that a request was sent to eight suppliers, four of which responded, Senex Interior, Ledor Creations Maphale Motuba and Kayro’s Decorating Planet. Senex and Ledor were later disqualified due to line items not being quoted and the director also noted that all quotations for prestige are done at Head Office.. Therefore the ASD does not understand why the SBD4 was not attached to the procurement batch or why suppliers not registered on the prospective supplier list where invited to bid.

Matters pertaining to the supplier database were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011. This date is however after the date that this expense was incurred.

Impact of the finding:

1. Non compliance with Practice Note 8 of 2007/2008 and Practice Note 7 of 2009/2010 as the SBD 4 was not submitted.
2. Risk of payments being awarded to favoured suppliers.
3. Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

## Financial and Performance Management

The department did not effectively review and monitor compliance with applicable laws and regulations.

**Recommendation**

.

1. The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers
2. Prospective suppliers must be required to submit a declaration of interest when they apply for registration on the list.

**Management response**

a) The department has an approved list of service providers (Prestige). We manually rotate service providers in accordance to their respective commodities. The quotation unit delayed in implementation of SBD4/PA11, but the process has since been implemented since last year’s audits.

b) Currently suppliers are required to submit PA11 with every request issued. None compliance to Practice Note 7 of 2009/2010 result in disqualification.

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

We have started with the data cleansing process and suppliers are required to update their records for compliance purpose.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Review Prestige portfolio procurement process | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director Demand and Acquisition | |
| Estimated completion date for corrective action |  | |

*Name:* Salome Malebye

*Position: Director SCM*

*Date: 04/07/2012*

**Auditor’s conclusion**

1. Management has not indicated whether or not they agree with the finding, however the following was noted:
2. The prestige register was not provided together with management’s response to our request for supplier registers (RFI 82).
   1. The list provided has not been signed.
3. It was further noted that service providers written in pen was added to the typed list provided.
4. The department can easily add and delete suppliers of the list as it is not uploaded onto a system.
   1. The following suppliers could not be found on the prestige list provided:

* IX Interior
* Comfort Creations

The matter therefore remains unresolved.

1. Management has not indicated whether or not they agree with the finding, however no documentation was provided indicating that the supplier has completed an SBD 4 form or similar document.

The matter therefore remains unresolved.

1. **Deviation from SCM: Glorina General Trading– PTA regional office Ex 165**

**Audit Finding**

Laws, rules and legislation:

a) Competition Act paragraph 4(1)(b)(i) and (iii) states:

*“4(1) An agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if-*

*(b) it involves any of the following restrictive horizontal practices:*

*(i) directly or indirectly fixing a purchase or selling price or any other trading condition;*

*(iii) collusive tendering”*

b) Treasury Regulations 16A9.1 states:

*“The accounting officer or accounting authority must-*

1. *take all reasonable steps to prevent abuse of the supply chain management system;*
2. *investigation any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified-*
3. *take steps against such official or other role player and inform the relevant treasury of such steps; and*

*(e)reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*(f) cancel a contract awarded to a supplier of goods or services-*

*(i)if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or*

*(ii)if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.”*

1. Treasury Regulations 16A9.2 states:

*“The accounting officer or accounting authority —*

*(a) may disregard the bid of any bidder if that bidder, or any of its directors—*

*(i) have abused the institution’s supply chain management system;*

*(ii) have committed fraud or any other improper conduct in relation to such system; or*

*(b) must inform the relevant treasury of any action taken in terms of paragraph (a)“*

1. PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

1. Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*3.3.3 If it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded*

The following deviations relating to the procurement of office furniture from Glorina General Trading on the 26 September 2011 has been noted:

|  |  |  |
| --- | --- | --- |
| **SUPPLIER NAME** | **FANO** | **R** |
| Glorina General Trading | 168221 | 138 876,36 |

1. Requests were sent and received from the following suppliers:
2. Glorina General Trading
3. Nana’s Design
4. Thandi’s interior Decor

It has been identified that Glorina General Trading and Nana Designs have the same member, namely Nana Annastacia Hadebe, who owns 50 % in Glorina and 100% in Nana Design. Therefore Glorina General Trading and Nana Designs are related and seen as the same supplier. As a result only two valid quotations were obtained and subsequently the department has not complied with Practice note 8 of 2007/8 paragraph 3.3.1.

1. We recalculated the preference point awarded and we found differences between our   
   calculation and the Scoring Model Calculations of PA20.3. However, the results do not   
   materially change the outcome. The HDI calculation for both the losing   
   and winning bidder was not in line with what was filled in by the shareholders per PA 16-3.

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **RECALCULATED AMOUNT** | **AMOUNT PER SCORING MODEL** | **DIFFERENCE** |
| Nana Design | 99.41 | 91.91 | 0.50 |
| Thandi’s Interior décor | 77.39 | 77.90 | 0.51 |

The finding occurred as a result of the fact that:

a) Through discussion with the DD: Supplier database it was also noted that when existing suppliers on the database re-apply for registration they are simply re-added to the database resulting in the supplier appearing more than once.

When suppliers change their company name, they do not change their company registration number. The supplier with the new company name is simply added to the supplier database instead of amending the suppliers existing details on the supplier database, resulting in the supplier being listed more than once with different company names.

b) As per discussion with DD: SCM it was noted that the Department is aware of the incorrect formula as the matter was also brought up in the previous financial year. The DD: SCM also mentioned that the Department has started using the new formula as of December 2012.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes, has been improved. All deviations are first interrogated by the director of supply chain before approval is given. The target date for the aforementioned actions was December 2011.

Impact of the finding:

a) Irregular expenditure being understated by R138 876,36 due to the non-compliance with: Practice note 8 of 2007/8 paragraph 3.3.1

b) Non Compliance with Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001.

c) Risk of payments being awarded to favoured suppliers.

d) Since the department procured from the same supplier we were unable to determine whether or not goods were obtained at a reasonable price.

e) Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

*Leadership*

Management does not effectively exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

*Financial and performance management*

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) Applications to be registered on the supplier register should specifically state that suppliers who are already registered on the supplier database for a certain commodity should only apply once for registration.

b) The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were correctly applied and preference points were correctly calculated.

1. The department must ensure that quotations are not received from related entities for the same transactions.

**Management response**

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

It is unfortunate that the current Pro-quote module that we have does not allow the department to search if a company or member/s already exists on the system before accreditation in order to eliminate duplications, specifically within the same commodity. The other issue is that we cannot restrict supplier for registering more than one company if CIPC does. The only restriction we can make is to ensure that members owning more than one company are not registered in one commodity to encourage fair competition.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To ensure that the system upgrade accommodates new requirement to guard against previous queries raised | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| Yes |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| Yes |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director Demand and Acquisition | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Eulala Kruger

*Position: Acting Chief Director : SCM*

*Date:01 August 2012*

**Auditor’s conclusion**

1. Management is in agreement with the finding, the matter therefore remains unresolved.
2. Management is in agreement with the finding, the matter therefore remains unresolved.
3. **Deviations from supply chain management requirements – Ubuntu Technologies Ex 166**

**Audit Finding**

Laws, rules and legislation:

a) Competition Act paragraph 4(1)(b)(i) and (iii) state:

*“4(1) An agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if-*

*(b) it involves any of the following restrictive horizontal practices:*

*(i) directly or indirectly fixing a purchase or selling price or any other trading condition;*

*(iii)collusive tendering”*

b) PFMA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue”*

c) Treasury Regulations 9.1.1 states that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

d) Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3 requires the following pertaining to transaction value of R10 000 but not exceeding R500 000 (VAT included):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

e) Treasury Regulations 16A9.1 states:

*“The accounting officer or accounting authority must-*

1. *take all reasonable steps to prevent abuse of the supply chain management system;*
2. *investigation any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified-*
3. *take steps against such official or other role player and inform the relevant treasury of such steps; and*

*(e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*(f) cancel a contract awarded to a supplier of goods or services-*

*(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or*

*(ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.”*

1. Treasury Regulations 16A9.2 states:

*“The accounting officer or accounting authority —*

*(a) may disregard the bid of any bidder if that bidder, or any of its directors—*

*(i) have abused the institution’s supply chain management system;*

*(ii) have committed fraud or any other improper conduct in relation to such system; or*

*(b) must inform the relevant treasury of any action taken in terms of paragraph (a)“*

1. National Treasury Practice Note dated 21 July 2010 states:
   * + 1. Specifies that bid includes price quotations, advertised competitive bids, limited bids and proposals.
       2. Defines bid rigging as:

*“Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly, conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.*

1. Paragraph 2.1 states:

*Section 4(1)(b)(iii) of the Competition Act No.89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).*

1. Paragraph 2.2 states:

*“Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:*

*a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution’s supply chain management system and/ or committed fraud or any other improper conduct in relation to such system; and*

*b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.”*

1. Paragraph 2.3:

“*It has, however, come to light that in the supply chain management environment bid rigging (collusive bidding) is increasing rapidly at the cost of great cost and efficiency in government. Giving that bid rigging is essentially a form of bid fraud, it follows that where bid fraud exists, the likelihood of uncovering bid rigging also increases.”*

1. Paragraph 3.1 states:

*“Certificate of Independent Bid Determination*

*3.1.1 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached Standard Bidding Document (SBD 9) “Certificate of Independent Bid Determination” when inviting price quotations, advertised competitive bids, limited bids or proposals. The SBD 9 form contract and project specific issues.*

*3.1.2 Bidders should be required to complete, sign and submit the Certificate together with the bid documentation at the closing date and time of the bid. If a bidder has failed to submit the SBD 9 together with the bid documentation, the bidder must be requested, in writing, to submit the signed form within seven (7) working days of notification. Failure to submit the signed form within seven (7) working days of notification may result in the invalidation of the bid.*

*3.1.3 Accounting officer and accounting authorities are required to utilize the information contained in the certificate to ensure that when bids are considered all reasonable steps are taken to prevent any form of bid rigging.*

*3.1.4 If an accounting officer or accounting authority decides to refer a bidder or contractor who, based on reasonable grounds or evidence obtained by the accounting authority, has engaged in the restrictive practice referred to in paragraph 2.1, to the Competition Commission for investigation and possible imposition of administrative penalties, such written request, together with all supporting documentation, must be sent to the Manager Enforcement and Exemptions at:*

*Competition Commission South Africa*

*Private Bag X 23*

*Lynnwood Ridge*

*0040*

*or 77 Meintjies Street*

*Sunnyside*

*0001”*

The following deviations relating to the procurement of a notebook from Ubuntu Technologies has been noted. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST [INCLUDING VAT]** | **TOTAL COST** |
| Intel core processors | 1 | 12 695,45 | 16 633,62 |
| Computrace-3 years | 1 | 777,27 |
| Basic Port Replicator | 1 | 893,86 |
| High capacity Battery Pack | 1 | 2 267,05 |
| 4GB USB Memory stick | 1 | 194,32 | 194,32 |
| UltraSharp TFT | 1 | 1 943,18 | 1 943,18 |
| **Total** |  | **18 771,13** | **18 771,13** |

Based on the following reasons we believe that the department awarded the bid to favoured suppliers:

a) The department did not obtain and evaluate three written quotations as required by Practice Note 8.

Two internal memorandums were issued by the department. One for the urgent procurement of the notebook and the other for IT Acquisition Methodology. The IT acquisition Methodology stated that based on the DPW standard for laptops and the SITA database, only two service providers are available to provide DELL laptops.

It does not appear reasonable that the department did not obtain 3 quotes as we obtained the SITA contract list for RFT 285 and RFT 285/1(Computer hardware) and noted that there are 369 suppliers that can supply computer related products. However, we could not identify which suppliers can supply DELL laptops and therefore we cannot confirm how the department concluded that only two suppliers can provide the service.

b) It was also noted that the quotations from the suppliers Dep Technologies and Ubuntu   
 Technologies had the following similarities:

i) The quotations appeared to be a copy and paste. The address for both suppliers is exactly the same, namely:

Ubuntu Technologies

P.O. Box 68259

Highveld

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ii) The quotation amount is exactly the same and amounts to R18 771,13 for both suppliers and the only difference is that line items have been moved around.

c) No documentation was attached indicating that suppliers from whom quotations were requested completed and signed the SBD 9 form or the PA-29 (the department equivalent) as required by National Treasury practice note dated 21 July 2010.

d) Due to the above we could not determine whether or not the procurement was economical and the goods purchased at a reasonable price.

 The finding occurred as a result of the fact that:

As per discussion with the DD:IT Support it was noted that the two suppliers Department Technologies and Ubuntu Technologies are one and the same company as they are from the same group of companies.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes have been improved. All deviations are first interrogated by the director of supply chain before approval is given. The target date for the aforementioned actions was December 2011. This transaction occurred on 31 March 2011 and therefore before the implementation of the new control measures.

Impact of the finding:

a) The expenditure of R18 771,13 is considered to be irregular based on the following:

(i) Deviations were approved for the invitation of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement as required in terms of Practice Note 8 of 2007/2008

(ii) Non-compliance with TR 16A9 and National Treasury practice note 21 dated 21 July 2010.

b) Risk of payments being awarded to favoured suppliers.

c) Increased risk of bribery and fraudulent activities.

d) The department may have lost a chance to procure from a service provider that could have offered a lower price, had the procurement been fair.

**Internal control deficiency**

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations.*

**Recommendation**

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to the competition commission for investigation in accordance with the Competition Act.

c) The department should request all suppliers to complete the SDB 9 form or the PA 29 (the department’s equivalent) when requesting for bids.

1. In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to NT to list them as a prohibited supplier.
2. In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to SITA to ensure that they are removed from their supplier lists.
3. The matters needs to be investigated and determined why the service providers were able to quote exactly the same prices. If there were any transgressions by the officials of the department the required disciplinary actions needs to be instigated.

**Management response**

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

There are two types of lists of suppliers on the 285 supplier lists:

1. Prime Supplier list refers to Original Equipment Manufacturer (OEM) or Prime equipment supplier which will be for specific equipment. In the case of Dell the Prime Supplier is Dell/Ubuntu as per the attached list.
2. The second supplier list (Agent) is the distributer of a particular Prime supplier’s equipment. It can happen that the prime supplier and the Agent are the same company. In the case of Dell laptops Dell/Ubuntu are listed as the only agents (see attached list) in Gauteng. In other provinces Agents for Ubuntu/Dell products for example include Ubuntu, Sisonke, Lesedi and so forth.
3. On the basis of the aforesaid only two quotations could be sourced from accredited Agents for Dell

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

There are two types of lists of suppliers on the 285 supplier lists:

1. Prime Supplier list refers to Original Equipment Manufacturer (OEM) or Prime equipment supplier which will be for specific equipment. In the case of Dell the Prime Supplier is Dell/Ubuntu as per the attached list.
2. The second supplier list (Agent) is the distributer of a particular Prime supplier’s equipment. It can happen that the prime supplier and the Agent are the same company. In the case of Dell laptops Dell/Ubuntu are listed as the only agents (see attached list)
3. On the basis of the aforesaid only two quotations could be sourced from accredited Agents for Dell

SITA as an agent of government accredits suppliers and therefore the department is reliant on their service in this regard and hence we do not do company profiling and research any company.

All prices for equipment are listed on the SITA E-Portal (E-Portal for the latest pricing, products and suppliers. Contact our helpdesk (0800 748 222) to secure access.)

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

SITA as an agent of government is mandated to scrutinise and seek relevant mandatory documents from suppliers it accredits, on that basis the filling of SBD9 and PA 29 was not part of the IT Procurement process initially. After consultation with SCM the filling of the two forms has been introduced as part of the procurement of IT equipment during the 2012/13 financial year in order to satisfy the practice note.

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

All prices for equipment are listed on the SITA E-Portal (E-Portal for the latest pricing, products and suppliers. Contact our helpdesk (0800 748 222) to secure access.)

*Name:* Dintheng Matlala

*Position: Deputy Director*

*Date: 16-07-2012*

**Auditor’s conclusion**

* 1. Although management has indicated that there are two supplier lists for SITA contract 285/1 per SITA website it was noted that there is only one supplier list on the website. No documentation was provided indicating that there are two supplier registers.

It should also be noted the two quotations were received from Ubuntu Technologies and Department of Technologies. There was therefore also not a quotation from Dell as indicated in management’s comment that they are the only other service provider who can provide the service.

This mater needs to be further investigated, seeing the discrepancies pertaining to the quotations received.

The matter therefore remains unresolved.

* 1. Management’s comment has been noted; however it does not address the finding as both the suppliers from whom quotes were received still have same contact details.

This mater needs to be further investigated, seeing the discrepancies pertaining to the quotations received.

The matter therefore remains unresolved.

* 1. Management’s comment has been noted. This contract was audited at SITA and the following deviations pertaining to the SITA contract (285-1) was reported at SITA

| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| --- | --- | --- | --- |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

Although it is acknowledged that in terms of paragraph 4.2.1(b), Practice note 5 of 2009/10 pertaining to the procurement through SITA and the accountability of accounting officers states in paragraph 4.2.1, there may be transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices, it could not be confirmed whether prices for the goods procured were in line with the pricelist of the SITA 285/1 contract as we could not obtain access to the pricelist and the department did not make a printout and attach it to the payment batch. It could therefore not be established whether the prices for the procurement of the computers are fixed or whether, if indeed the price is fixed, the correct (agreed upon) price has been charged by the supplier.

Impact of the finding:

a) Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R18 771,13 could not be confirmed.

b) Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the price charged could not be confirmed for the procurement of capital machinery and equipment amounting to R18 771,13.

c) Management’s comment is noted however the price lists as per the portal was not provided by management together with their response. We have contacted SITA and attempted to get access to the portal, but was unsuccessful.

The matter therefore remains unresolved. Also refer to the conclusion under paragraph (c) for the impact.

1. **Deviations from supply chain management requirements – Forrest Office Furniture Ex 167**

**Audit Finding**

Laws, rules and legislation:

a) PFMA

Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

b) Treasury Regulations 16A3.1 and 16A3.2 states:

“*16A3.1The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective”*

c) Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000(including VAT):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

d) In terms of the Preferential Procurement Policy Framework Act (PPPFA) section 2(1)(e)

*“Bid documentation specify that evaluation and adjudication criteria which include the preference point system(80/20 or 90/10) to be used, 80/20 preference point system is applicable to amounts below R500 000(i.e. quotes) and 90/10 to those above(i.e. competitive bidding)”*

e) Supply Chain Management: A guide for Accounting Officers/ Authorities paragraph 4.7.5 states:

*“4.7.5.3 Emergency cases are cases where immediate action is necessary*

*in order to avoid a dangerous or risky situation or misery.*

1. Practice note 7 of 2009/10 paragraph 4.2

*“The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

1. Practice Note 8 of 2007/2008 paragraphs 6.1 and 6.2 states:

*“6.1 The Accounting officer / authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer / authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s / authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.”*

1. General Regulations of the Preferential Procurement Policy Framework Act 5 of 2000 paragraph 16 states:

*“No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.”*

The following deviations relating to the procurement of office furniture in the office of DDG: AIM from Forest Office Furniture have been noted. Please see the table below for information on the payment selected for testing

|  |  |  |  |
| --- | --- | --- | --- |
| **FANO NUMBER** | **DATE** | **AWARDED AND SPENT IN CURRENT YEAR** | **VALUE OF ITEMS SELECTED FOR TESTING** |
| **R** | **R** |
| 157343/OR-051942 | 24 June 2011 | 253 537,14 | 27 586,86 |

a) The department has not obtained and evaluated three written quotations as required by Practice Note 8 of 2007/8 paragraph 3.3.1 to 3.3.3. Only one quotation was obtained from Forest Office Furniture as it was indicated procurement of the goods were urgent.

The following deviations pertaining to the aforementioned were noted:

1. CD: KAM was promoted as DDG: AIM in June 2010 and had continued to use the office of the CD: KAM up until the post was filled. The DDG: AIM was then allocated offices on the sixth floor with no furniture therefore the office required furniture for the office of the DDG: AIM and its staff.
2. A request for movable assets was approved on7 March 2011 by the head of the unit.
3. An internal memo was issued by the department to request approval from the Acting DG to deviate from the Pro-Quote system and utilise Forest Office Furniture as a preferred service provider to supply furniture for the office of the DDG: Asset Investment Management and the supporting staff. This deviation was approved by the then acting DG, Mr. Sam Vukela on 29 March 2011. The amount per this deviation amounted to R272 567,60.
4. Another internal memo requesting for approval to deviate from the Pro-Quote system and utilise Forest Office Furniture as preferred service provider to supply furniture for the office for the DDG: Asset Investment Management and support staff. The cost for the entire office of the DDG, boardroom and the waiting room was indicted as R279 850,62. This deviation was approved by the then acting DG, Mr. Sam Vukela on 18 April 2011.
5. The quotation of Forest Office Furniture is dated 23 May 2011.
6. The LOGIS procurement advices were approved on 27 May 2011.
7. The order was approved on 30 May 2011.
8. The tax invoice received from Forest Office Furniture is dated 1 June 2011.

The reasons for not obtaining three written quotations do not appear reasonable or justifiable as there are 1244 suppliers listed on the prospective supplier list who supply office furniture. Furthermore the department had known in advance that the that the office of the DDG needed furniture and had enough time to follow proper supply chain management policies and procedures, as the DDG:AIM was appointed in June 2010 and the furniture procurement procedures only started in April 2011,ten months after the DDG:AIM had been appointed.

A lack of proper planning does not constitute an emergency. There was no dangerous or risky situation or a situation that could cause misery.

b) Per inspection of the procurement information provided it was noted that no documentation was attached indicating that the supplier has completed the SBD 4 (declaration of interest) or PA-11 (declaration of interest and the bidders past Supply Chain Management practices) of the department as required by Practice Note 7 of 2009/10.

c) There was not a tax clearance certificate attached to the batch and there was also not a reference to where one could be obtained.

d) Since the department did not obtain three quotations it could not be determined if the furniture were obtained at reasonable prices.

e) As only one quotation was obtained the department did not comply with PPPFA section 2(1)(e).

Impact of the finding:

a) Irregular expenditure being understated with R253 537,14 due to:

1. Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement as required by PN 8 of 2007/08 paragraph 3.3
2. Awards were made to suppliers who did not have tax clearance from SARS that their tax matter are in order and who have not made arrangements with SARS to meet their tax obligations as required by PPR 16, TR16A9 1(d) and PN 8 of 2007/08 paragraph 6.
3. As the department also only received one quotation the preference point system was not applied in the procurement of goods and services above R30 000 (Vat included) as required by PPPF Act section 2(a)

b) Non compliance with Practice Note 8 of 2007/2008 and Practice Note 7 of 2009/2010 as the SBD 4 was not submitted may result in irregular expenditure being incurred by the department.

c) Since the department did not obtain and evaluate three quotations the goods may not have been obtained at a reasonable price.

1. Risk of payments being awarded to favoured suppliers.
2. Increased risk of bribery and fraudulent activities.
3. The department may procure goods and services with employees, political office bearers, SCM role-players, close family members of employees or persons in service of other state institutions that could have influenced the SCM processes.

The finding occurred as a result of the fact that:

As per discussion with DD: Provisioning and Logistics it was noted that DDG: AIM was allocated offices on the sixth floor with no furniture and therefore the office required furniture for the office of the DDG: AIM and its staff.

He also noted that the furniture was procured as urgent through Forest Office Furniture due to the fact that the DDG wanted the furniture to be similar to all other DDG’s offices to maintain uniformity and the image of the department as the DDG stated in the internal memorandum issued.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three has been improved. All deviations are first interrogated by the director of supply chain before approval is given. The target date for the aforementioned actions was December 2011.

**Internal control deficiency**

*Leadership*

*Management does not effectively exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls b) Financial and Performance Management*

Financial and performance management

*The department did not effectively* review and monitor compliance with applicable laws and regulations

**Recommendation**

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) Prospective suppliers must be required to submit a declaration of interest when they apply for registration on the list. These conditions must clearly be stated in the SCM policy.

c) Actions need to be taken against officials that do not adhere to the prescribed laws, rules and regulations.

d) An original tax certificate should be obtained for all service providers. Where the original tax certificate has to be returned to the respective service provider, a certified copy of the certificate should be made and kept centrally. The latter should be recorded in a register. When required the officials needs to obtain the reference number to the register. The latter needs to be indicated on the supporting documentation. Officials responsible to maintain the register should also ensure that they ensure that when required new tax clearance certificates or certified copies are obtained and referenced to in the register.

**Management response**

**Auditor’s conclusion**

No management response received. Matter therefore remains unresolved.

1. **Deviations from supply chain management – Ibhubesi Information Technology – Pretoria Region Ex 170**

**Audit finding**

Laws, rules and legislation:

a) Practice Note 5 of 2009/2010 paragraphs 4.1.1(b), 4.1.1(c) and 4.1.1(d) states:

*“4.1.1(b) The institution must obtain at least three quotation per purchase on a rotational basis depending on the number of listed suppliers and the frequency of purchase,*

*4.1.1 (c) In the event that it is not practical to obtain three quotations or to select suppliers on a rotational basis, the reasons for deviation must be approved by the relevant accounting officer or accounting authority and recorded for auditing purposes*

*4.1.1(d) if none of the suppliers on the list are able to provide the goods and/or services, the institution may obtain quotations from other suppliers and must accordingly inform SITA in writing”*

b) In terms of Practice Note 7 of 2009/10, effective date of 2 October 2009, paragraphs 4.1.2 and 4.2 requires the following pertaining to SBD 4 forms,:

*“4.1.2   With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.*

*4.2       Use of the SBD 4 when establishing lists of potential / prospective suppliers when obtaining quotations  The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

c) SITA Act General Regulations

i) Regulation 8.1.1

*“The designated department or public body must -*

1. *Determine the need to procure information technology goods or services and;*
2. *Compile a business case and the user requirements specifications for the need.”*

(ii) Regulation 8.1.3

*“For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representative -*

1. *to make proposals regarding the business case and user requirement specifications and approve such case and specifications*
2. *To authorise the accounting authority of the designated department to award the bid on their behalf”*

iii) Regulation 8.1.5

*“For purpose of advertising, the agency must compile the bid documentation consisting of –*

1. *The evaluation criteria fot the bid in accordance with the Preferential Procurement Policy Framework Act, including but not limited to, specific goals for-*
2. *Black economic empowerment, and*
3. *Procuring from suppliers situated in the specific province where goods or services are required”*
4. *Tax clearance certificate requirements;*
5. *If the value of the envisaged contract exceed R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and industry;*
6. *In respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.”*

(iv) Regulation 8.1.7(a)

*“Before the bid is advertised –*

1. *the designated department or public body must approve the final bid documentation; and*
2. *the Agency must compile a value proposal on the cost for the designated department or public body in respect of advertising and evaluation of the bid”*

v) Regulation 8.2.1

*“Within 10 working days after receipts of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval -*

1. *A procurement schedule for the execution of the request for a bid;*
2. *A detailed costing for the subsequent contract management, if required.”*

vi) Regulation 13.1.

*“The agency must, in consultation with the designated department, establish the following committees to deal with the evaluation fo bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body:*

*a) A Bid Evaluation Committee to;*

1. *evaluate bids; and*
2. *make a recommendation for award to the Recommendation Committee, including the identification of all the risks associated with the recommendation and the rating of all the risks (herein referred to as “the risk report of the BEC”); and*

*b) a Recommendation Committee to-*

1. *verify compliance of the procurement process with all applicable legislation and generally the integrity of that process;*
2. *if the process is verified as not compliant or its integrity was compromised, refer the recommendations back to the Bid Evaluation Committee with its reasons;*
3. *Identify any risks additional (if any) to those identified in the risk report of the BEC and provide its own rating for all the risks (herein referred to as the risk report of the RC); and*
4. *If the process has been verified as compliant and for its integrity, submit the recommendations of the Bid Evaluation Committee and the risk reports of the BEC and RC to the relevant accounting authority of the designated department of public body”*

vi) Regulation 13.3 (a) – Chair person of the TEC (BEC)

*“The BID Evaluation Committee is mandatory services and transversal term contract must consist of at least the following:*

*An employee designated by the Agency as the chairperson”*

d) Practice note 5 of 2009/10 pertaining to the procurement through SITA and the accountability of accounting officers states in paragraph 4.2.1

*“The following represents the two types of transversal term contracts that are available for ICT related procurement, namely:*

*a) transversal framing contracts where the ICT related goods and/or services may be procured by means of quotations from pre-identified potential suppliers whose products meet the standard certification; and*

*b) transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices.”*

The following deviations pertaining to the SITA contract was noted:

a) The following deviations pertaining to the SITA contract (285-1) was reported at SITA

| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| --- | --- | --- | --- |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

1. The following non compliance issue was identified during the audit of the following procurement batch 154911, please see the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **BEN NAME** | **ITEM DESCRIPTION** | **FANO** | **R** |
| IBHUBESI INFORMATION TECHNOLOGIE | TONERS | 154911 | 1. 457,72 |

The department participated in SITA contract RFT 285/1 for the procurement of ICT related goods. Despite the fact that there 368 suppliers listed under RFT 285/1, who are able to provide goods in Gauteng, the department only invited three suppliers, (Ibhubesi Information Technology, Sizwe Africa IT Group and Xon Systems, to submit quotations of which only two, Ibhubesi Information technology, Sizwe Africa IT Group, responded.

No documentation was provided indicating that the deviation was approved by the delegated official and the reasons thereof.

1. It could further not be confirmed it there were fixed prices for the items procured or whether the quotations should have been requested from the service providers indicated as we could not access the pricelist of the SITA 285/1 contract on the SITA website and the department did not make a printout and attach it to the payment batch.

b) It was further noted that the deviation is not listed on the department’s register of deviations.

c) No documentation was attached indicating that the supplier has completed SBD 4 (Declaration of Interest) or the PA-11 (the department’s equivalent). The latter is a document compiled by the department which contains all the same information to be declared as per the SBD 4.

The finding occurred as a result of the fact that:

1. As per discussion with ASD: Financial Accounting it was noted that the department followed the SITA contract for inviting suppliers to render services, however if the supplier choose not to submit the quotation the department never thought of resubmitting the quotes as it was time consuming and the department needed toner urgently

b) As per inspection of the procurement batch as well as through discussion with the ASD: Finance it was noted that the department did see the necessity to record and approve the deviation as they followed the SITA route of nominating the suppliers to submit the quotes.

c) As per discussion with the ASD: Finance it was noted that that department did not see the necessity to for the supplier to declare the interest as the procurement relates to amounts of lesser value.

Impact of the finding:

a) Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R14 457,72 could not be confirmed.

b) Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the prices charged could not be confirmed for the procurement of goods and services inventory: stationery amounting to R14 457,72 could not be confirmed.

c) Increased risk of payments being made to favoured suppliers.

d)Increased risk of bribery and fraudulent activities.

e) The department may procure goods and services with employees, political office bearers, SCM role-players, close family members of employees or persons in service of other state institutions that could have influenced the SCM processes.

## Matters pertaining to the declaration of interests were also reported in the prior year. In the

Action plan on the audit report for the financial year ended 31 March 2011submitted, page 32 it was indicated that “All bidders are regarded non-responsive if they do not submit the declaration forms.” The implementation date is stated as 31 March 2012. As this procurement occurred on 31 May 2011 it was before the measure was implemented by management.

## Internal control deficiency

## Leadership

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

## Financial and performance management

The department did not effectively review and monitor compliance with applicable laws and regulations

## Recommendation

## a) The department should obtain at least three quotations for procurement of goods and services as per Practice Note 5 of 2009/2010 irrespective of whether the department has participated into the SITA Contract. If it is not practicable, valid reasons should be documented and approved by delegated officials.

## b) It should be ensured that the required SBD(4) declarations or the PA-11 (the department’s equivalent) are obtained for all suppliers who have submitted the quotations.

## c) The department need to ensure that sufficient supporting documentation pertaining to procurement in terms of SITA contracts is available to ensure that the approvers of payments are in position to assess whether or not the procurement is in line with the SITA contract requirements.

**Management response**

No management comment has been received

**Auditor’s conclusion**

No management comment has been received. The matters raised therefore remain unresolved.

1. **Deviations from supply chain management requirements – Mamanopi Trading Enterprises – Pretoria regional office** **Ex 171**

**Audit Finding**

Laws, rules and legislation:

a) PFMA

i) Section 38(1)(b) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution”*

ii) Section 38(1)(a) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains—an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

iii) Section45(c) – Responsibilities of other officials

*“An official in a department, trading entity or constitutional institution must take effective and appropriate steps to prevent, within that official’s area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;”*

b) Treasury Regulations 9.1.1, 9.1.2 and 9.1.5 state that:

*“9.1.1 The accounting officer of an institution must exercise all reasonable care to prevent   and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

*9.1.2   When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever is applicable.”*

*9.1.5 The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.*

c) Treasury Regulations 16A3.1 and 16A3.2 state:

“*16A3.1The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective*

*16A6.1 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.”*

*16A9.1  The accounting officer or accounting authority must—*

1. *take all reasonable steps to prevent abuse of the supply chain management system;*

*(e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*( f ) cancel a contract awarded to a supplier of goods or services—*

1. *if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or”*

d) Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

1. The department’s SCM policy paragraphs 49 and 50a state the following:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

The deviations listed below relate to the procurement of furniture from Mamanopi Trading Enterprises, batch number 182819. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST**  **[INCLUDING VAT]** | **TOTAL**  **[INCLUDING VAT]** |
| Monaco Patio chair | 16 | 3 950,00 | 63 200,00 |
| Garden umbrella | 1 | 300,00 | 3 000,00 |
| Monaco patio dining table | 2 | 15 000,00 | 30 000,00 |
| Monaco patio dining chair cushion | 4 | 11 000,00 | 44 000,00 |
| Monaco 2Div Patio bench cushions | 4 | 14 500,00 | 58 000,00 |
| Monaco 2Div Patio bench cushions | 4 | 16 000,00 | 64 000,00 |
| **TOTAL** |  |  | **262 200,00** |

1. The department did not obtain and evaluate three written quotations as required by Practice Note 8, due to the fact that only the two suppliers listed below responded:
2. Sunset Projects
3. Mamanopi Trading Enterprises
4. However, requests for quotations where sent to the following suppliers, of which only Sunset Projects and Mamanopi Trading Enterprises responded:
5. Sunset Projects
6. Legae La Batho
7. Tlaledi Trading Enterprises
8. Senwakangwedi Designers
9. Nana Design
10. Mamanopi Trading Enterprises
11. Ledor Creations
12. Oratuwe Trading
13. Glorina general Trading
14. Essel trading

The reasons that four suppliers could not be reached do not appear reasonable or justifiable as there are 1 244 service providers on the prospective supplier list who supply furniture. As a result the department was not allowed to apply practice note 8 of 2007/8 paragraph 3.3.2, which clearly indicates it is only applicable in instances where no suitable suppliers are available on the supplier list.

c) As the database of the department should be regularly updated, at least quarterly, it is not evident why the department is not able to obtain responses from suppliers.

1. The following discrepancies pertaining to Mamanopi Trading Enterprises have been noted:
2. Mamanopi’s (a registered VAT vendor) invoice is not in accordance with the Value Added Tax Act 89 of 1991 section 4(a) as the invoice does not contain the words “Tax invoice.”
3. The company has not charged VAT per the invoice even though the company is a registered VAT vendor. The company’s VAT number is 4250234764. A VAT vendor searched performed by the department on 18 January 2012 was attached to the batch. It was also indicated on the provisioning administration checklist that a VAT vendor search were performed. The fact that the service provider is registered for VAT was also indicated on the tax clearance certificate attached to the batch.
4. The company’s telephone number on the invoice is not stated accurately as the area code has been omitted.
5. As indicated in the table below, had Mamanopi Trading Enterprises in fact charged VAT, as they should have their quotation would not have been the lowest. It is a concern that this matter was not identified by the Department during the valuation process.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of service provider** | **Amount quoted** | **Amount included VAT** | **Difference** |
| **R** | **R** | **R** |
| Mamanopi Trading Enterprises | 262 200,00 | 298 908,00 | 36 708,00 |
| Sunset Projects | 263 422,86 | 263 422,86 | 0,00 |

The points scored by the two service providers would have been different if Mamanopi Trading Enterprises did charge VAT, which would have meant that the bid should have been awarded to Sunset Projects and not Mamanopi Trading Enterprises.

|  |  |  |
| --- | --- | --- |
| **Name of service provider** | **Original**  **Calculation** | **Recalculation based on price if VAT was charged** |
| Mamanopi Trading Enterprises | 98,00 | 87,22 |
| Sunset Projects | 93,63 | 94,00 |

f) The following suppliers from whom quotations were requested but were not received have the same member:

Nana Annastacia Hadebe is a member of Nanas Designs CC and Glorina General Trading CC.

g) Of the ten suppliers from whom quotations were requested, two of the suppliers were not listed on the department’s prospective supplier list as prospective suppliers. Please see below:

1. Legae la Batho
2. Ledor Creations

No documentation was provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list.

h) It has been noted on the internal memorandum, to request for the approval of the award where less than three quotations were received, that the director supply chain management requested that internal audit should investigate the matter as the awarding of the contract to the service provider is indicative of possible “bid rigging”. It is not evident why the award was approved by the director SCM if there were concerns pertaining to bid rigging. The internal memorandum has been signed by the following people:

1. Senior Administration officer: Quotation Unit – submitted the request
2. Assistant Director: Quotation Unit – recommended the request
3. Deputy Director: Quotation Unit – recommended the request
4. Director: SCM – approved the request

i) It was noted that it was indicated on the provisioning and administration checklist that a minimum of three quotations were obtained even though this was not the case.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance (Mpho Selepe) it was noted that a request was sent to 10 suppliers. The following suppliers could not be reached on numbers provided: Essel Trading, Glorina General Trading, Oratuwe Trading and Ledor Creations. Only two suppliers responded and provided quotations being Sunset Projects and Mamanopi. Mr. Selepe also noted that, all quotations for Prestige are done at Head Office and as a result Head Office personnel are responsible for the choice of suppliers and therefore he does not understand why some of the suppliers chosen are not on the prospective supplier list as regional office only deals with the payment.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011.

As indicated in paragraph (g) of the audit findings there was a memo signed by the director SCM, but it was approved with the matter reported in the mentioned paragraph.

Impact of the finding:

a) Irregular expenditure being understated with R262 200,00 due to the non-compliance with:

(i) The accounting officer[[2]](#footnote-2) knowingly awarded a contract to a recommended bidder who is known to have committed a corrupt or fraudulent act in competing for that particular contract. The Treasury Regulations 16A9.1

(ii) Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement. Non-compliance with Practice Note 8 of 2007/2008 and TR16A6.1

b) Risk of payments being awarded to favoured suppliers.

c)     Increased risk of bribery and fraudulent activities.

d) The department did not obtain and evaluate three quotations, nor were all of the quotations requested from suppliers on the prospective supplier list, as a result the goods may not have been obtained at a reasonable price.

**Internal control deficiency**

*Leadership*

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and performance management

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) In cases where requests for a quotation are submitted and less than three quotations are received, the department should follow up the reason for non submission with the respective suppliers.

b) The department should request quotations from suppliers on the supplier register.

c) In cases where the suppliers per the supplier register is unable to provide the goods desired the department may then request quotations from other suppliers after the appropriate approval has been obtained.

d) The department should submit the internal audit report pertaining to the bid rigging being investigated to the auditors.

e) This matter needs to be investigated and disciplinary measures instigated if applicable.

**Management response**

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

The department issued and RFQ/ invited number of service providers that are categorized as (Prestige) with NIA clearance. The requests for prestige environment are not sent to all service providers listed on the departmental database. Therefore such service are confined in that manner

Two responses were evaluated and awarded in accordance to the delegation in case the department is unable to received three quotation according to the practice note 8 of 2007/2008.

An approval was granted by the Director:DAM for the deviation as delegated.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | To increase number of services providers within the prestige environment | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | No |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | An approval for deviation was approved on 7/9/2011 in line with the Delegation | |

*Name:*

*Position:*

*Date:*

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

The department issued an invitation according to the practice no, but we will have vendor sessions and explain the negative impact in creates to the department when approved suppliers do not respond to requests for a quotation

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

The data cleansing is a continuous process but due to the high number of successfully registered suppliers we are unable to reach all suppliers on a quarterly basis.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Data cleansing is currently on process | |

Prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office from 2009

|  |  |
| --- | --- |
| **Type of commodity** | **Number of service providers on the list** |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning materials | 3 |
| Linen | 5 |
| Kitchen wear | 1 |
| Cut glass | 2 |
| Antique furniture | 2 |
| Repair work of silverware and furniture | 4 |
| Household and electrical appliance | 3 |
| Banquet and set up | 2 |

It is a requirement that all prestige service providers must be vetted and NIA cleared.

A total number of 1244 mentioned above are Gereral Goods and Services suppliers which are registered o Supplier Register database and they are not NIA cleared to be used for acquisition of prestige.

The supplier did not indicate on the quotation that is a VAT vendeor and therefore the invoices was paid as such. We acknowledge that the supplier according to the VAT search is a VAT vendor and the department should have recognized that. However finance also did not pay VAT on the invoice.

As a corrective measure, we will pay attention to detail when evaluating quotations/suppliers and further more the Pro-quote system will be enhanced so that suppliers are registered in that in the manner.

*Name:*

*Position:*

*Date:*

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

We have noted your observation and new suppliers are checked that are not registering for the same commodity, but we can not stop suppliers from registering more than one entity

*Name:* E Kruger

*Position: Act CD: SCM*

*Date: 26 July 2012*

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

Yes it would have been

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DESCRIPTION** | | **RESPONSE** | | |
| Corrective action to be taken | |  | | |
| Does the finding affect an amount disclosed in the financial statements | | **Yes** | **No** | |
|  |  | |
| If yes, what corrections will be made to the population | |  | | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | |  | | |
| Position of official responsible to take corrective actions | |  | | |
| Estimated completion date for corrective action | |  | | |
| **DESCRIPTION** | **RESPONSE** | | |
| Does management agree with the root cause indicated | **Yes** | | **No** |
|  | | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | The amount quoted is deemed to be VAT inclusive | | |

*Name:*

*Position:*

*Date:*

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

DPW acknowledge the fact that the system does not indicate if one member owns more than one company.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Request Intenda to enhance the system | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:*

*Position:*

*Date:*

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

The prestige acquisition is currently done manually with a list of prestige service provider adopted from Pretoria Regional Offices as per decision made by management that prestige acquisition will be done by Head Office as from 2009.

A manual list adopted from Pretoria Regional Office specifically for prestige is categorized as follows

|  |  |
| --- | --- |
| **Type of commodity** | **Number of service providers on the list** |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning materials | 3 |
| Linen | 5 |
| Kitchen wear | 1 |
| Cut glass | 2 |
| Antique furniture | 2 |
| Repair work of silverware and furniture | 4 |
| Household and electrical appliance | 3 |
| Banquet and set up | 2 |

It is a requirement that all prestige service providers must be vetted and NIA cleared.

The service providers in question form part of the manual list submitted. See annexure?

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken |  | | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** | |
|  |  | |
| If yes, what corrections will be made to the population | To update prestige quarterly | | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | | |
| Position of official responsible to take corrective actions | Director SCM | | |
| Estimated completion date for corrective action |  | | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Suppliers are on prestige database | |

*Name:*

*Position:*

*Date:*

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | An approval was made as there could not be sufficient prove | |

*Name:*

*Position:*

*Date:*

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Checklist indicate that three quotations were not evaluated. | |

*Name:*

*Position:*

*Date:*

**Auditors response**

1. It is not evident why the prestige supplier list is limited to a total number of 14 service   
    providers for furniture and nine for curtains as the ministerial handbook paragraph C(i) states that: “*the furnishing of State-owned residences is limited to the provision, and maintenance of ordinary household furniture, mattresses, pillows, carpets, beds, stoves, refrigerators, freeze’s, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers.*”

As a result the prestige supplier list should be updated to include additional service providers. In addition, an analysis should be done to determine which of the 1 244 service providers listed on the prospective supplier list who supply furniture can be used to supply furniture for prestige. This would give the department an opportunity to obtain three quotes. As a result the matter remains unresolved

b) Management’s comments have been noted and management has concurred that a negative impact is created for the department. As also indicated in paragraph (a) the department must ensure that there are more service providers on their database to provide for the services. As a result the matter remains unresolved.

c) As management has said that due to the “high number of successfully registered suppliers the department is unable to reach all suppliers on a quarterly basis,” the matter remains unresolved as the details off the suppliers not reached may not be updated resulting in the department not obtaining responses from the suppliers. In addition, management has not agreed with the root cause and has stated that “data cleansing is currently on process.” As a result the matter is unresolved.

d) & e) Management has acknowledged that the supplier is a VAT vendor and that the department should have recognised that fact. It should again be stressed that had Mamanopi Trading Enterprises charged VAT, their quotation would not have been the lowest, and the points scored for Mamanopi would have been different resulting in the bid being awarded to Sunset Projects. Such an error by the department encourages potential fraudulent activities. This is further highlighted by the fact that it has been noted on the internal memorandum that the matter is indicative of possible “bid rigging”. In addition, errors such as these create a negative impact for service providers who have all their documentation in order and do adhere to applicable legislation. As a result the matter is considered extremely serious and remains unresolved.

f) As DPW has acknowledged the fact that the system does not indicate if one member owns more than one company, the matter has remained unresolved. Managements commented are noted that the department cannot stop suppliers from registering more than one entity. However competition between the same entities is anti competitive behaviour and as a result the department needs to implement a process whereby quotations from related service provider are not considered with the same procurement. As a result the matter remains unresolved.

g) Management’s comment same as paragraph (a). Please refer to paragraph (a) for auditors conclusion. As a result the matter remains unresolved.

1. Management has not responded to the finding relating to the internal memorandum, to request for the approval of the award where less than three quotations were received, that the director supply chain management requested that internal audit should investigate the matter as the awarding of the contract to the service provider is indicative of possible “bid rigging”. It is not evident why the award was approved by the director SCM if there were concerns pertaining to bid rigging. It is of a major concern no feedback has been provided as to whether or not an investigation has taken place or not. As a result the matter is considered to be unresolved.
2. Managements response has been received however management’s response could not be noted as the response is incomplete. The response indicated that information is attached as part of managements response, however upon inspection of the response no documentation have been attached. In addition the response does not indicate whom responded and it was not signed by any official in the department. As a result the matter is unresolved.
3. **Deviations from supply chain management requirements – BMT Streetfever CC – Pretoria regional office Ex 172**

**Audit Finding**

Laws, rules and legislation:

a) PFMA

i) Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

ii) Section 44 of the Public Finance Management Act states:

*“(1) The accounting officer for a department, trading entity or constitutional institution may:*

*(a) in writing  delegate any of the powers entrusted or delegated to the accounting officer in terms of this Act, to an official in that department, trading entity or constitutional institution; or*

*(b) instruct any official in that department, trading entity or constitutional institution to perform any of the duties assigned to the accounting officer in terms of this Act.*

b) Practice note 8 of 2007/2008 paragraphs 3.3.1, 3.3.2 and 3.3.3 pertaining to transactions with a value above R10 000 but not exceeding R500 000 (including VAT):

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

c) Treasury Regulations:

“*16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must—*

1. *be fair, equitable, transparent, competitive and cost effective*

*16A6.1 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.”*

d) DPW circular number 33: Withdrawal of property and prestige procurement delegations in the department, approved by the then acting director general, Mr. Mandla Mabuza, approved on 7 November 2011, states that:

i) Paragraph 3.3

“*And furthermore procurement of all Prestige acquisitions must be approved by the Accounting Officer before processing”*

ii) Paragraph 4.2

“*This circular is effective from the date of sign off and must be brought to the attention of all relevant staff members”*

d) In terms of the Preferential Procurement Policy Framework Act (PPPFA) section 2(1)(e)

*“Bid documentation specify that evaluation and adjudication criteria which include the preference point system(80/20 or 90/10) to be used, 80/20 preference point system is applicable to amounts below R500 000(i.e. quotes) and 90/10 to those above(i.e. competitive bidding)”*

e) In terms of Practice Note 7 of 2009/10, effective date of 2 October 2009, paragraphs 4.1.2 and 4.2 requires the following pertaining to SBD 4 forms,:

*“4.1.2 with effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.*

*4.2 Use of the SBD 4 when establishing lists of potential / prospective suppliers when obtaining quotations  The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

The deviations listed below relate to the procurement of furniture. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **BATCH NUMBER** | **DATE** | **R** |
| **BMT Streetfever** | 185084 | 2012/02/17 | 331 845,01 |

a) The department did not obtain and evaluate three written quotations as required by Practice Note 8, due to the fact the Deputy Minister in question did not like any furniture pieces from shops and preferred to utilise BMT Streetfever which was not registered on the database. However BMT Streetfever was subsequently included on the supplier database.

The reason for not obtaining three written quotations do not appear reasonable or justifiable as there are 1 244 suppliers listed on the prospective supplier list who supply furniture.

b) In an internal memorandum it was requested that ex-post facto approval be granted for the procurement. In the memo the following was documented:

i) Prestige unit and SCM unit officials took the Deputy Minister to the shops that are registered on the database of DPW to indentify furniture for her official house. She did not like any of the furniture pieces of any of the shops and she identified Steel -Land store which was not registered on the prospective supplier list.

ii) The SCM unit facilitates with the service provider to be registered on the database, which was then successfully done.

iii) The Deputy Minister chose the furniture for her official house and it was delivered during December holidays when the department was in “recess”.

iii) It is not clear as to who gave the instruction to the service provider to deliver the furniture between Prestige and SCM official after the Deputy Minister complained to the DPW Minister about non performance of the department in terms of issuing the order to the service provider.

iv) The acting DDG: KAM indicated the following on the ex-post facto approval:

Correspondence from the supplier omits to SCM from whom the instruction to deliver was obtained.

Internal correspondence does not provide adequate explanation nor response to the questions raised

v) The CFO indicated that the matter needs to be reported to the director finance in the region for proper disclosure.

From the aforementioned it is clear that SCM processes were not followed, however the amount was not included in the irregular expenditure reported in the financial statements.

c) There was no evidence that the acting accounting officer approved the transaction as required in terms of DPW circular number 33.

d) As the Deputy Minister specifically selected furniture from a specific service provider it made the specifications so specific that the procurement could not be considered fair or competitive as required in terms of TR16A3.2 and SCM guide paragraph 3.4.2.

e) Since the department did not obtain three quotations it could not be determined if the furniture were obtained at reasonable prices.

f) Per inspection of the procurement information provided it was noted that no documentation was attached indicating that the supplier has completed the SBD 4 (declaration of interest) or PA-11 (declaration of interest and the bidders past Supply Chain Management practices) of the department as required by Practice Note 7 of 2009/10.

g) As only one quotation was obtained the department did not comply with PPPFA section 2(1)(e).

h) It was noted that on the provisioning and administration checklist it was erroneously indicated that a minimum of three quotations were received. The internal control measure (checklist) is therefore not effective.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance (Mpho Selepe) it was noted that the Deputy Minister did not like any furniture pieces from shops and she identified Steelland store.

Mr Selepe also noted that all quotations for prestige are done at head office and as a result head office personnel are responsible for the choice of suppliers and therefore he does not understand why some of the suppliers chosen are not on the prospective supplier list as the regional office only deals with the payment.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes have been improved. All deviations are first interrogated by the Director of supply chain before approval is given. The target date for the aforementioned actions was December 2011.

Although the internal control checklist was completed it incorrectly indicated that three quotations were obtained. In spite of the CFO indicating the latter the procurement was not included in the irregular expenditure disclosed in the financial statements.

Impact of the finding:

a) Irregular expenditure being understated with R331 845,01 due to:

(i) Bid specifications were drafted in a biased manner which did not allow all potential suppliers to offer their goods and services. The specifications made reference to particular trade mark, name, patent, design, type, specific origin and producer. [TR16A3.2 (fairness & competition) SCM guide par 3.4.2]

(ii) The fact that the procurement was not approved by the acting accounting officer as required by circular 33 of the department.

(iii) The non compliance with Practice Note 8 of 2007/2008 as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement.

(iv) The preference point system was not applied in the procurement of goods and services above R30 000 as required by the PPPF Act as the department only received one quotation.

b) Risk of payments being awarded to favoured suppliers.

c)    Increased risk of bribery and fraudulent activities.

d) Suppliers to whom awards were made did not submit declarations to declare whether they are in the service of the auditee or whether a director/ member/ principal shareholder/ stakeholder is in the service of the auditee as required in terms of PN 7 of 2009/10.

e) Since the department did not obtain and evaluate three quotations the goods may not have been obtained at a reasonable price.

**Internal control deficiency**

*Leadership*

*a) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

*b) The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and performance management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) This matter needs to be investigated and the required disciplinary actions instigated if applicable.

b) Actions need to be taken against officials who fail to comply with these delegations.

c) The irregular expenditure should be included in the disclosure note to the financial statements.

d) Procurement between R30 000 and R500 000 should be evaluated in terms of the PPPFA

e) The department should ensure that all relevant supporting documentation is attached to the procurement batches.

f) The deficiency pertaining to the completion of the checklist should be investigated and corrected.

g) The department should request quotations from suppliers on the supplier register.

**Management response**

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:*

*Position:*

*Date:*

**Auditor’s conclusion**

No management comment has been received. The matters raised therefore remain unresolved.

1. **Deviations from supply chain management requirements –Into Fabrics and Décor CC– Pretoria regional office Ex 173**

**Audit Finding**

Laws, rules and legislation:

a) PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure   
 and losses resulting from criminal conduct*;”

b) Treasury Regulations 16A6.1 states:

*“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.”*

c) Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

d) The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

e) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001 paragraph 3(1) requires that:

*“The 80/20 preference point system- (1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

*Where*

**

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

The deviations listed below relate to the procurement of curtains from Into Fabrics, batch number 185486. Please see the table below for information on the payment selected for testing:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST**  **[INCLUDING VAT]**  **R** |
| Curtains , Voiles , Rails | 1 | 26 279,28 |
| Curtains , Voiles , Rails | 1 | 55 230,04 |
| Curtains , Voiles , Rails | 1 | 18 774,23 |
| Curtains , Voiles , Rails | 1 | 7 797,60 |
| **Total** |  | * + 1. **081,15** |

a) The following discrepancies, pertaining to the events documented in the supporting documentation, were noted:

1. Paragraph 2.1 of the internal memorandum to approve award where less than three quotations were received:

“*The request for Curtains and Rails was received from Cost Centre 105B. The Request for Quotation (RFQ) was created on 12-08-2011 and closed on 19-08-2011.”*

1. Paragraph 2.4 of the internal memorandum to approve award where less than three quotations were received:

“*The first request for curtains was created on 25-07-2011 and Closed on 28-07-2011. Only one supplier responded to the RFQ (Rivoningo Vonani Trading. Proof attached”*

* It is therefore evident that quotes were previously requested and that the department did receive a response from Rivoningo Vonani Trading.
* However, the quotation of Rivoningo Vonani Trading was not attached to the batch and also not considered.
* It is not evident why a request was created on the 25 July 2011, when cost centre 105B only requested for curtains on 12 August 2011.

1. At the top of the information received from the two service providers it was indicated that the information was faxed on 25 August 2011 from 7515801735.  
   This is therefore the date when the requests were faxed to the service providers. This is confirmed by the quotation registers which indicated that the invitation date was 25 August 2011.

The LOGIS procurement advices were only created on 26 October 2011 and were only signed by the SPAO on 27 October 2011. This was the only official who signed the procurement advice.

1. The LOGIS orders were created and approved on 27 October 2011.

b) The department did not obtain and evaluate three written quotations as required by Practice Note 8, due to the fact that only two suppliers listed below responded.

1. Into Fabrics
2. J Kekana

Requests for quotations were sent to the following suppliers:

1. Into Fabrics
2. Legae La Batho
3. Elrika interiors
4. Rivonigo Vhonani Trading
5. The Kings Pride
6. J Kekana
7. Nana Designs
8. Maphale Motuba
9. Surface Design
10. Sehlahlane

The reasons provided that four suppliers could not be reached, do not appear reasonable or justifiable as there are a large number of suppliers listed on the prospective supplier list who supply curtains. There are currently 125 suppliers on the list that are able to provide the department with curtains. There was also no indication of what follow up actions were performed by the officials other than just the faxes sent to the service providers.

c) The suppliers listed below were not listed on the department’s prospective supplier list:

64. Legae la Batho

65. Elrika Interiors

No documentation was provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list.

d) Discrepancies pertaining to the contact detail on the supplier register and the information documented on the PA-02 – quotation register:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Vender name** | **Vender code** | **Information per database submitted** | **Information per database submitted** | **Information as per the PA-02** | **Information as per the PA-02** |
| **Telephone number** | **Fax number** | **Telephone number** | **Fax number** |
| RIVONINGO VONANI INTERIORS CC | H1916 | (011)  444-5672 | (011)  469-4845 | 082 789 0611 | 086 212 0407 |
| KING`S PALACE HOME CREATIONS | O9266 | 083 394 2788 | 086 689 2417 | 083 394 2788 | 086 394 2788 |
| INTO FABRICS AND décor | H5116 | (012)  734-5604 | (012)  734-5605 | 084 556 2194 | (012)  802 0881 |

1. As the fax number of Kings Palace Home Creations was incorrect, they may not have received the invitation to quote. Although the department is in possession of the telephone number of the service provider, there is no other information to proof that the non responsiveness of the supplier was followed up.
2. As the information of Rivoningo Vonani Interiors CC differ from that indicated on the quotation register, they may not have received the invitation to quote. Although the department is in possession of the telephone number of the service provider, there is no other information to proof that the non responsiveness of the supplier was followed up.
3. Although the contact detail per the database submitted and that on the quotation register differ, the department did receive a response from Into Fabrics. The latter is therefore indicative that the information on the database is not timeously updated.

e) Per inspection of the department’s PA-20(Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the preferential procurement policy framework. Please note that although an incorrect formula was used it does affect the outcome.

Please see the table below for differences identified in the point calculations:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| J Kekana | 81.00 | 76.89 | (4.11) |
|  |  |  |  |

f) On the provisioning and administration checklist, implemented by the department to address the non compliance matters in the department, in response to question 1.2 pertaining to whether for procurement of goods and services with a value between R10 000 and R500 000 a minimum of three quotations were received, it was indicated yes. As indicated in paragraph (a) above there was a motivation as to why three quotations were not obtained.

The control measure implemented by the department, namely the checklist, is therefore not working effectively.

g) Since the department did not obtain three quotations it could not be determined if the furniture were obtained at reasonable prices.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance (Mpho Selepe) it was noted that a request was sent to ten suppliers. The following suppliers could not be reached due to fax report not going through or phone not being answered: Surface Design, Sehlahlane and Maphale Motuba and Nana Design. Only two suppliers responded and provided a quotation being J Kekana and Into Fabrics and Decor CC.

Mr Selepe also noted that, all quotations for prestige are done at head office and as a result head office personnel are responsible for the choice of suppliers. Therefore he does not understand why some of the suppliers chosen are not on the prospective supplier list as regional office only deals with the payment.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of supply chain before approval is given. The target date for the aforementioned actions was December 2011.

This transaction therefore occurred prior to the target date for the implementation. As indicated in paragraph (f) of the findings it was indicated on the checklist that three quotations were obtained, while the latter was not correct.

Impact of the finding:

a) Irregular expenditure being understated with R108 081,00 due to:

Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirements of Practice Note 8 of 2007/2008 and TR16A6.1

b) Risk of payments being awarded to favoured suppliers.

c)     Increased risk of bribery and fraudulent activities.

d) Control measures implemented by the department are not effective.

e) Non Compliance with Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001

**Internal control deficiency**

*Leadership*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and performance management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) In cases where requests for a quotation are submitted and less than three quotations are received, the department should follow up the reason for non submission with the respective suppliers.

b) The department should request quotations from suppliers on the supplier register.

c) In cases where the suppliers per the supplier register is unable to provide the goods desired the department may then request quotations from other suppliers after the appropriate approval has been obtained.

d) Officials must ensure that the points are correctly calculated in terms of the PPPFA.

e) Officials reviewing the batches for compliance must ensure that the checklist is correctly completed.

**Management response**

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

The initial request for quotations was issued 25/07/2011 and closed on 28/07/2011. Due to the fact that only one supplier responded (Rivongo Vonani Trading), another request for quotation was issued to a different set of suppliers including (Rivongo Vonani Trading), with an effort to receive 3 quotes. Rivongo did not respond to the second request leading him not be part of the evaluation process.

An approved form: Internal Request for Quotations (PA – 28) was received from the business unit on 15/07/2012. First invitation to suppliers was issued by quotation unit on 25/07/2011 closing 27/07/2012 and the second invitation was issued on 25/08/2011 closing 02/09/2012. The Date indicated on the memorandum under 2.1 “12/08/2011 closing 19/08/2011” it’s a typing error. Attached RFQs attest to the correct dates (annexure A).

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

b) I am not in agreement with the finding for the following reasons [and supply

1. the following/attached information in support of this]:

The prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office as from 2009.

A manual list adopted from Pretoria Regional Office specifically for prestige is categorized as follows:

| **Type of commodity** | **Number of Service Providers on the list** |
| --- | --- |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning material | 03 |
| Linen | 05 |
| Kitchen wear | 01 |
| Cut glass | 02 |
| Antique furniture | 02 |
| Repair work of silverware and furniture | 04 |
| Household and electrical appliance | 03 |
| Banquet and set up | 02 |

It is a requirement that all prestige service providers must be vetted and NIA cleared.

A total number of 1244 mentioned above are General Goods and Services suppliers which are registered on Supplier Register database and they are not NIA cleared to be used for acquisition of prestige. According to the manual list indicated in a table above a total number of 09 service providers for curtains are currently used for the procurement of prestige.

The department acknowledges that at the time of invitation of this specific quotation the suppliers were unreachable, not that the contact details were not in existence

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

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

The supplier database directorate selects suppliers from the pre-approved list that was adopted by Head Office from Pretoria Regional Office as from 2009. Suppliers are selected manually and invited to provide quotations by the quotation unit. The decision was taken by the DPW management for the implementation of this acquisition process.

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

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

The Fax numbers for Kings Palace Home Creations (0866706798) used for sending the RFQ, was given by the supplier as an interim number and the fax reports verifies that the request was received. The fax number on the PA-02 (Quotation Register) was incorrectly captured and there was confusion with the capturing;

Contact details on the departmental database are not regularly updated therefore for each request that is issued, officials in quotations unit calls the suppliers first to avoid sending the invitations to non-existing or outdated numbers.

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

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

The scoring model used was based on the CIDB model but it was corrected since November 2011 to reflect the correct formula.

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

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

*Name: Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

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

Thus far the department is confident that the price awarded was market related as compared to the other quotation received (J Kekana) that is within the same range.

*Name:* *Eulala Kruger*

*Position: Acting Chief Director; Supply Chain Management*

*Date: 23 July 2012*

**Auditor’s conclusion:**

1. Management’s comment is noted. The matter is therefore resolved.
2. Although management is not in agreement with the finding, the following is noted:
3. The department only has nine suppliers on the prestige supplier list that can provide curtains. The department should have considered enlisting more suppliers to provide the goods required considering the frequency with which they are ordered.
4. Paragraph 3.8.1(c)(i) of the ministerial handbook states that the furnishings of State-owned residences is limited to the provision, and maintenance, of ordinary household furniture, mattresses, pillows, carpets, curtains, beds, stoves, refrigerators, freezers, washing machines, tumble dryers and heaters, micro-wave ovens and dishwashers on request.

The suppliers listed on the goods and services list should have been tested for NIA clearance so that they can also provide the department with prestige assets.

1. The suppliers listed on the supplier register are expected to be carrying on a trade and should therefore be readily available during working hours. All suppliers who are not available should be investigated and possibly removed from the supplier register.

The matter therefore remains unresolved.

1. The supplies are listed on the prestige supplier list, however the following must be noted:
2. The prestige register was not provided together with management’s response to our request for supplier registers (RFI 82) there is therefore a risk that the register could have been changed after the findings were issued to the department.
3. The list provided has not been signed.
4. The department can easily add and delete suppliers of the list as it is not uploaded onto a system.
5. Supplier was hand written on the prestige list.
6. Although management is not in agreement with the finding, it was noted that the fax number to which the request for quotation was sent is not the fax number per the supplier database or the fax number per the PA-02 quotation register. It is therefore not clear where the fax number was obtained from.

Furthermore, eventhough the fax transmission report indicates that the fax has been received by fax number – 0866706798, it does not mean that the fax number belongs to The King’s Pride. No other evidence was provided validting the number of the service provider.

The matter therefore remains unresolved.

1. Although management is not in agreeement with the finding, they have concurred that the formula used is the CIDB formula.

The matter therefore remains unresolved.

1. Although management has indicated that they are not in agreement with the findings, no explanation or supporting documentation was provided supporting their response.

The matter therefore remains unresolved.

1. Although management has indicated that the price is econcomical when compared to one other quote, because they have not received three quotes we cannot make a reasonable judgement.

The matter therefore remains unresolved.

## Deviations from supply chain management – MJBX Business Enterprise CC – Pretoria Ex 176

## Audit finding

Laws, rules and legislation:

1. The FPPF Act section 2(i)(a)

*“An organ of state must determine its preferential procurement policy and implement it within the following framework:*

1. *A preference point system must be followed”*
2. TR 16A8.4 and 16A8.5

*“16A8.4 If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must—*

*(a) disclose that interest; and*

*(b) withdraw from participating in any manner whatsoever in the process relating to that contract.*

*16A8.5 An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or accounting authority, in writing.”*

1. Practice note 8 of 2007/08 paragraph 3.3.1, 3.3.2 and 3.3.3 states:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers*

*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.”*

d) Practice note 7of 2009/2010 paragraph 4.1.2 states:

*“With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. The SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.”*

e) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001 paragraph 3(1) requires that:

*“The 80/20 preference point system – (1) The following should be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate*

**

*Where*

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender*

f) The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

The following deviations, relating to the purchase of domestic furniture - rubber mats were noted.

Please see the table below for information on the batch selected for testing.

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER NAME** | **FANO** | **Amount awarded** | **Amount selected in sample** |
| **R** | **R** |
| MJBX Business Enterprise CC | 160330 | 79 796,05 | 39 332,00 |
| 4 699,00 |

1. The department requested quotations from the following suppliers for the procurement of carpets:
2. MJBX Business Enterprise
3. Essel Trading (PMash)
4. Gloria General Trading
5. Maphale Motuba Creations CC

Contrary to the legislation listed above, only two of the suppliers (Maphale Motuba Creations CC and Essel Trading/ PMash) from whom the department requested quotations were listed on the prospective supplier list.

No documentation was provided indicating that suppliers on the prospective supplier list is unable to provide the required goods, resulting in the department soliciting quotations from other suppliers.

In addition, per the PA-16.3 (Preference certificate for quotations) and the request for quotations submitted, it was noted that in order for the supplier to be considered, bidders providing quotations must be registered or will have to register as a preferred supplier on the department’s supplier register. The winning supplier is not registered on the database provided for audit purposes. It was however noted that the supplier is listed on the department’s prestige supplier register; the register was however not formally submitted for audit purposes.

1. Although the register indicated that two quotations were attached only one quotation was attached in the procurement batch, that of MBJX Business Enterprise. No documentation was provided indicating that the deviation was approved by the delegated official and the reasons thereof.

c) No documentation was provided indicating that the winning supplier has completed and submitted the SBD 4 form (Declaration of interest) or the PA-11 (the department’s equivalent) as required by Practice note 7of 2009/2010 paragraph 4.1.2.

1. No documentation was provided indicating that the department evaluated the quotations received in accordance with the Preferential Procurement Framework, such as the PA-20 (scoring model) as required by regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000, GN R725 of 10 August 2001.
2. Since the department did not obtain three quotations we are unable to determine whether or not the procurement was economical or that the goods/ services were obtained at a reasonable price.

.

The finding occurred as a result of the fact that:

a) As per discussion with DD: Supplier’s Register (SCM) it was noted that the department uses a separate suppliers list for the procurement of prestige assets, the suppliers are not included in the supplier’s database. Per inspection of the separate database both MJBX business Enterprise as well as Gloria General trading were included in the database.

b) As per discussion with the SAO: Quotation Unit it was noted that the on procuring goods and services the suppliers will complete and submit all relevant documentation and on appointment of the suppliers, all supporting document pertaining to the winning supplier will be furnished to Pretoria region for payment, however for any missing documentation the quotation unit is not responsible.

c) As per discussion with the DD: Quotation unit it was confirmed that all relevant and supporting documentations are attached and provided to the Pretoria region.

1. As per discussion with the D:Supply Chain demand and Acquisition it was noted that not all the quotation passed through supply chain management therefore of those quotation the SCM unit is not aware of them.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011.

Impact of the finding:

a) The department may have lost a chance to procure goods economically as three quotations were not obtained.

b) Irregular expenditure was understated with R79 796,05 due to:

(i) Deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement as required by PN 8 of 2007/08 paragraph 3.3 and TR16A6.1

(ii) Due to the fact that only one quotation was receive the preference point system was not applied in the procurement of goods and services above R30 000 (Vat included) as required by PPPF Act section 2(i)(a).

c) Non-compliance with Practice note 7of 2009/2010 as the SBD 4 documents was not completed

d) Risk of payments being made to favoured suppliers.

e) Increased risk of bribery and fraudulent activities taking place.

f) Non compliance with the department’s SCM policy paragraph’s 49 and 50(a)

## Internal control deficiency

## Leadership

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

## Recommendation

a) The department should obtain at least three quotation for procurement between R30 000 and R500 000. If it is not practicable, valid reasons should be documented and approved by delegated officials.

b) The department should invite suppliers on the supplier database to submit quotations, unless the suppliers on the database are unable to provide the goods or services required. This deviation should be documented and approved by a delegated official.

c) The database should be updated regularly to ensure that sufficient suppliers are available on the database to provide the services.

d) The department should ensure that all winning suppliers declare their interest in order to identify any possible related transactions.

1. Procurement between R30 000 and R500 000 should be evaluated in terms of the PPPFA.
2. The department should disqualify suppliers who do not meet the bidding requirements.

**Management response**

**Auditor’s conclusion**

No response was provided by management, therefore the matter remains unresolved.

1. **Petty Cash- Non Compliance – head office Ex 179**

**Audit Finding**

Laws, rules and regulations:

a) Pubic Finance Management Act paragraph 38(1)(c)(ii) states:

*“(1) The accounting officer for a department, trading entity or constitutional institution-*

*(c) must take effective and appropriate steps to-*

*(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct;”*

b) Treasury regulations 15.12.3 and 16A6.1 states:

*“15.12.3 All payments in excess of R2 000 must be effected electronically unless otherwise approved by the relevant treasury. Payments may not be split to circumvent this regulation and any non-compliance with this regulation constitutes financial misconduct.*

*16A6.1 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.”*

c) Practice Note 8 of 2007/08 paragraph 3.2 states:

*“3.2 Accounting officers / authorities may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally.”*

d) Supply Chain Management (SCM) Policy paragraph 49:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Department’s supplier register include consultants, professional and specialist service providers, and general goods and services providers. Contractors registered with the CIDB will not be required to re-register with the Department.”*

e) Supply Chain Management Circular No.1 of 2008/2009 of the department requires that: requires the following in paragraph 3.2:

*“Written Price Quotation: Above the Transaction Value of R500 but not exceeding R10 000 (VAT included)*

*Head Office*

*3.2.1 Minimum of three (3) to the maximum of five (5) written quotations should be solicited from the Supplier Register.*

*3.2.1 Should follow the quotation processes as per the approved SCM Policy.*

*3.2.3 Should be evaluated on price only.*

*Regional offices*

*3.2.5 Minimum of three (3) to the maximum of five (5) written quotations should be solicited from the Supplier Database*

*3.2.6 Quotations should be evaluated on price only and no points will be awarded for preference.”*

.

The following deviations pertaining to petty cash payment were noted:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUPPLIER** | **BATCH NUMBER** | **DESCRIPTION OF ITEMS** | **QUANTITY** | **UNIT COST**  **[INCLUDING VAT]**  **R** |
| Floran Framers | 150565 | A2 pics to be framed 403-wo8 | 6 | 1 970,00 |
| A3 pics to be framed 403 –Wo8 | 4 | 1 060,00 |
| **Grand Total** | | | | **3 030,00** |

a) Contrary to the legislation listed above it was noted that the department did not obtain and evaluate three written quotations as required by Practice Note 8 and the departments supply chain circular number one of 2008-09.

b) Furthermore, it was noted that supplier Floran Framers is not a prospective supplier listed on the supplier’s database submitted for audit purposes.

c) Moreover, contrary to Treasury Regulations 15.12.3, payment for the above items was made from petty cash and not via an EFT. No documentation was attached indicating that the department obtained the required approval from Treasury not to pay via EFT.

The finding occurred as a result of the fact that:

As per discussion with COS: Ministry it was noted that the goods, photo frames, relates to the ministerial department and where requested by the minister to be framed and the department didn’t see the necessity to follow the supply chain process as the value of the goods were insignificant hence petty cash was used for the payment of goods.

Similar findings were also raised in the prior year. Although the matter was not specifically addressed in the audit action plan submitted it was however noted from the general ledger that the extent to which payments in excess of R2 000 was made through the petty cash decreased.

Impact of the finding:

a) Financial misconduct for transactions amounting to R3 030,00 to the extent that approval has not been obtained from National Treasury not to pay via EFT.

b) Irregular expenditure disclosed in the disclosure notes was understated with R3 030,00 due to the required number of quotations not being obtained as required paragraph 3.2 of Practice Note 8 of 2007/08.

c) Non Compliance with relevant laws and regulations.

**Internal control deficiency**

*Leadership*

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

*Financial and performance management*

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) Before any transaction is approved by the delegated official, it should be confirmed that three quotations have been obtained and the quotations have been sourced from suppliers listed on the supplier database.

b) All purchases via petty cash should be reviewed by an appropriately delegated official to ensure that all relevant information has been obtained, to avoid non compliance with the SCM policies and regulations.

c) Appropriate action should be taken against individuals responsible for deviating from the SCM policies and regulations.

d) Payments for expenses above the value of R2 000,00 should be effected by EFT. The matters should be investigated and disciplinary actions instituted where applicable.

**Management response**

a) The department agrees with the audit finding. The disclosure of petty cash cases was an oversight from management as a separate schedule of petty cash over R2000 is kept separate from the irregular expenditure for management and control purpose.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The schedule of petty cash will be consolidated with the irregular expenditure schedule and reported on a monthly basis. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | A separate schedule is kept by management and will be consolidated with the irregular expenditure schedule for reporting purposes. | | |
| Position of official responsible to take corrective action: | Director: Financial Accounting  Director: Inspectorate & Compliance | | |
| Estimated completion date for corrective action: | This done on a monthly basis | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **X** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

b) The department agrees with the audit finding. The disclosure of petty cash cases was an oversight from management as a separate schedule of petty cash over R2000 is kept separate from the irregular expenditure for management and control purpose.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The draft SCM policy is being aligned with the Practice Note from the National Treasury. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | A circular will be drafted and circulated to staff members aligning the policy with the practice note. | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | CD: SCM | | |
| Estimated completion date for corrective action: | 31 July 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **X** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

c) The department agrees with the audit finding. All petty cash cases above R2000 are only approved by the Acting CFO under exceptional circumstances.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **X** |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **X** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name: Lesetja Toona*

*Position: Director: Inspectorate & Compliance*

*Date: 09/07/2012*

**Auditor’s conclusion**

a) Management agrees with the finding. Irregular expenditure was understated with R3 030.

b) Management agrees with the finding. The non compliance will be reported

c) Management agrees with the finding and the financial misconduct will be reported.

1. **Deviation from SCM – Neo Technologies [Batch 172708] Ex 202**

Laws, rules and Regulations:

a) Competition Act paragraph 4(1)(b)(i) and (iii) states:

*“4(1) An agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if-*

*(b) it involves any of the following restrictive horizontal practices:*

*(i) directly or indirectly fixing a purchase or selling price or any other trading condition;*

*(iii) collusive tendering”*

b) Treasury Regulations 16A9.1 states:

*“The accounting officer or accounting authority must-*

*a) take all reasonable steps to prevent abuse of the supply chain management system;*

*b) investigation any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified-*

*(i) take steps against such official or other role player and inform the relevant treasury of such steps; and*

*(e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*(f) cancel a contract awarded to a supplier of goods or services-*

*(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or*

*(ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.”*

c) Treasury Regulations 16A9.2 states:

*“The accounting officer or accounting authority —*

*(a) may disregard the bid of any bidder if that bidder, or any of its directors—*

*(i) have abused the institution’s supply chain management system;*

*(ii) have committed fraud or any other improper conduct in relation to such system; or*

*(b) must inform the relevant treasury of any action taken in terms of paragraph (a)“*

d) National Treasury Practice Note dated 21 July 2010 states:

(i)Specifies that bid includes price quotations, advertised competitive bids, limited bids and proposals.

(ii) Defines bid rigging as:

*“Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly, conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.*

(iii) Paragraph 2.1 states:

*Section 4(1)(b)(iii) of the Competition Act No.89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).*

(iv) Paragraph 2.2 states:

*“Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:*

*a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution’s supply chain management system and/ or committed fraud or any other improper conduct in relation to such system; and*

*b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.”*

(v) Paragraph 2.3

“*It has, however, come to light that in the supply chain management environment bid rigging (collusive bidding) is increasing rapidly at the cost of great cost and efficiency in government. Giving that bid rigging is essentially a form of bid fraud, it follows that where bid fraud exists, the likelihood of uncovering bid rigging also increases.”*

(vi) Paragraph 3.1 states:

*“Certificate of Independent Bid Determination*

*3.1.1 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached Standard Bidding Document (SBD 9) “Certificate of Independent Bid Determination” when inviting price quotations, advertised competitive bids, limited bids or proposals. The SBD 9 form contract and project specific issues.*

*3.1.2 Bidders should be required to complete, sign and submit the Certificate together with the bid documentation at the closing date and time of the bid. If a bidder has failed to submit the SBD 9 together with the bid documentation, the bidder must be requested, in writing, to submit the signed form within seven (7) working days of notification. Failure to submit the signed form within seven (7) working days of notification may result in the invalidation of the bid.*

*3.1.3 Accounting officer and accounting authorities are required to utilize the information contained in the certificate to ensure that when bids are considered all reasonable steps are taken to prevent any form of bid rigging.*

*3.1.4 If an accounting officer or accounting authority decides to refer a bidder or contractor who, based on reasonable grounds or evidence obtained by the accounting authority, has engaged in the restrictive practice referred to in paragraph 2.1, to the Competition Commission for investigation and possible imposition of administrative penalties, such written request, together with all supporting documentation, must be sent to the Manager Enforcement and Exemptions at:*

*Competition Commission South Africa*

*Private Bag X 23*

*Lynnwood Ridge*

*0040*

*or 77 Meintjies Street*

*Sunnyside*

*0001”*

The following deviations pertaining to purchase of a printer from Neo Technologies were noted (OR-052565, PM-132804) were noted. Please see the table below for information on the payment selected for testing:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **QUANTITY** | **AMOUNT (EXCLD VAT)**  **R** |
| Lexmark Color Printer – Serial # | 1 | 62 683,28 |
| 3 Years Extended Warranty | 1 | 14 619,00 |
| Subtotal (Excld VAT) | | 77 303,16 |
| VAT | | 10 822,44 |
| **TOTAL** | | 1. **125,60** |

Although the department did obtain three quotations, the following issues identified in the procurement batch, indicating that the suppliers may be guilty of bid rigging:

1. EPWP: Build Main and NYS of HO requested the quotations unit to source quotations for the purchase of a printer (with warranty) and a digital camera (with warranty).

The quotations unit then split the order and proceeded to request for quotations from the following suppliers, under SITA contract RFT 285/1:

1. Procurement of a printer:

|  |  |
| --- | --- |
| **Service provider** | **R** |
| Neo Technologies Winning supplier | 88 125,60 |
| JohnBak Solution | 88 125,60 |
| CSS Tirisano | 93 750,64 |

1. Procurement of a camera

|  |  |
| --- | --- |
| **Service provider** | **R** |
| Pro-Networks Winning supplier | 4 773,70 |
| JohnBak Solution | 4 773,70 |
| CSS Tirisano | 5 078,42 |

Since the SITA contract RFT 285/1 lists suppliers who can provide computer hardware it is not clear why the department split the request for quotations as indicated above.

b) Furthermore, it is odd that JohnBak Solutions quoted the exact same amount as Neo Technologies and Pro-Networks the winning suppliers of both requests, as indicated above.

1. In addition, no documentation was provided indicating the manner in which the quotations were evaluated and the winning supplier selected; especially since JohnBak Solutions quoted the exact same amount as the winning suppliers (Neo Technologies and Pro-Networks) in both instances, but was not selected as the winning supplier in either of them.
2. No documentation was attached indicating that suppliers from whom quotations were requested completed and signed the SBD 9 form or the PA-29 (the department equivalent) as required by National Treasury practice note dated 21 July 2010.
3. Due to the above we could not determine whether or not the procurement was economical and the goods purchased at a reasonable price.

The aforementioned deviations may result in the following:

a) Irregular expenditure being understated with R88 125,60 due to non-compliance with TR 16A9 and National Treasury practice note 21 dated 21 July 2010.

b) The department may have lost a chance to procure from a service provider that could have offered a lower price, had the procurement been fair.

c) Risk of payments being awarded to favoured suppliers.

d) Increased risk of bribery and fraudulent activities.

Reasons for the deviations:

It was indicated that SITA required suppliers to quote the same prices.

**Internal control deficiency**

*Financial and Performance Management*

The department did not effectively review and monitor compliance with applicable laws and regulations.

**Recommendation**

a) The department should request all suppliers to complete the SDB 9 form or the PA 29 (the department’s equivalent) when requesting for bids.

b) In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to the competition commission for investigation in accordance with the Competition Act.

c) In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to NT to list them as a prohibited supplier.

d) In cases where it appears as though suppliers have colluded with one another, the department should report those suppliers to SITA to ensure that they are removed from their supplier lists.

e) The matters needs to be investigated and determined why the service providers were able to quote exactly the same prices. If there were any transgressions by the officials of the department the required disciplinary actions needs to be instigated.

**Management response**

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

Reference is made to Request for IT Equipment received from Directorate: EPWP: Building Maintenance and NYS dated 2011/07/15 (Ref: 07/2011-028/4504). The Directorate requested the procurement of a Network Printer and Digital Camera:

Printer

* Neo Technologies                   88 125,60 (Winning supplier)
* JohnBak Solution                                88 125,60
* CSS Tirisano                                       93 750,64

Camera

* Pro-Networks                                      4 773,70 (Winning supplier)
* JohnBak Solutions                              4 773,70
* CSS Tirisano                                       5 078,42

**Reasons provided for different suppliers being used on above request:**

Suppliers are selected on a monthly rotational basis. Suppliers are selected based on equipment supplied. Not all suppliers will specialise in printing equipment, therefore different suppliers are used for Printers, Computers, Camera’s, Projectors, etc.

Even though JohnBak Solutions quoted on both items, they were not selected as the winning supplier. Information Services tries to equal business to all the selected suppliers on the month rotation list. It might be that JohnBak already received other business within the month and it will not be fair to give them more business and penalise another supplier for not stocking both Printer and Camera.

**Reasons provided for different pricing on above request:**

Reference is made to letter attached from SITA dated 2004/12/13 referring to a single price for specific products.

To follow correct processes, we are forced to attach three quotations with each request. Some of the suppliers on the RFT 285/1 do not adhere to above instruction from SITA. The procurement officer will report them to the manufacturer for non-compliance. But we have to attach the quotation, as we must supply three quotations per request.

*Name:* Dintheng Matlala

*Position: Deputy Director*

*Date: 04/07/2012*

**Auditor’s conclusion**

a) & c) Although management has not indicated if they agree with the finding or not cognisance is taken of the fact that not all suppliers may be able to provide all the goods required.

Management has noted in their response that JohnBak solutions may have already received other business within the month; however no documentation was provided supporting their statement. Furthermore we were unable to confirm whether or not the suppliers are indeed rotated on a monthly basis.

The matter therefore remains unresolved.

b) Although it was indicated that the suppliers are required to quote the same amount per the SITA contract 285/1, no price list was provided indicating the amounts that need to be quoted.

Furthermore, we have contacted SITA and attempted to gain access to the SITA e-portal to obtain the price lists, but was unsuccessful.

The matter therefore remains unresolved.

1. & e) Although management did not address the finding the following issues were identified at SITA regarding the procurement procedures followed for contract 285/1:

| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| --- | --- | --- | --- |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

The aforementioned deviations may result in the following:

a) Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R88 125,60 could not be confirmed.

b) Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the price charged could not be confirmed for the procurement of capital machinery and equipment amounting to R88 125,60.

c) Risk of payments being awarded to favoured suppliers.

d) Increased risk of bribery and fraudulent activities.

1. **Supply Chain Management – Tender document for suppliers who did not win** **Ex 239**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act sections 38, 40 and 41 states the following:

1. Section 38 (1)(c )

*“ The accounting officer for a department, trading entity or constitutional institution-*

(c) must take effective and appropriate steps to—

(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and

1. section 40(1)

*“The accounting officer for a department, trading entity or constitutional institution-*

*(a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

1. section 41

*“An accounting officer for a department, trading entity or constitutional institution 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”*

b) Treasury Regulations 17.2.1 states:

*“Accounting officers of institutions must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows-*

1. *information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or*
2. *information relating to more than one financial year – for one after the date of the audit report for the last of the financial years to which the information relates.”*

*c)* Treasury Regulation 16A6.3(b) state:

“The accounting officer or accounting authority must ensure that—

1. bid documentation include evaluation and adjudication criteria, including the criteria prescribed in terms of the Preferential Procurement Policy Framework Act, 2000 (Act [No. 5 of 2000](http://agintranet/nxt/gateway.dll/jilc/kilc/xjsg/cqsg/dqsg?f=templates$fn=document-frameset.htm#0)) and the Broad Based Black Economic Empowerment Act, 2003 (Act [No. 53 of 2003](http://agintranet/nxt/gateway.dll/jilc/kilc/qcqg/emto/fmto?f=templates$fn=document-frameset.htm#0));”

d) Preferential procurement Policy Framework Act 5 of 2000 paragraph 2(1) state:

“Framework for implementation of preferential procurement policy –

1. An organ of state must determine its preferential procurement policy and implement it within the following framework:

A preference point must be followed;

i) For contract with a rand value above a prescribed amount a maximum of 10 point may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender score 90 points for price;

ii) For contract with a rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;

a) Any other acceptable tenders which are higher in price must score fewer points, on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;

b) The specific goals may include –

i) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;

ii) Implementing the programmes of the Reconstruction and Development Programme as published in Government Gazzette no 16085 dated 23 November 1994

c) Any specific goal for which a point may be awarded, must be clearly specific in the invitation to submit a tender;

d) The contract must be awarded to the tender who scores the highest points, unless objective criteria in addition to those contemplated in paragraph (d) and (e) justify the award to another tenderer;

Any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.”

The following information relates to request for information:

All the tender documentation for the tenders listed below was requested. However, the department only provided the tender document for the winning suppliers.

|  |  |  |
| --- | --- | --- |
| **Tender Number** | **Supplier** | **R** |
| HP10/023 | Signatura | 1 091 951,00 |
| OR – 051842 | Lesedi | 3 690 088,49 |
| HP11/041 | Customised Solutions | 4 234 220,67 |
| HP10/045 | Turner and Townsend | 2 668 237,00 |
| HP11/23 | Jabatha | 2 956 341,00 |
| HP01/02 | Profteam | 479 490,00 |
| HP11/12 | Save (South African Value Education) | 1 311 809,40 |
| HP11/063 | Ernest and Young | 8 709 372,00 |
| HP11/039 | Sisonke Global Systems | 1 763 936,82 |
| HP11/55 | Manenzhe wa Gono Business Consulting | 1 005 262,56 |
| HP11/38 | Batsha IT Solutions | 4 777 173,76 |
| HP11/54 | Omega Digital Technology | 5 829 820,14 |
| FANO:170759 | Titan Centre of Excelence | 1 834 431,00 |
| FANO:052056 | Computer Foundation | 5 489 510,40 |
| HP10/039 | SAB&T | 2 482 646,00 |
| HP11/034 | GOBODO | 497 999,80 |
| HP11/034 | MORAR INC | 543 840,28 |
| HP 11/034 | Deloitte | 487 766,00 |
| **Total** | | **49 853 896,32** |

The finding occurred as a result of the fact that:

As per discussion with ASD: Compliance it was noted that the department did not used to compile the tender’s for the winning supplier with those of the unsuccessful bidders, therefore it may be take time to compile all necessary document needed.

Impact of the finding:

a) Non compliance with Section 40 and41 of the Public Finance Management Act

b) Non compliance with Treasury Regulations 17.2.1.

c) Compliance with SCM requirements for procurement amounting to R49 853 896,32 could not be confirmed.

**Internal control deficiency**

*Financial and performance management*

*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**

a) It is recommended that all information requested be provided to the AGSA within three days from the date of request.

b) Tenders must include all documentation include those tender document of the unsuccessful bidders.

**Management response**

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

The following documents were presented to the Auditor-General to be audited:

HP11/063- 17 documents

HP 11/039- 2 documents

HP 10/045- 6 documents

HP 11/041- 4 documents

HP 10/039- 3 documents

HP 11/034- 8 documents

The search for the remaining documents is still under way.

*Name:* E Kruger

*Position: Act CD:SCM*

*Date:6 August 2012*

**Final auditor’s response**

Managements comments have been noted and it should be emphasised that all information requested be provided to the AGSA within three days from the date of request. It is concerning that management has to search for documentation requested by the auditors, as mentioned in management’s response. This may potentially cause unnecessary delays with respect to the audit.

The table below indicates the name of the service providers who submitted tenders and then the service providers whose information was not submitted.

| **Tender Number** | **Supplier** | **Names of service providers that tendered** | **Tenders received by the department but information not submitted to AGSA** | **R** | **Amount spent in current year** | **Classification** |
| --- | --- | --- | --- | --- | --- | --- |
| OR – 051842 | Lesedi | -Sizwe Africa IT Group  - CHM Mvuwani Computer Solutions  - Lesedi Corporate Technology  - TSS Management Services | Only received the documentation of Lesedi | 3 690 088,49 | 3 690 088,49 | Goods and services – inventory – stationery and printing |
| HP11/041 | Customised Solutions | - Kestrel Network Solutions  - Customised solutions  - Sizwe Africa IT Group(PTY) LTD  - Gijima Holdings  - Ubuntu Technologies  - TSS Managed Services(PTY)LTD  - INFRASOL (PTY)LTD | - Sizwe Africa IT Group(PTY) LTD | 4 234 220,67 | 4 234 220,67 | Purchase capital assets – machinery and equipment – computer hardware systems |
| HP10/045 | Turner and Townsend | - Core focus  - Built care  - Prop 5 Consultants  - CSIR  - Aurecon South Africa  - Princent facilities Management  - Turner Townsend  - PSIM Consulting  - Business Enterprise At Up | - PSIM Consulting | 2 668 237,00 | 1 253 668,33 | Consultants -  Business and advisory services |
| HP11/23 | Jabatha | -Kopane Consultancy  -Remoshomong Trading  -Nare Babirwa life  -Waltons (PTY)LTD  -NLS Consultancy CC  -BDS A Division of BTGSA(PTY) LTD  -Tshwara Kathata Trading  -Bomsanda Trading Enterprise  -Japelo Construction and Projects  -Q Tique 27(PTY)LTD  -True Promise Trading Enterprise CC  -Mamosetha General Trading Enterprise CC  -Tswarella ka thatha Trading & Projects 53 CC  -Gee Gee Silk screening CC  -Bomsanda Trading Enterprise  -Hero Trust Trading Enterprise  -Kgosi Letsie Trading and Projects  -CMKolex Trading and Projects  -Rabada Business Enterprise  -ZT Rainbow Professional Consultants CC.  -Blencor Trading Enterprise CC  -Sombhono Construction and Projects  -Jabatha | Kopane Consultancy  -Remoshomong Trading  -Nare Babirwa life  -Waltons (PTY)LTD  -NLS Consultancy CC  -BDS A Division of BTGSA(PTY) LTD  -Tshwara Kathata Trading  -Bomsanda Trading Enterprise  -Japelo Construction and Projects  -Q Tique 27(PTY)LTD  -True Promise Trading Enterprise CC  -Mamosetha General Trading Enterprise CC  -Tswarella ka thatha Trading & Projects 53 CC  -Gee Gee Silk screening CC  -Bomsanda Trading Enterprise  -Hero Trust Trading Enterprise  -Kgosi Letsie Trading and Projects  -CMKolex Trading and Projects  -Rabada Business Enterprise  -ZT Rainbow Professional Consultants CC.  -Blencor Trading Enterprise CC  -Sombhono Construction and Projects | 2 956 341,00 | 243 464,10 | Goods and services – inventory – stationery and printing |
| HP01/02 | Profteam | -KV3 Engineers  -SSI DHV Company  -Profteam | -KV3 Engineers  -SSI DHV Company | 479 490,00 | 479 490,00 | Consultants – infrastructure and planning |
| HP11/12 | Save (South African Value Education) | - SAVE  - Lapa la Afrika/ Tjeka | - Lapa la Afrika/ Tjeka | 1 311 809,40 | 160 439,04 | Consultants – infrastructure and planning |
| HP11/039  Note that the department participated in a SITA Transversal Infomation Technology Skill Contract 2581(1) | Sisonke Global Systems | - Sisonke Global Systems  - Vukani Technologies  - CHM Vuwani | - Vukani Technologies | 1 763 936,82 | 1 595 688,30 | Goods and services – inventory – stationery and printing |
| HP11/55  Note that the department participated in a SITA Transversal Infomation Technology Skill Contract 2581(1) | Manenzhe wa Gono Business Consulting | - Manenzhe wa gono business consulting  - Ezevee Computer  - Sage Computer Technologies  - Ceos Technologies | - Ezevee Computer Solutions  - Sage Computer Technologies  - Ceos Technologies | 1 005 262,56 | 1 005 262,56 | Goods and services – inventory – stationery and printing |
| HP11/38  Note that the department participated in a SITA Transversal Infomation Technology Skill Contract 285 (1) | Batsha IT Solutions | - - Manenzhe wa gono business consulting  - Batsha IT Solutions cc  - Ezevee Computer Solutions  - Centennial Trading company  - Datacentrix  - DOT Office supplies (Pty) ltd  - Sage computer technologies  - Ceos Technologies | - - Manenzhe wa gono business consulting  - Ezevee Computer Solutions  - Centennial Trading company  - Datacentrix  - DOT Office supplies (Pty) ltd  - Sage computer technologies  - Ceos Technologies | 4 777 173,76 | 3 965 229.49 | Goods and services – assets less than R5000 – machinery and equipment |
| HP11/54  Note that the department participated in a SITA Transversal Infomation Technology Skill Contract 431. | Omega Digital Technology | - Avpro 2000 Sytems  - AE Soft (Pty) Ltd  - Infrasol (Pty) Ltd  - Sizwe Business Networking (Pty) Ltd  - Omega Digital Technologies (Pty) Ltd | - Avpro 2000 Sytems  - AE Soft (Pty) Ltd  - Infrasol (Pty) Ltd  - Sizwe Business Networking (Pty) Ltd | 5 829 820,14 | 5 829 820,14 | Goods and services - computer services - external computer service providers |
| HS11/036  FANO:170759  Note that the department participated in a SITA Transversal Infomation Technology Skill Contract RFB 569/2008. | Titan Centre of Excelence | - Remoteq Solutions amounting to  - Titan Centre of Excelence  - IT Empowerment Consulting  - Nambithi Technologies  . | - Remoteq Solutions  - IT Empowerment Consulting  - Nambithi Technologies | 1 834 431,00 | 330 000.00 | Goods and services - contractors – agency and support |
| HS10/008  FANO:052056  SITA Contract #:570/2008 | Computer Foundation | - Computer Foundation  - Open Spatial Solution  - Ikando t/a IT Master  - Valor IT  - Accenture South Africa  - HR Computek  - BCIT | - Computer Foundation | 5 489 510,40 | 3 408 798,83 | Goods and services - contractors – agency and support |
| HP11/034 | GOBODO  MORAR INC  DELOITTE | -Indyebo Consulting  - Ligwa Advisory  - Ens Forensic  - KPMG Services  - Ntumba Charterd  - Sizwe Ntsaluba  - Sizwe Business Recoveries  - PWC  - Sekela Consulting  - Morar Incorporated  - Kwinana and Associate  - Grant Thorton  - Ernest and young  - Godobo Forensic and Investment  - Deloitte and Touche  - Bowman Gilfillan  - SABT & Oharted Accountants  - Phandahunu Forensic | Indyebo Consulting  - Ligwa Advisory  - Ens Forensic  - Ntumba Charterd  - Sizwe Ntsaluba  - Sizwe Business Recoveries  - Kwinana and Associate | 497 999,80  543 840,28  487 766,00 | 353 153,42  429 441,62  326 798,74 | Consultants -  Business and advisory services |
| **Total** | |  |  | **37 569 927,32** | **27 305 563,73** |  |

As a result the matter is unresolved.

1. **SCM deviations – Sita contract 285/1Ex 245**

Audit Finding

Laws, rules and Regulations:

a) Treasury regulation:

i) 16A8.3(a)

*“A supply chain management official or other role player -*

1. *must recognise and disclose any conflict of interest that may arise;”*

ii) 16A8.4(a)

*“If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must—*

1. *disclose that interest;”*

iii) 16A9.1(c)

*“16A9.1  The accounting officer or accounting authority must—*

1. *check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;”*

b) SITA Act General Regulations

i) Regulation 8.1.1

*“The designated department or public body must -*

*a) Determine the need to procure information technology goods or services and;*

*b) Compile a business case and the user requirements specifications for the need.”*

ii) Regulation 8.1.3

*“For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representative -*

*a) to make proposals regarding the business case and user requirement specifications and approve such case and specifications*

*b) To authorise the accounting authority of the designated department to award the bid on their behalf”*

iii) Regulation 8.1.5

*“For purpose of advertising, the agency must compile the bid documentation consisting of –*

1. *The evaluation criteria fot the bid in accordance with the Preferential Procurement Policy Framework Act, including but not limited to, specific goals for-*

*(i) Black economic empowerment, and*

*(ii)Procuring from suppliers situated in the specific province where goods or services are required”*

1. *Tax clearance certificate requirements;*
2. *If the value of the envisaged contract exceed R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and industry;*
3. *In respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.”*

iv) Regulation 8.1.7(a)

*“Before the bid is advertised –*

*(a) the designated department or public body must approve the final bid documentation; and*

*(b) the Agency must compile a value proposal on the cost for the designated department or public body in respect of advertising and evaluation of the bid”*

v) Regulation 8.2.1

*“Within 10 working days after receipts of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval -*

*(a) A procurement schedule for the execution of the request for a bid;*

*(b) A detailed costing for the subsequent contract management, if required.”*

vi) Regulation 13.1.

*“The agency must, in consultation with the designated department, establish the following committees to deal with the evaluation fo bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body:*

*(a) A Bid Evaluation Committee to;*

*(i) evaluate bids; and*

*(ii) make a recommendation for award to the Recommendation Committee, including the identification of all the risks associated with the recommendation and the rating of all the risks (herein referred to as “the risk report of the BEC”); and*

1. *a Recommendation Committee to-*

*i) verify compliance of the procurement process with all applicable legislation and generally the integrity of that process;*

*if the process is verified as not compliant or its integrity was compromised, refer the recommendations back to the Bid Evaluation Committee with its reasons;*

*ii) Identify any risks additional (if any) to those identified in the risk report of the BEC and provide its own rating for all the risks (herein referred to as the risk report of the RC); and*

*iii) If the process has been verified as compliant and for its integrity, submit the recommendations of the Bid Evaluation Committee and the risk reports of the BEC and RC to the relevant accounting authority of the designated department of public body”*

vii) Regulation 13.3 (a) – Chair person of the TEC (BEC)

*“The BID Evaluation Committee is mandatory services and transversal term contract must consist of at least the following:*

1. *An employee designated by the Agency as the chairperson”*

c) Practice note 5 of 2009/10 pertaining to the procurement through SITA and the accountability of accounting officers states in paragraph 4.2.1

*“The following represents the two types of transversal term contracts that are available for ICT related procurement, namely:*

* + - 1. *transversal framing contracts where the ICT related goods and/or services may be procured by means of quotations from pre-identified potential suppliers whose products meet the standard certification; and*
      2. *transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices.”*

The following deviations pertaining to the SITA contract was noted:

a) The following deviations pertaining to the SITA contract (285-1) was reported at SITA

|  |  |  |  |
| --- | --- | --- | --- |
| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

b) The following deviations pertaining to procurement of computers from PC Palace in terms of the SITA 285/1 contract (batches 154413 and 154416) were identified:

|  |  |  |  |
| --- | --- | --- | --- |
| **FANO** | **DESCRIPTION** | **QUANTITY** | **AMOUNT (INCLD VAT)**  **R** |
| 155416 | PROLINE COMPUTER PC2C A12105055 | 1 | 9 661,89 |
| 154413 | PROLINE COMPUTER PC2C APLACJA002555 | 1 | 9 661,89 |
| **TOTAL** | | | **19 323, 76** |

1. Although it is acknowledged that in terms of paragraph 4.2.1(b) there may be transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices, it could not be confirmed whether prices for the goods procured were in line with the pricelist of the SITA 285/1 contract as we could not obtain access to the pricelist and the department did not make a printout and attach it to the payment batch. It could therefore not be established whether the prices for the procurement of the computers are fixed or whether, if indeed the prices are fixed, the correct (agreed upon) prices have been charged by the supplier.
2. The department obtained three quotations as indicated below with regards to the procurement of the abovementioned computers (The same quotations were used for two different transactions). The service providers all quoted the same price. In both instances the award was made to PC Palace. Since the SITA contract RFT285/1 lists 368 agents who can provide IT hardware in Gauteng, it is unclear why the department utilised the same quotation for both procurement transactions.

* Batch 154416 (OR-051867, PM-131366)

|  |  |  |
| --- | --- | --- |
| **SERVICE PROVIDER** | **QUOTATION NUMBER** | **AMOUNT**  **R** |
| PC Palace (Winning supplier) | PQ110111049 | 9 661,87 |
| Ivolve | Department of Public Works | 9 661,87 |
| Sisonke Global Systems | NNSIS25010 | 9 661,87 |

* Batch 154413 (OR-051823, PM-131364)

|  |  |  |
| --- | --- | --- |
| **SERVICE PROVIDER** | **QUOTATION NUMBER** | **AMOUNT**  **R** |
| PC Palace (Winning supplier) | PQ110111049 | 9 661,87 |
| Ivolve | Department of Public Works | 9 661,87 |
| Sisonke Global Systems | NNSIS25010 | 9 661,87 |

1. In both instances, no documentation was provided indicating the manner in which the winning supplier was selected, especially since all three suppliers quoted the exact same amount yet PC Palace was awarded the contract on both occasions.

The finding occurred as a result of the fact that:

The director of IT support indicated that suppliers to be used for the month are chosen. At the beginning of every week quotations are selected for utilisation. The prices will not change within a week and prices for the 285-1 contract are predefined and therefore only change per quarter.

Impact of the finding:

a) Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R19 323, 76 could not be confirmed.

b) Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the prices charged could not be confirmed for the procurement of capital machinery and equipment amounting to R19 323,76.

c) Risk of payments being awarded to favoured suppliers.

d) Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

## Leadership

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

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

a) The department must attached a printout of the SITA price list to enable the reviewers of the payment batches also to confirm that the prices charged were in line with the amounts per the SITA contract and if the correct amounts were charged.

b) If fixed prices were not set in terms of the SITA 285/1 contract and the department had to obtain quotations, then the possibility of bid rigging needs to be investigated as all three the suppliers quoted exactly the same amounts.

1. In cases where fixed prices are charged the department must have a system in place to ensure that there is fair rotation of awards being made.

**Management response**

1. I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Letter has been written to SITA to furnish the AG with the requested information in relation to contract 285. Going forward the department will attach pricing list from SITA website on all contract 285 procurements | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Deputy Director | |
| Estimated completion date for corrective action | September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Procurement processes do not indicate that a contract price list must be attached, only quotations are attached | |

*Name:*

*Position:*

*Date:*

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Going forward the department will attach pricing list from SITA website on all contract 285 procurements | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Deputy Director | |
| Estimated completion date for corrective action | September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| x |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Procurement processes do not indicate that a contract price list must be attached, only quotations are attached | |

*Name:*

*Position:*

*Date:*

b)(ii) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | x |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Procurement processes do not indicate that a contract price list must be attached, only quotations are attached | |

*Name:*

*Position:*

*Date:*

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Going forward the department will attach pricing list from SITA website on all contract 285 procurements and indicate methodology of choosing supplier | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | x |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name:* Dintheng Matlala

*Position: Deputy Director*

*Date: 02/08/2012*

**Auditor’s conclusion**

1. Management is in agreement with the finding the matter therefore remains unresolved.
2. i) Although management has not indicated whether or not they agree with the finding, based on their corrective action however, the response is perceived to be in agreement with the finding.

The matter therefore remains unresolved.

1. ii) Management is in agreement with the finding, the matter therefore remains unresolved.
2. iii) Although management has not indicated whether or not they agree with the finding, based on their corrective action however, the response is perceived to be in agreement with the finding.

The matter therefore remains unresolved.

1. **Approvals to perform other remunerative work Ex 248**

**Audit Finding**

Laws, rules and legislation:

a) PFMA section 41 states:

*“An accounting officer for a department, trading entity or constitutional institution 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.”*

b) Public Service Act section 30 requires that:

*“(1) No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.*

*(2) For the purposes of subsection (1) the executive authority shall at least take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions in the department or constitute a contravention of the code of conduct contemplated in section”*

c) In terms of Practice Note 7 of 2009/10, effective date of 2 October 2009, paragraphs 4.5.1 and 4.5.2 requires the following:

*“4.5.1 Employees should ensure that the necessary approval is obtained to perform any remunerative work outside his or her employment by the state. Such approval must be obtained in terms of the Public Service Act, 1994, internal policies or in terms of legislation relevant to the institution.*

*4.5.2 Accounting officer and accounting authorities should implement and actively monitor the systems of control to manage the performance of other remunerative work without the necessary approval”*

d) Public Service Regulation 2001

Chapter 2 paragraph C.5.5 state:

*“An employee, does not, without approval, undertake remunerative work outside her or his official duties or use office equipment for such work”*

The following deviation was noted:

a) The approvals for the following employees’ to perform other remunerative work listed in the table below were requested with request for information number 245 dated 11 June 2012. In the response it was indicated that only two officials requested approval. The following officials listed on the table below did not comply with section 30 of the Public Service Act due to the fact that they did not request approval to perform remunerative work. The latter was indicated in the response to the request for information.

| **No** | **Persal number** | **Region** | **Position** | **Component** |
| --- | --- | --- | --- | --- |
| 1 | 13384210 | KIM RO | Operational | ASSISTANT DIRECTOR: PROJECT BUDGET ADMINISTRATION |
| 2 | 22451340 | H/O | SMS | DIRECTOR: AFRICAN COOPERATION |
| 3 | 23825162 | PE RO | Operational | CHIEF WORKS MANAGER:MECHANICAL |
| 4 | 18851215 | POL | Operational | CHIEF WORKS MANAGER |
| 5 | 22222286 | H/O | SMS | DIRECTOR: VUKUPHILE (EPWP) |
| 6 | 23592508 | DBN | Additional to establishment | LEARNER |
| 7 | 23734493 | DBN | Could not determine | Could not determine |
| 8 | 19166486 | DBN | Operational | ASSISTANT PROVISIONING ADMINISTRATIVE OFFICER |
| 9 | 22071822 | DBN | Operational | SENIOR SECRETARY |
| 10 | 24234508 | NSP | Operational | ENGINEERING TECHNICIAN PRODUCTION GRADE A |
| 11 | 82193622 | BFN | Operational | CALL CENTRE AGENT:HUMAN CAPITAL INVESTMENT |
| 12 | 82122041 | UTA | Operational | ASSISTANT DIRECTOR:PROCUREMENT |
| 13 | 22804684 | JHB | Operational | SENIOR FOREMAN: HORTICULTURIST |
| 14 | 22756175 | NSP | Operational | CLEANER |
| 15 | 23753111 | NSP | Additional to establishment | INTERN |
| 16 | 21721963 |  | Operational | ADMINISTRATION OFFICER: PROPERTY PAYMENTS |
| 17 | 23805650 | PE | Operational | CHIEF WORKS MANAGER |
| 18 | 23596830 | H/O | MMS | DEPUTY DIRECTOR:TECHNICAL SUPPORT & MANAGEMENTEPWP |
| 19 | 21369704 | H/O | SMS | DIRECTOR:NATIONAL PROGRAMME MANAGER EPWP |
| 20 | 23821248 | JHB | Operational | SECONDARY DRIVER |
| 21 | 11621184 | HO | MMS | DEP. DIRECTOR: EPWP ENTERPRISE DEV. & SETA LIAISON |
| 22 | 23713984 | BFN | MMS | DEPUTY DIRECTOR:TECHNICAL SUPPORT EPWP |
| 23 | 17285402 | BFN | Operational | CHIEF WORKS MANAGER |
| 24 | 24235474 | H/O | Additional to establishment | INTERN |
| 26 | 26235633 | PE | Could not determine | Could not determine |
| 27 | 22386696 | H/O | MMS | ARCHITECT CHIEF GRADE B |
| 28 | 81758545 | H/O | MMS | DEPUTY DIRECTOR: SUPPLIER REGISTER |
| 29 | 19017073 | Bloem | MMS | DEPUTY DIRECTOR:TECHNICAL SUPPORT EPWP |
| 30 | 19243961 | BFN | Operational | CHIEF WORKS MANAGER |
| 32 | 23806443 | Pe | Operational | SECONDARY DRIVER |
| 33 | 22039627 | PE | Could not determine | Could not determine |
| 34 | 17178258 | BFN | Operational | ADMIN OFFICER: PROJECT SUPPORT |
| 35 | 80138632 | MFK | Operational | CLEANER |
| 36 | 61790028 | UTA | Operational | ASSISTANT DIRECTOR: ACQUISITIONS |
| 37 | 23734728 | DBN | Operational | CLEANER |
| 38 | 83042385 | DBN | Operational | CLEANER |
| 39 | 70159173 | PTA | Operational | GROUNDSMAN |
| 40 | 53228383 | HO | Could not determine | Could not determine |
| 41 | 26226294 | HO | Operational | ASSISTANT STATE ACCOUNTANT (BATCH\_CONTROLLER) |
| 42 | 23572337 | HO | MMS | ENGINEER CHIEF GRADE A |
| 43 | 23764503 | PE | Could not determine | Could not determine |
| 44 | 18984746 | HO | Operational | AO:ENTITY MAINTENANCE :FINANCIAL ACCOUNTING:CONTRA |
| 45 | 22055533 | KIM | Operational | CHIEF WORKS MANAGER |
| 46 | 54681146 | DBN | Operational | CLEANER |
| 47 | 22063731 | PE | Operational | SENIOR ADMIN OFFICER: PROJECT SUPPORT |
| 49 | 22771557 | DBN | Additional to establishment | LEARNER |
| 50 | 23803924 | DBN | Operational | ADMIN OFFICER: DISPOSAL |
| 51 | 19323913 | DBN | Operational | ADMINISTRATION OFFICER: UTILISATION & CONTRACT |
| 52 | 19222025 | PTA | MMS | DEPUTY DIRECTOR: TECHNICAL SUPPORT (EPWP) |
| 53 | 18471374 | DBN | Operational | FOREMAN: CLEANING SERVICES |
| 54 | 22729691 | DBN | Operational | CLEANER |
| 55 | 23420219 | H/O | MMS | TOWN AND REGIONAL PLANNER CHIEF GRADE A |
| 56 | 26312441 | BFN | Operational | SENIOR ADMINISTRATIVE CLERK:PROFESSIONAL SERVICES |
| 57 | 22138013 | H/O | MMS | DEPUTY DIRECTOR: PROPERTY INDUSTRY POLICY |
| 58 | 22026134 | KIM | MMS | DEPUTY DIRECTOR ENVIROMENT & CULTURE SECTOR |
| 59 | 21888281 | MFK | Could not determine | Could not determine |
| 60 | 26131153 | MFK | Could not determine | Could not determine |
| 61 | 53313259 | DBN | Operational | CLEANER |
| 62 | 18947191 | HO | Additional to establishment | LEARNER |
| 63 | 23783974 | PE | Operational | ACCOUNTING CLERK:SALARIES |
| 64 | 55040471 | UTA | Additional to establishment | INTERN |
| 65 | 23662191 | DBN | Operational | ASSISTANT DIRECTOR: TRAINING COORDINATOR (EPWP) |
| 66 | 23782731 | DBN | Operational | ENGINEERING TECHNICIAN CANDIDATE |
| 67 | 23185465 | DBN | MMS | CONSTRUCTION PROJECT MANAGER PRODUCTION GRADE A |
| 68 | 26255766 | NSP | Could not determine | Could not determine |
| 69 | 23732733 | UTA | Operational | ASSISTANT ADMINISTRATIVE OFFICER:PROPERTY PAYMENT |
| 70 | 23800143 | PE | Operational | CHIEF WORKS MANAGER |
| 71 | 22711121 | DBN | Operational | SENIOR ADMINISTRATIVE OFFICER: ACQUISITIONS |
| 72 | 18649726 | HO | SMS | DDG:CONSTRUCTION & PROPERTY POLICY REGULATION |
| 73 | 21791155 | H/O | Could not determine | Could not determine |

b) Although it was indicated that the official listed below did obtain approval to perform

remunerative work, documentation to support the latter was not provided.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **NAME** | **PERSAL number** | **POSITION** | **COMPONENT** |
| 1 | NS NETSHIONGOLWE | 19038381 | MMS | HO DIR: DEFENCE & SOCIAL SERVICES |

Potential impact on the audit:

a) Official did not comply with section 30 of the Public Service Act.

b) Compliance with section 30 of the Public Service Act could not be confirmed for one official.

c) Officials may be performing remunerative work that could interfere with their official responsibilities and that could impede on his or her independence as a Public Works employee.

a) Non compliance with paragraph 4.5.1 and 4.5.2 of the Practice Note 7 of 2009/10.

b) Non compliance with Section 41 of the PFMA

Reason for the deviation:

a) As per discussion with D:HRA it was noted that an email is sent to all SMS and MMS employees to declare or obtain approval to perform remunerative work outside the public service, however the department does not have a proper system in place to ensure that all employees declare and obtain an approval before they conduct business outside the public service.

b) As per discussion with the ASD: Inspectorate and compliance it was noted that the responsible office is out on meeting therefore she could not respond to the matter.

Although similar matters were raised in the previous year it was not specifically addressed by the audit action plans of the department

**Internal control deficiency**

## Leadership

The department did not provide effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the interests of the entity.

The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

## Financial and Performance Management

The department did not effectively review and monitor compliance with applicable laws and regulations

**Recommendation**

a) The required permissions need to be submitted, if the officials did not request approval the matters needs to be investigated and appropriate steps taken against officials.

b) Responsibility for the safekeeping of the permissions should be assigned to a specific official’s.

c) Officials should be reminded that they are not allowed to perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.

d) Information requested be provided to the AGSA within 3 days.

**Management response**

I am not in agreement with the finding for the following

No request was submitted by Ms NS Netshiongolwe: for approval for remunerative work.

The D: HRA indicated that in the case of SMS there is a standard framework in place in Government for the disclosure of financial interest. Each year from February SMS is reminded to submit to HRA their disclosures as per the Framework. Follow-ups are made and submission is done to the PSC on or before 31 May 2012. The Department does have a policy on Conflict of Interest which covers both financial disclosure as well as remunerative work.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | The employee did not request approval for remunerative work outside the public service. Cases raised must be investigated and the appropriate steps taken. | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | x |
| If yes, what corrections will be made to the population | NA | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | NA | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action | NA | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | x |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | The employee did not request approval for remunerative work outside the public service. The Department has a Policy on Conflict of Interest which encourages all employees to request approval before performing remunerative work. The Policy also encourages employees on levels 1 to 12 to disclose financial interest. SMS has a prescribed framework. | |

*Name:* R Mostert

*Position: D: HRA*

*Date: 27/7/2012*

**Auditor’s conclusion**

The employees listed above have performed remunerative work outside the department. A request to perform remunerative work as submitted by the employees listed above was requested with RFI 245. No request to perform remunerative work was submitted for the employees listed above.

Although management is not in agreement with the finding and have provided their conflict of interest policy, the request to perform remunerative work by the employees listed above remains outstanding.

The matter remains unresolved.

1. **Limitation of scope – Loftside Ex 260**

**Audit Finding**

Laws, Rules and Regulations:

a) Public Finance Management Act sections 40 and 41 states the following:

section 40(1)

*“The accounting officer for a department, trading entity or constitutional institution-*

*(a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

section 41

*“An accounting officer for a department, trading entity or constitutional institution 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”*

b) Treasury Regulations 17.2.1 states:

*“Accounting officers of institutions must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows-*

1. *information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or*
2. *information relating to more than one financial year – for one after the date of the audit report for the last of the financial years to which the information relates.”*

The following deviation has been noted:

The information as indicted below was requested in the prior year, but was not submitted and resulted in a limitation of scope.

|  |  |  |
| --- | --- | --- |
| **BEN NAME** | **FANO** | **R** |
| LOFTSIDE TRADING | 137531 | 366 211,30 |
| LOFTSIDE TRADING | 133912 | 1. 592,34 |

The information has been requested in the prior year, as well as in the current year in RFI 286, however to date, no information has been received.

a) FANO 137531

Despite requesting for the tender documentation as part of Request for Information number 135 no tender documentation was submitted. It could therefore not be confirmed if the items were procured through a competitive bid process. In the absence of the required tender documentation the following could not be confirmed if the following documentation were completed or functions performed:

1. The Procurement Strategy (PA01).
2. There was not tax clearance attached in the payment batch, it could not be confirmed if the wining supplier did submit the required tax clearance.
3. No SBD(4) was attached therefore it could not be confirmed if the winning supplier declared their interest.
4. Notice and invitation to tender (PA 04)
5. Bid Evaluation Report (PA 21)
6. Scoring Model (PA 20)
7. Register of Bids received (PA 13)

b) FANO 133912

The total amount incurred pertaining to the furniture amounted to R908 766,97. Per inspection of the supporting documentation attached it was noted that no bidding documentation was provided, including the tender bulletin; an original tax clearance certificate; Certificate of Independent Bid Documentation (SBD 9); Declaration of Interest (SBD 4) or the department’s equivalent (PA-11) and The declaration of bidder's past Supply Chain Management practices (SBD 8), therefore we were unable determine whether or not the department followed bidding processes correctly. Although in the explanation for the deviation it was indicated by the Assistant Director: Procurement that it is possible that the batch inspected is partial payment of items purchased in one tender contract therefore the relevant supporting documents will be in other batches, the tender documentation was not submitted.

Potential impact of the findings raised above:

a) Non compliance with Public Finance Management Act sections 40 and 41, as well as Treasury Regulations 17.2.1.

b) Compliance with SCM procedures could not be confirmed for procurement in the prior year amounting to R950 504,16

**Internal control deficiency**

*a) Leadership*

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

*b) Financial and performance management*

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

**Recommendation**

a) The department should provide all information requested by AGSA within three days.

b) If the documentation is not available management must indicate the latter and refer the matters for investigation.

**Management response**

No management comment has been received

**Auditor’s conclusion**

No management comment has been received. The matters remained unresolved. The following should further be noted:

a) FANO – 137531 R366 211,30

Although management did respond to the finding issued, the supporting documentation referred to in the management comment was not submitted.

b) FANO – 133912 R455 592,34

Management also did not respond to this finding in the prior year.

As this information could not be obtained in the prior year and the information was also not provided in the current year, it is recommended that these matters be subjected to an investigation for irregularities.

1. **Deviation from Supply Chain Management – SAB & T – Head Office Ex 264**

Audit Finding

Laws, rules and Regulations:

a) Preferential Procurement Policy Framework Act No.2 of 2000

*“2.1(a) An organ of state must determine its preferential procurement policy and implement it within the following framework – a preferential point system must be followed.”*

b) Preferential Procurement Policy Framework Act No.2 of 2000: Regulations GN R725 of 10 August 2001

*“4(1) The 90/10 preference point system: The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value above R500 000,00*

*Ps = 90(1(Pt-Pmin)/Pmin)*

*Where*

*Ps = Points scored for price tender of tender under consideration*

*Pt = Rand value of tender under consideration*

*Pmin = Rand value of lowest acceptable tender”*

c) Treasury Regulations 16A9.1(e) and (f) state:

*“The accounting officer or accounting authority must-*

*(e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or*

*(f) cancel a contract awarded to a supplier of goods or services-*

*(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or*

*(ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.”*

d) National Treasury Practice Note dated 21 July 2010 Paragraph 3.1 states the following:

*“Certificate of Independent Bid Determination*

*3.1.1 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached Standard Bidding Document (SBD 9) “Certificate of Independent Bid Determination” when inviting price quotations, advertised competitive bids, limited bids or proposals. The SBD 9 form contract and project specific issues.*

*3.1.2 Bidders should be required to complete, sign and submit the Certificate together with the bid documentation at the closing date and time of the bid. If a bidder has failed to submit the SBD 9 together with the bid documentation, the bidder must be requested, in writing, to submit the signed form within seven (7) working days of notification. Failure to submit the signed form within seven (7) working days of notification may result in the invalidation of the bid.*

*3.1.3 Accounting officer and accounting authorities are required to utilize the information contained in the certificate to ensure that when bids are considered all reasonable steps are taken to prevent any form of bid rigging.*

*3.1.4 If an accounting officer or accounting authority decides to refer a bidder or contractor who, based on reasonable grounds or evidence obtained by the accounting authority, has engaged in the restrictive practice referred to in paragraph 2.1, to the Competition Commission for investigation and possible imposition of administrative penalties, such written request, together with all supporting documentation, must be sent to the Manager Enforcement and Exemptions at:*

*Competition Commission South Africa*

*Private Bag X 23*

*Lynnwood Ridge*

*0040*

*or 77 Meintjies Street*

*Sunnyside*

*0001”*

The following deviations relating to the procurement of Provision of expanded public works programme phase 2 incentive grant audit-SAB&T

|  |  |  |
| --- | --- | --- |
| **SUPPLIER NAME** | **Tender no** | **Amount**  **R** |
| SAB&T | HP10/039 | 2 482 646,00 |

1. As per inspection of the department’s PA-20 (Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the preferential procurement policy framework. Please note that although an incorrect formula was used it does affect the outcome.

|  |  |  |  |
| --- | --- | --- | --- |
| **EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| SAB & T | 90,00 | 90,00 | 0,00 |
| Nikilitha Consulting/ KPMG JV | -263,38 | 69,85 | -193,53 |
| PWC | 87,33 | 8,79 | -78,54 |
|  |  |  |  |
| Ubuntu Buss Advisory | 9,78 | -216,78 | -226,56 |

1. No documentation was attached indicating that suppliers from whom quotations were requested completed and signed the SBD 9 form or the PA-29 (the department’s equivalent) as required by National Treasury practice note dated 21 July 2010.

Reason for the deviation

As per discussion with the DD: SCM, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

Potential impact:

1. As the SBD 9 was not completed it could not be determined if the accounting officer knowingly awarded a contract to a recommended bidder who is known to have committed a corrupt or fraudulent act in competing for that particular contract. Therefore compliance/non-compliance with TR 16A9 and National Treasury practice note 21 dated 21 July 2010 could not be established.
2. Non compliance with the Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001, Preferential Procurement Policy Framework Act No.2 of 2000.

**Internal control deficiency**

*Leadership*

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

*Financial management*

The department does not effectively reviews and monitors compliance with applicable laws and regulations

**Recommendation**

1. The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were correctly applied and preference points were correctly calculated.

b) All points must be calculated in accordance with the Preferential Procurement Policy Framework Act point formula.

c)       A test of the automated system should be performed and data input onto the system should be reviewed by a second person.

d) Management must ensure that the SBD 9 is completed as required. The document must be submitted for audit purposes.

**Management response**

a) The Department has previously acknowledged this error and has since corrected the scoring model as per the recommendation above. It is however worth noting that the Department has not contravened the provisions of the PPPFA as cited in the findings above as the outcome of all these tenders showed slight differences from the recalculations and did not yield a different result had the correct formulas been used.

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Corrective action to be taken | n/a | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| n/a | n/a |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

*Name:* Eulala Kruger

*Position: Acting CD:SCM*

*Date:* 28 August 2012

b) I am in agreement with the finding. We have inspected the file and confirmed that indeed the PA29 was not attached. However, it is worth noting that the contract in question was initiated in 2010. The Department has since strengthened its quality assurance processes in the compilation of bid documents by implementing a checklist that ensures that no document is left out. This is also verified by a secondary person and approved by the Director: SCM.

|  |  |  |
| --- | --- | --- |
| **Description** | **Response** | |
| Corrective action to be taken | Ensure quality assurance in the compilation of bid documents | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| n/a |  |
| If yes, what corrections will be made to the population | n/a | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | n/a | |
| Position of official responsible to take corrective actions | n/a | |
| Estimated completion date for corrective action | n/a | |

*Name:* Eulala Kruger

*Position: Acting CD:SCM*

*Date:* 28 August 2012

**Auditor’s conclusion**

a) Management agrees with the finding. The matter remains unresolved. The correction of the formula utilised will be followed up in the 2012-2013 audit.

b) Management agrees with the finding. The matter remains unresolved.

1. **Essel Trading – 3 Quotations not obtained and other procurement matters Ex 275**

**Audit Finding**

Laws, rules and regulations

a)Treasury Regulations 16A6.1 states:

*“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.”*

b) Treasury Regulations 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

*c)* Treasury Regulations 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

d) Treasury Regulations 8.2.1 states :

“*An official of an institution may not spend or commit public money except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.”*

e) Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

f) Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

1. *A preference point system must be followed*

Deviations noted pertaining to the above:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Supplier** | **Payment number** | **Invoice number** | **Amount paid**  **R** | **Invoice amount**  **R** | **Difference**  **R** |
| Essel Trading No 3 CC | PM-017858 | PW01/2010 | 343 341.49 | 405 944.09 | 62 602.60 |

During the performance of audit procedures on the procurement of office furniture (in particular Essel Trading cc) for the newly appointed Deputy Minister of Department of Defence, it was noted that 3 different suppliers were appointed to procure office furniture on behalf of the Department.

Firstly” Little Rock” was appointed to procured the furniture but they ran out of funds and could not procure the items from the required stores. Then “*Shibe Interiors*” were appointed as an emergency to procure the items that was required on behalf of the Department and then resell these items to the procurement. “*Shibe Interiors*” procured half of the required items and then also ran out of funds and could not purchase the furntiture ordered from Cecil Nurse

The Director of Prestige then identified one supplier on 6 August 2009 who had the capacity to purchase the furniture form Cecil Nurse and that was *Essel Trading*.

Essel Trading submitted a quotation for the remaining items to be purchased at Cecil Nurse.

Essel Trading was verbally appointed

As the total amount of the quotation is between R 30 000 and R 500 000 three ( 3) written quotations should have been obtained. Only Essel Trading was contact and provided the following quotation:

Essel Trading – R 369 354 .90 ( 26 August 2009)

a) The Department did not comply with PN 8 0f 2007/08 par.3.3.3 as although the reasons for deviations were recorded and submitted to the Prestige Bid Adjudication Committee (PNBAC) the deviation was not approved by the appropriate official.

Inspected both decision taken form the PNBAC documented in the PA -12 dated 29 September 2009 & 10 February 2010 on requests to ratify the supply of office furniture for deputy minister of Public works.

The ratification of the supply of office furniture was not approved by the PNBAC, due to the following reason

* 1. Not everything was delivered
  2. Invoice form Essel Trading was incorrect

Furthermore the PNBAC also recommended further investigation as per approval submission by CFO. No further proof was attached that the appointment of Essel Trading was approved

However in an official letter from the CFO to the Prestige Management, the then CFO (Ms. C. Motsisi) confirmed that the Prestige directorate can proceed paying Essel Trading an amount of R 405 944.09. Dated 17 May 2010.

b) The ledger amount of R343 431.49 for the purchase of office furniture does not agree to the invoice amount of R405 944.09 for invoice PW01/2010 which is a difference of R62 602.60. Five items included in the invoice has not been delivered as per the invoice. The Bid Adjudication Committee indicated on 10 February in the BAC meeting (Ref no. Item 7.3.1) that the invoice should be corrected to be in line with the goods delivered. No evidence could be obtained that the Department instructed Essel Trading to submit a revised invoice, however the Department compiled a schedule of the items that was received to which the amount came to R 343 431.49. The payment was then processed based on this amount.

c) It was also noted that Essel Trading procured the furniture on behalf of the Department from Cecil Nurse. Essel Trading then charged an additional 30 % mark-up on the total of all the items procured. This overpayment could have been avoided had reasonable care been exercised. The overpayment amounted to R79 253.43.

d) Furthermore, a desk (Product code: LN120LO) was included in the invoice excluding VAT for R19 566.42 instead of R22 305.72 as per the sub-contractor Cecil Nurse’s invoice (Invoice no. 10178) which resulted in a difference of R2 739.30 x 1.3(30%markup) x 1.14(14% VAT)= R4 059.64.

e) The Department did not apply PPPF act sec. 2(1)(a) for evaluation on the procurement of garden furniture to the value exceeding R30 000. An internal memorandum signed by the DD Prestige on 21 October 2009 for the attention of the Bid Adjudication Committee stated that due to the urgency of the project the price was relied on without engaging the 80/20 principle and therefore not applying the requirements of the PPPF.

f) TR 16A8.3(d) requires that SCM officials or other role players must ensure that they do not compromise the credibility or integrity of the SCM system through the acceptance of gifts or hospitality or any other act. No documentation could be obtained on the tender file where the members of the evaluation committee (SCM officials) signed the declaration of interest documents.

Reason for the deviation:

Further quotations were not obtained due to the urgency of the project and therefore the project office did not have time to follow the procurement process.

Potential impact of the finding raised above:

1. Non- compliance with PN 8 of 2007/08 par 3.3.1 and the Treasury Regulations 16A6.1 resulting in the expenditure being irregular of R 264 178.08 for the 2010/11 financial year.
2. Non-compliance with Treasury Regulations 9.1.1 where R 79 253.43 of the R 343 431.49 may result in fruitless and wasteful expenditure as a result of the amount charged on the invoice being double the amount the supplier paid for it.
3. Non-compliance with Treasury Regulations 16A8.3(d) and PPPF act sec. 2(1)(a).
4. If the invoice amount is not aligned to the items delivered an overpayment may be made to the supplier resulting in fruitless and wasteful expenditure.
5. The amount included in the invoice excluding VAT will result in an understatement in the following accounts for the amount of R4 059.64:

i) Statement of financial performance: Expenditure for tangible capital assets

ii) to the annual financial statements: Note 12: Expenditure for capital assets: Machinery

iii) Disclosure notes to the annual financial statements: Disclosure Note 43: Movable tangible capital assets: Furniture and office equipment

**Internal control deficiency**

*Leadership*

*Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

**Recommendation**

a) Before any transaction is approved by the delegated official, it should confirm that three quotations have been obtained.

b) Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

c) Management should ensure that the invoice agrees with the goods or services delivered, if the invoice does not agree a new invoice should be requested from the supplier.

d) Before an invoice is submitted for approval for payment it should be scrutinise to ensure the amount paid is accurate.

**Management response**

**Auditor’s conclusion**

No management response has been received. The matter therefore remains unresolved.

1. **Gardening Furniture – 3 Quotations not obtained and other procurement matters Ex 276**

**Audit Finding**

Laws, rules and regulations

1. Treasury Regulations 16A6.1 states:

*“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.”*

Treasury Regulations stipulate 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

Treasury Regulations stipulate 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

1. Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

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.*”

1. Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

1. *A preference point system must be followed*

Deviations noted pertaining to the above:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of supplier** | **Amount**  **R** | **Payment date** | **Payment number** |
| Neuwe Multi Projects | 191 265,84 | 17/07/2010 | PM-017742 |

1. During the performance of audit procedures on tender number T04/07/31, it was noted that only two quotations was obtained from suppliers for the procurement of gardening equipment. As the total amount of the quotation is between R30 000 and R500 000, three written quotations should have been obtained.

Quotations were received from:

* Neuwe Multi Projects – R191 267,80
* Legae Gae – R205 564,80

1. Attached to the invoice (No.0002) from Neuwe Multi Projects is the invoice from Patio Warehouse (Pty) Ltd, the sub-contractor used by Neuwe Multi Projects for the procurement of garden furniture. The amounts included on the invoice from Neuwe Multi Projects are double the amounts on the sub-contractor’s invoice.
2. The Department did not apply PPPF act sec. 2(1)(a) for evaluation on the procurement of garden furniture to the value exceeding R30 000. An internal memorandum signed by the DD Prestige on 21 October 2009 for the attention of the Bid Adjudication Committee stated that due to the urgency of the project the price was relied on without engaging the 80/20 principle and therefore not applying the requirements of the PPPF.
3. TR 16A8.3(d) requires that SCM officials or other role players must ensure that they do not compromise the credibility or integrity of the SCM system through the acceptance of gifts or hospitality or any other act. No documentation could be obtained on the tender file where the members of the evaluation committee (SCM officials) signed the declaration of interest documents.

Reason for the deviation:

Further quotations were not obtained due to the urgency of the project and therefore the project office did not have time to follow the procurement process.

Similar findings were also reported in the 2010-11 financial year. Per inspection of the audit action plan page 38 it was noted that the actions listed below will be implemented by March 2012 to address the issue. It is a concern that the target date is only March 2012 as the reports mentioned in paragraph (c) under laws, rules and regulations must be submitted to National Treasury from February 2012. The department may therefore not be able to correct the deviation in the current year and also to adhere to the requirements of Instruction Note 34 issued by National Treasury.

*“We have increased capacity in the payments section to speed up processing of invoices.*

*Invoice registers are in place to monitor turnaround times of paying invoices.*

*Registers are submitted to the CFO on a monthly basis.”*

Potential impact of the finding raised above:

1. Non- compliance with PN 8 of 2007/08 par 3.3.1 and the Treasury Regulations 16A6.1 resulting in the expenditure being irregular for the 2010/11 financial year.
2. Non-compliance with Treasury Regulations 9.1.1 where R64 920.20 of the R191 265.84 may result in fruitless and wasteful expenditure as a result of the amount charged on the invoice being double the amount the supplier paid for it.
3. Non-compliance with Treasury Regulations 16A8.3(d) and PPPF act sec. 2(1)(a).

**Internal control deficiency**

*Leadership*

*Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

**Recommendation**

1. Before any transaction is approved by the delegated official, it should confirm that three quotations have been obtained.
2. Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

**Management response**

1. As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.
2. As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.
3. As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.
4. As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.

*Name: Lesetja Toona*

*Position: Director*

*Date: 10/08/2012*

**Auditor’s conclusion**

Management’s response is noted. The AGSA had to audit the supporting documentation at the SIU premises in order to avoid a limitation of scope. In the absence of management providing any evidence to contradict the audit findings raised the matters will remain valid and therefore the impact as indicated remains unchanged.

1. **Deviation from Supply Chain Management –HP11/034 - Head Office** **Ex 281**

Audit finding

Laws, rules and Regulations:

*a) Preferencial Procurement Policy Framework Act No.2 of 2000*

*“2.1(a) An organ of state must determine its preferential procurement policy and implement it within the following framework – a preferential point system must be followed.”*

*b) Preferencial Procurement Policy Framework Act No.2 of 2000: Regulations GN R725 of 10 August 2001*

*“4(1) The 90/10 preference point system: The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value above R500 000,00*

*Ps = 90(1(Pt-Pmin)/Pmin)*

*Where*

*Ps = Points scored for price tender of tender under consideration*

*Pt = Rand value of tender under consideration*

*Pmin = Rand value of lowest acceptable tender”*

The following deviation relating to the procurement of investigation services for the accelerated forensic investigation was noted.

|  |  |  |
| --- | --- | --- |
| **SUPPLIER NAME** | **Tender no** | **Amount**  **R** |
| Gobodo Forensic and Investigation | HP11/034 | 497 999,80 |
| Deloitte and Touche | 487 766,00 |
| Morar Incorporation | 543 840,00 |
| **Total** | | **1 529 606,08** |

As per inspection of the department’s PA-20(Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the preferential procurement policy framework. Please note that although an incorrect formula was used it does not affect the outcome.

| **EVALUATED** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **POINTS PER PA-20 (SCORING MODEL)** | **DIFFERENCE** |
| --- | --- | --- | --- |
| Gobodo Forensic and Investigation | 88,11 | 90,00 | -1.89 |
| Deloitte and Touche | 79,65 | 90,00 | -10,35 |
| Morar Incorporation | 90,00 | 90,00 | 0,00 |
| Price Waterhouse Coopers | 32,00 | 54,73 | -22,73 |
| Bowman Gilfillan | 73,85 | 76,31 | -2.46 |
| Sekela Consulting | 27,50 | 53,11 | -25,61 |
| Sizwe Ntsaluba VSP | 64,79 | 70,31 | -5.52 |
| KPMG Services | 68,19 | 72,45 | 4,26 |
| Phandahunu Forensic Inc | 57,56 | 66,15 | -8,59 |
| Grant Thornton Advisory | -88,42 | 30,18 | -118,60 |

The finding occurred as a result of the fact that:

As per discussion with the DD: SCM, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

Impact of the finding:

Non- compliance with Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001, Preferential Procurement Policy Framework Act No.2 of 2000.

**Internal control deficiency**

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

a) The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were correctly applied and preference points were correctly calculated.

b) All points must be calculated in accordance with the Preferential Procurement Policy Framework Act point formula.

c)  A test of the automated system should be performed and data input onto the system should be reviewed by a second person.

**Management response**

The Department has previously acknowledged this error and has since corrected the scoring model as per the recommendation above. It is however worth noting that the Department has not contravened the provisions of the PPPFA as cited in the findings above as the outcome of all these tenders showed slight differences from the recalculations and did not yield a different result had the correct formulas been used.

*Name:* Eulala Kruger

*Position: Acting CD:SCM*

*Date:* 28 August 2012

**Auditor’s conclusion**

Management agrees with the finding. The matter remains unresolved. The correction of the formula will be follow up in the 2012-2013 audit.

1. **Shibe Interiors – 3 Quotations not obtained and other procurement matters Ex 284**

**Audit Finding**

Laws, rules and regulations

a) Treasury Regulations 16A6.1 states:

*“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.”*

1. Treasury Regulations 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

*c)* Treasury Regulations 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

d) Treasury Regulations 8.2.1 states :

“*An official of an institution may not spend or commit public money except with the approval (either in writing or by duly authorised electronic means) of the accounting officer or a properly delegated or authorised officer.”*

e) Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

f) Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

1. *A preference point system must be followed*

Deviations noted pertaining to the above:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of supplier** | **Amount**  **R** | **Payment date** | **Payment number** |
| Shibe Interiors | 166 675 | 26/08/2010 | PM-017747 |

a) During the performance of audit procedures on the procurement of office furniture for the newly appointed Deputy Minister of Department of Defence, it was noted that only one quotation was obtained from a supplier for the procurement of the office furniture . As the total amount of the quotation is between R30 000 and R500 000, three written quotations should have been obtained.

Quotations were received from Shibe Interiors for R 166 675, dated 14 August 2009.

1. The Department did not comply with PN 8 0f 2007/08 par.3.3.3 as although the reasons for deviations were recorded and submitted to the Prestige Bid Adjudication Committee (PNBAC) the deviation was not approved by the appropriate official.
2. A requested for ratification for the supply of office furniture to the office of the Deputy Minister, Public Works was submitted to the Prestige Bid Committee.The request to the bid committee was to conduct a merit assessment of the urgent procurement and to seek approval to pay Shibe Interiors for services rendered. This was recommended by Ms. Salphina Noknyane, DD: Prestige Accommodation, dated 20 October 2009.

The PA-12 - dated 27 October 2009 - indicated that the PNABC referred the submission back for the project manager to re-negotiate the price with the supplier/middle man (Shibe) and ask for commission to be charged instead and they requested that valid suppliers invoices to be attached.

Another submission for the ratification of supplying of office furniture for Deputy Minister of public works was made to the Bid Committee. The PA -12 dated 10 February 2010 indicates that the submission is not approved, as no appointment letter is attached and invoices are not certified. The PNBAC concluded that the payment should not be affected (paid).

The reasons for deviating included in both the submissions (October & February) was that the previous Deputy Minister of DPW requested new furniture for the newly appointed Deputy Minister. The Director Prestige verbally approved the service to be done on 16 June 2009.The client went to the shop to identify the furniture she requested for her office and the office was requested to deliver them urgently on the weekend of 17 June 2009.Shibe Interiors was appointed due to the previous supplier ( Little Rock) having exhausted their funds. Shibe Interiors was appointed with the intension to conclude what the previous company ( Little Rock) had started on the 6 th floor on Ministry wing, this company was to cater to the Deputy Minister's wing immediately for quick release of furniture items from any furniture outlet required.

Further detail included it the submission was that the office ( Prestige office) did not have time to follow the procurement process as the time give to render the service was too short, however the quotation was submitted by the supplier as requested by this office. The supplier has delayed producing the appropriate tax clearance resulting in having a time gap after the furniture was sourced to the time we received an invoice with the correct figures.

1. It was also noted that Shibe Interiors procured the furniture on behalf of the Department from Queens Lifestyle. Shibe attached the quotation from Queens Lifestyle to their quotation and invoice. It was then noted that Shibe Interiors charged approximately double for each item procured. This overpayment could have been avoided had reasonable care been exercised. The overpayment amounted to R 66 530.
2. The Department did not apply PPPF act sec. 2(1)(a) for evaluation on the procurement of garden furniture to the value exceeding R30 000. An internal memorandum signed by the DD Prestige on 21 October 2009 for the attention of the Bid Adjudication Committee stated that due to the urgency of the project the price was relied on without engaging the 80/20 principle and therefore not applying the requirements of the PPPF.
3. TR 16A8.3(d) requires that SCM officials or other role players must ensure that they do not compromise the credibility or integrity of the SCM system through the acceptance of gifts or hospitality or any other act. No documentation could be obtained on the tender file where the members of the evaluation committee (SCM officials) signed the declaration of interest documents.

The finding occurred as a result of the fact that:

Further quotations were not obtained due to the urgency of the project and therefore the project office did not have time to follow the procurement process.

Impact of the finding:

a) Non- compliance with PN 8 of 2007/08 par 3.3.1 and the Treasury Regulations 16A6.1 resulting in the expenditure being irregular of R100 145 for the 2010/11 financial year.

b) Non-compliance with Treasury Regulations 9.1.1 where R 66 530 of the R 166 675 may result in fruitless and wasteful expenditure as a result of the amount charged on the invoice being double the amount the supplier paid for it.

c) Non-compliance with Treasury Regulations 16A8.3(d) and PPPF act sec. 2(1)(a).

**Internal control deficiency**

*Leadership*

Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities

**Recommendation**

a) Before any transaction is approved by the delegated official, it should confirm that three quotations have been obtained.

b) Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

**Management response**

As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.

*Name: Lesetja Toona*

*Position: Director*

*Date: 10/08/2012*

**Auditor’s conclusion**

Management’s response is noted. The AGSA had to audit the supporting documentation at the SIU premises in order to avoid a limitation of scope. In the absence of management providing any evidence to contradict the audit findings raised the matters will remain valid and therefore the impact as indicated remains unchanged.

1. **Prestige Assets (Nana’s Design) – 3 Quotations not obtained and other procurement matters Ex 285**

**Audit Finding**

Laws, rules and regulations

a) Treasury Regulations 16A6.1 states:

*“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.”*

b) Treasury Regulations stipulate 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

*c)* Treasury Regulations stipulate 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

d) Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

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.*”

e) Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

1. *A preference point system must be followed*

f) Section 3.8.1 (c)(ii) of the Ministerial Handbook states the following:

*(c)Furniture & Accescories*

*(ii)* *The State through the Department of Public Works, does not supply linen, blankets, kitchen utensils, glassware, television sets, video recorders, decoders, wall decorations and ornaments.*

Deviations noted pertaining to the above:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of supplier** | **Amount**  **R** | **Payment date** | **Payment number** |
| Nana’s Design | 271 769,16 | 16/08/2010 | PM-017729 |

During the performance of audit procedures on President's House - Mahlamba Ndlofpu, it was noted that only one quotation was obtained from a supplier for the procurement of prestige assets. Nana’s Design procurement items from other suppliers on behalf of the department. As the total amount of the quotation is between R30 000 and R500 000, three written quotations should have been obtained.

Quotation was received from Nana’s Design for R 281 573,16

The Department did not adhere to Practice Note 8 of 2007/08 paragraph 3.3.3 as the submission to the Bid Adjudication Committee , dated 22 September 2009 & 13 October 2009, included only a request to ratify the appointment of Nana’s Design and the reason for the deviating from the procurement process, although the items were already delivered by 14 August 2009. There is no submission to the Bid Adjudication Committee for the request to approve the deviation from the procurement process (obtaining less than three quotations) and the reasons for the deviation prior to the procurement of the items.

The reasons for the deviation included in the submission to the Bid Adjudication Committee on 22 September 2009 & 13 October 2009 for the ratification of the appointment of Nana’s Design, indicated that the supply of these assets were urgent as the President was expecting company the following day and Nana’s Design was requested to supply a quotation for the items because of the quick response to urgent projects, financial capabilities and the quality of service she rendered previously. However some of the required furniture were ordered by Nana’s Design and only delivered on 1 September 2009.

The submission to the Bid adjudication committee was from Edward Mbele (Act: ASD Interiors) and was supported by by Ms.M. Tlou ; Director: Prestige Accommodation - dated17 August 2009.

The PA -12 - dated 22 September 2009, indicated that the Prestige National Bid Adjudication Committee - referred the recommendation back as the suppliers invoice and delivery note was not attached.

The PA -12 - dated 13 October 2009 of the PNBAC, indicated that the PNBAC did not approve but however included that it be referred to the CFO.

The then CFO : Ms. C. Motsisi signed a letter to Prestige Management indicating that the letter serves to confirm that Prestige Directorate can proceed paying Nana's Design an amount of R 281 573 .16 for the purchase of furniture at Mahlamba Ndlopfu - dated 17 May 2010

Through inspection of the invoice of Nana’s Design it was noted that the quotations of the sub-contractors used for the procurement of the required items (as indicated) by Nana’s Design on behalf of the Department, was attached. The detail was of those quotations are as followes:

* + **Makro – R 55 992** (6 x LG Blueray DVD Player BD 370) + ( 2 X LG 42" Full HD LCD TV)
  + **Bed & Couch - R 20 144** (5 x Da Vinci Pillowtop base sets) + ( 1 x Bedelia Couch)
  + **Gordon Fraser - R 77 518** (5 x Sherwood HeadBoard) + ( 6 x Pedestals) + (2 x Victorian Lamp Tables)
  + **Exclusive Home Fashions (Pty) Ltd – R 11 302.98** (10 x Percale white OXF D/Cover) + ( 10 x Percale White OFX S/Stitch Std Pillowcase) + (10 x Micro Fibre Pillow inner ) + (10 x Micro Fibre 3/4 Duvet Inner 150x200)
  + **Exclusive Home Fashions (Pty) Ltd – R 4 229** (10 x Hotel Beige 3/4 blanket) + (10 x Percale white satin stitch flat sheet 3/4)

The total amount of these quotations amounts to **R 169 185.98**

Inspected the invoice of Nana’s Design and compared the unit prices indicated in the invoices to the quotations provided by the respective sub-contractors and determined that Nana’s Design charged the Department an inflated price for each item procured. This could have been avoided had reasonable care been exercised and the required procurement process followed of obtaining at least three quotations to ensure that goods and services are procured economically. This could result in fruitless and wasteful expenditure of R98 110.79.

The Department did also not apply PPPF act sec. 2(1)(a) for evaluation on the procurement of prestige assets to the value exceeding R30 000. Only one quotation was obtained due to the urgency of the project therefore the 80/20 principle was not applied according to the requirements of the PPPF.

Chapter 4 Section 3.8.1.(c)(ii)of the Ministerial Handbook prohibits the supply of linen, television sets and video recorders. The department did not comply with the Ministerial handbook as the following was procured for the President’s House:

* + 6 x LG DVD players
  + 2 x Full HD LG Plasma TV
  + 10 x ¾ Duvet Covers
  + 10 x Beige Blankets
  + 10 x Flat Sheets

The finding occurred as a result of the fact that:

Further quotations were not obtained due to the urgency of the project and therefore the project office did not have time to follow the procurement process.

Matters pertaining quotations were also raised in the prior financial year.

Impact of the finding:

a) Non- compliance with PN 8 of 2007/08 par 3.3.1 and the Treasury Regulations 16A6.1 resulting in irregular expenditure of R173 659.37 for the 2010/11 financial year

b) Non-compliance with Treasury Regulations 9.1.1 where R98 110.79 of the R271 769.16 may result in fruitless and wasteful expenditure as a result of the amount charged on the invoice being double the amount the supplier paid for it.

c) Non-compliance with PPPF act sec. 2(1)(a).

d) Non-compliance with Section 3.8.1 (c) (ii) of the Ministerial Handbook

**Internal control deficiency**

*Leadership*

*Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

**Recommendation**

a) Before any transaction is approved by the delegated official, it should confirm that three quotations have been obtained.

b) Approval to deviate from the procurement process should be obtained from the delegated official prior to the procurement of goods/services

c) A emergency should be well-defined and properly communicated to the supply chain management officials as well as to the officials from the prestige assets office, as improper planning does not constitute an emergency.

d) Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

**Management response**

a) As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken: |  | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population? |  | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | |
| Position of official responsible to take corrective action: |  | |
| Estimated completion date for corrective action: |  | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | |

Name : Lesetja Toona

Position : Director Inspectorate & Compliance

Date : 23/08/2012

**Auditor’s conclusion**

Management’s response is noted. The AGSA had to audit the supporting documentation at the SIU premises in order to avoid a limitation of scope. In the absence of management providing any evidence to contradict the audit findings raised the matters will remain valid and therefore the impact as indicated remains unchanged.

1. **Prestige Assets (Motse Interiors) – 3 Quotations not obtained and other procurement matters Ex 286**

**Audit Finding**

Laws, rules and regulations

a) Treasury Regulations 16A6.1 states:

*“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.”*

b) Treasury Regulations stipulate 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

*c)* Treasury Regulations stipulate 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

d) Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

e) Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

*A preference point system must be followed*

Deviations noted pertaining to the above:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of supplier** | **Amount**  **R** | **Payment date** | **Payment number** |
| Senex Interiors | 234 393 | 7/09/2010 | PM-0107696 |

1. During the performance of audit procedures on the procurement of prestige assets for 235 Orion street,Waterkloof, it was noted that only two quotations were obtained for the procurement of prestige assets, the suppliers were
   * Queens Lifestyle (18 August 2009) - R 255 578,90
   * Senex Interios ( 17 August 2009) - R 257 469
2. Senex Interiors were appointed to supply the furniture. Through further inspection of the procurement documents it was noted that there was not requisition for these assets nor a letter of acceptance send to Senex Interiors from the department.
3. Furthermore there is not proof that the reasons for deviations was recorded and approved by a delegated official in the procurement documents. The deviation was not approved prior to the procurement of prestige assets.
4. Inspected an Internal Memorandum : Report on outstanding dubious prestige payments to suppliers, to the Minister of Public Works from CFO :Cathy Motsisi, the entire procurement process was done verbally by the Prestige official (Mr. William Monyela). There was no written commitment from the department of items required e.g. letter of acceptance and no need assessment report from the interior designer were submitted
5. This Internal Memo also indicated that the CFO :Cathy Motsisi, the CFO the service provider (Senex Interiors) as a private customer interested in procuring furniture of which the following was discovered:

* The Havanna Plasma Unit priced at R 14 999 was confirmed through the telephonic call to be R 9 999 - saving of R 5000

1. The procurement was not economical as the only obtained 2 quotations and could therefore not reasonably conclude that the items were procured at reasonable prices
2. Inspected a official letter from the then CFO : Ms. C. Motsisi to Prestige Management indicating that the letter serves to confirm that Prestige Directorate can proceed paying SENEX INTERIOR an amount of R 246 293 for the purchase of furniture at House No.235 Orion,Waterkloof - dated 17 May 2010.
3. The Department did not apply PPPF Act sec. 2(1)(a) for evaluation on the procurement of prestige assets to the value exceeding R30 000. Only two quotation was obtained due to the and the 80/20 principle was not applied according to the requirements of the PPPF.

The impact of the finding:

The reasons were not evident from the procurement documentation. The whole process was done verbally

Matters pertaining quotations were also raised in the prior financial year.

Impact of the finding:

a) Non- compliance with PN 8 of 2007/08 par 3.3 and the Treasury Regulations 16A6.1 resulting in irregular expenditure of R 234 393 for the 2010/11 financial year.

b) Non compliance to PPPF Act section 2.1 as the quotations was not evaluated in terms of the 80/20 principle.

**Internal control deficiency**

*Leadership*

*Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

**Recommendation**

1. Approval to deviate from the procurement process should be obtained from the delegated official prior to the procurement of goods/services
2. Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

**Management response**

1. As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.

*Name: Lesetja Toona*

*Position: Director*

*Date: 10/08/2012*

**Auditor’s conclusion**

Management’s response is noted. The AGSA had to audit the supporting documentation at the SIU premises in order to avoid a limitation of scope. In the absence of management providing any evidence to contradict the audit findings raised the matters will remain valid and therefore the impact as indicated remains unchanged.

1. **Prestige Assets (Motse Interiors) – three quotations not obtained and other procurement matters Ex 287**

**Audit Finding**

Laws, rules and regulations

a) Treasury Regulations 16A6.1 states:

*“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.”*

*b)* Treasury Regulations stipulate 9.1.1 states:

*“The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.”*

c) Treasury Regulations 16A6.4 states the following:

*“ If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority 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 or accounting authority.”*

*d)* Treasury Regulations stipulate 16A8.3(d) states:

“A *supply chain management official or other role player—*

*must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act”*

e) Practice Note 8 of 2007/08 3.3.1 to 3.3.3 and Treasury regulation 16A6.1 stipulates:

“*3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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.”*

f) Preferential Procurement Policy Framework Act no. 5 of 2000 states (2)(1)(a):

*“2. Framework for implementation of preferential procurement policy –(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:*

*a) A preference point system must be followed*

b) Preferential Procurement Regulations 10(1) & (3) states that :

* 1. *In the event that , in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R 500 000 the tender invitation must be cancelled.”*
  2. *In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R500 000, the tender must be cancelled.*
  3. *(3) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1) and (2) must re-invite tenders and must, in the tender documents, stipulate the preference point system to be applied.*

**c)** Practice Note 6 of 2007/08 paragraph 2.3 & 3.1 stipulates that:

*“ 2.3) It is , however, recognized that there will be instances when it would be impractical to invite competitive bids> IN this regards, Treasury Regulations 16A6.4 provides for such instances where accounting authorities are allowed to dispense with competitive bidding processes to procure goods and services by other means. This provision is intended for cases of emergency where immediate action is necessary or if the goods and services required are produced or available from sole service suppliers. The reason for such action must be recorded and approved by the accounting officer or accounting authority.*

*“ 3.1) With effect from the date on which this practice note takes affect, accounting officers and accounting authorities are required to report within ten (10) working days to the relevant treasury and the Auditor- General , all cases where goods and services above the value of R 1 million (VAT included) were procured in terms of Treasury Regulation 16A6.4.”*

Deviations noted pertaining to the above:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of supplier** | **Amount**  **R** | **Payment date** | **Payment number** |
| Motse Interiors | 1 071 918.20 | 13/08/2010 | PM-017729 |

During the performance of audit procedures on the procurement of prestige assets for 190 Sterlitzia,Waterkloof , it was noted that only two quotations were obtained from suppliers for the procurement of prestige assets for the Minister’s house. Furthermore the total amount of the quotations obtained exceeded R 500 000, the invitation should have been cancelled and re-invited though a competitive bidding process.

Although the invitation was not cancelled and the quotations route was followed. Even though the quotation route was followed, still only two quotations were obtained:

Quotation was received from:

* Motse Interiors – R 1 071918.20 (Including VAT)
* Slevana Interiors – R 2 011 657,97 (Including VAT)

These quotations are date 12 June 2009.

The approval for deviating from obtaining 3 written quotations was sought by the Acting ASD: Interior from the Regional Manager. The reason for deviating was that the delivery of furniture to the newly appointed Minister house was that it needed urgently to deliver the requested items on 8 June 2009 as the house did not have Public Works furniture except for kitchen chairs, study and base sets. The regional manager approved the appointment of Motse Interiors on 17 June 2009, with a comment which indicated that a submission should be prepared for ratification.

Inspected the submission for the ratification of supplying furniture and curtain for minister at 190 Sterlitzia,Waterkloof to the Prestige National Bid Adjudication Committee ( PNBAC) As well as the PA -12 dated 10 February 2012. The reasons for deviating from competitive bidding as well as obtaining 3 written quotations was the following :

*“The new administration was sworn in on 10 May 2009 and the allocation of houses were finalised around June month. The client allocated to the house intended to take occupation on the 1st of July 2009, therefore the project was urgent in the sense that this office was suppose to appoint a supplier who would deliver the furniture and curtails by 18 June 2009.The quotation procedure was followed because it was the rout of which the Director Prestige realised suitable in order to meet the deadline. If a normal open tender procedures was followed, it would have taken then +/- 2,5 months to get the requested item delivered. It would have taken longer and would have caused frustration to the client*. “

The PNBAC only approved that payment of Motse Interiors and recommended that the full payment can be affected & condonement from the DG must be obtained prior to payment be affected as irregular expenditure

An official letter from CFO : Ms. C. Motsisi to Prestige Management was send on 17 May 2012 indicating that the letter serves to confirm that Prestige Directorate can proceed paying MOTSE INTERIORS an amount of R 1 071 918.20 for the purchase of furniture at 190 Sterlitzia, Waterkloof.

The Department did not comply with PN 6 of 2007/08 paragraph 2.3 & 3.1 which provides instances where accounting authorities can dispense form using competitive bidding processes however these instances are cases of emergency where immediate action is necessary of if the goods and services are produced or available from sole service suppliers. For which the reasons must also be recorded and approved by the accounting authority.

The above mentioned procurement of prestige assets was not an emergency as poor planning does not constitute an emergency and the prestige assets are available from more than one supplier

The Department did not adhere to Practice Note 8 of 2007/08 paragraph 3.3.3 as the submission to the Bid Adjudication Committee , dated 10 February 2012, included only a request to ratify the appointment of Motse Interiors for the payment to be affected and the reason for the deviating from the procurement process, although the items were already delivered by 30 June 2009. There is no was no approval given by the PNBAC to deviate from either the normal competitive bidding process and to deviate from obtaining 3 written quotations before continuing with the procurement.

As quotation route was followed the Department did not apply PPPF act sec. 2(1)(a) for evaluation on the procurement of prestige assets to the value exceeding R30 000. Only two quotation was obtained due to the urgency of the project therefore the 80/20 principle was not applied according to the requirements of the PPPF.

The Department did also not comply with paragraph 3.3 of PN 6 of 2007/08 as they did not report to the relevant treasury and Auditor –General within ten (10) working days of goods and services procured in terms of Treasury Regulation 16 A6.4

Through inspection of the quotation and the invoice provided by Motse Interiors the following was noted

* + The quotation for furniture amounted to R 1 071 918.20
  + The invoice and the amount paid amounted to R 1071 918.20
  + Although the amount invoiced/paid did not exceed the quoted amount the unit prices as per the invoice was higher as the unit prices for the same items in the quotation.
  + It was also noted that all the items quoted for was not purchased but replaced with other items ( or different quantities of items quoted for) purchased so that to amount to the quoted amount.
  + The difference in the unit prices (and quantities) for the items as per the quote and invoice was calculated and could result fruitless and wasteful expenditure as the prices and quantities was not inspected and verified for accuracy before the approval of the payment.

The finding occurred as a result of the fact that:

The newly appointed Minister needed to take occupation on 1 July 2009 and therefore normal competitive bidding process was not followed.

Matters pertaining quotations were also raised in the prior financial year.

Impact of the finding:

a) Non- compliance with PN 6 of 2007/08 par 2.3 and the Treasury Regulations 16A6.4 resulting in irregular expenditure of R 962 339.93 for the 2010/11 financial year

b) Non-compliance with Treasury Regulations 9.1.1 where R 109 578.27 of the R 1 071 918.20 may result in fruitless and wasteful expenditure as a result of the items purchased at a higher unit price as indicated in the quotations.

c) Non-compliance with PN 6 of 2007/08 par 3.3 as the goods and services procured in terms of TR16A6.4 was not reported accordingly.

**Internal control deficiency**

*Leadership*

*Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal control.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) Before any transaction is approved by the delegated official, it should confirm that three quotations have been obtained.

b) Approval to deviate from the procurement process should be obtained from the delegated official prior to the procurement of goods/services

c) A emergency should be well-defined and properly communicated to the supply chain management officials as well as to the officials from the prestige assets office, as improper planning does not constitute an emergency.

d) Management should ensure that they comply with the relevant laws and regulations by completing the checklist and letting officials signs as evidence that they have ensure compliance with the relevant laws, rules and regulations.

**Management response**

As the audit team is aware that batches and files are with the Special Investigation Unit (SIU), and the department does not and will not have access to those batches and files, the Department is not in a position to agree or disagree with the audit finding relating to these transactions.

*Name: Lesetja Toona*

*Position: Director*

*Date: 10/08/2012*

**Auditor’s conclusion**

Management’s response is noted. The AGSA had to audit the supporting documentation at the SIU premises in order to avoid a limitation of scope. In the absence of management providing any evidence to contradict the audit findings raised the matters will remain valid and therefore the impact as indicated remains unchanged.

1. **SCM House at 285 Julius Jeppe Street, Waterkloof** – **Queens Life Style Ex 289**

**Audit Finding**

Laws, rules and Regulations:

1. Treasury regulation 16A6.1 and 16A6.4 states:

*“16A6.1Procurement 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.*

*16A6.4 If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority 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 or accounting authority”.*

1. Instruction note 32 Enhancing Compliance Monitoring

*“Accounting officers of departments and constitutional institutions must submit to*

*the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/or services which exceed R500 000 (all applicable taxes included). This procurement plan must be approved by the accounting officer or his or her delegate prior to its submission. For the 2011/2012 financial year, the said plan must be submitted to the relevant treasury by not later than 31 August 2011”.*

1. Public Finance Management Act 1 of 1999 s38(1)(g) states:

*“The accounting officer for a department, trading entity or constitutional institution, On discovery of any unauthorised, irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board”.*

1. Practice note 8 of 2007/2008 paragraph 3.4.1, 3.4.2, 3.4.3 states:

*“3.4.1 Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.*

*3.4.2 Competitive bids should be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer/ authority deem it necessary to ensure greater exposure to potential bidders. The responsibility for advertisement costs will be that of the relevant accounting officer/ authority.*

*3.4.3 Should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in case of a sole supplier, the accounting officer/ authority may procure the required goods and services by other means, such as price quotations or negotiations in accordance with Treasury Regulation 16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting offier/ authority or his/ her delegate. Accounting officers/ authorities are required to report within ten (10) working days to the relevant treasury and the Auditor- General all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of the Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.”*

1. SCM guide for accounting officers and authorities paragraph 4.7.5 states:

*“4.7.5.1 In urgent and emergency cases, an institution may dispense with the invitation of bids and may obtain the required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the State.*

*4.7.5.2 Urgent cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. (However, a lack of proper planning should not constitute as an urgent case.)*

*4.7.5.3 Emergency cases are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery.*

*4.7.5.4 The reasons for the urgency/ emergency and for dispensing of competitive bids, should be clearly recorded and approved by the accounting officer/ authority or his/ her delegate.”*

1. The signed SCM delegations, page 19, item 9, paragraph 45 states that verbal approval to conduct urgent and/ or emergency acquisitions for goods and services can be provided by the CD:SCM (Head Office) or the RM (Regional Office).

The following deviations pertaining to procurement of furniture for a house at 285 Julius Jeppe Street, Waterkloof were identified. Please see the table below for information on the tender selected for testing:

|  |  |  |
| --- | --- | --- |
| **SUPPLIER** | **BID NO** | **Amount** |
| Queens Life Style | **HP11/057** | 510 853,70 |
| **Total** |  | **510 853,70** |

*Please also see CoFF 90, relating to the procurement of furniture from Senex for the same house.*

a) The department did not follow a Competitive bidding process. It was found that a "negotiated" procedure was used to procure furniture from Queens Lifestyle for house 285 Julius Jeppe Street.

The internal memo requesting approval to directly negotiate with the above mentioned suppliers was motivated as follows:

*“During consultation with the client to determine the exact details and features of the items of furniture required, the client indicated the house needs to be ready by the end of June because he does not have an official accommodation in Pretoria. The client appointed his private interior designer indicated that the style of furniture liked by his client can be obtained from Wetherlys, Queens Life Style and Senex Interiors.*

*The furniture required must be acquired as a matter of urgency, due to the time frame given to procure and furnish the house for occupation by the end of June.”*

The internal memo was signed on 24 June 2011.

However per the table below it is evident that the department had more than enough time to procure the goods:

|  |  |  |
| --- | --- | --- |
| **INFORMATION** | **DATE** | **CUMULATIVE NUMBER OF DAYS** |
| Acquisition date per the immoveable asset register of the house | 23 March 2011 | N/A |
| Signed internal memo | 24 June 2011 | 93 |
| Appointment of Service Provider | 11 July 2011 | 110 |

Based on the above it can be concluded that it was not impractical or impossible to go out on an open bid. The procurement can therefore not be regarded as urgent but rather a result of a lack of proper planning.

1. Furthermore, it was noted that although the deviation was included in the deviation register provided for audit purposes, per scrutiny of the tender documentation it was noted that an internal memo was issued requesting the Special Bid Committee to approve the negotiated procedure. Contrary to the SCM delegations listed above it was noted that the memo was authorised by the D: Prestige KAM instead of the CD: SCM.
2. Contrary to the above mentioned practice note it was found that the procurement of furniture in this was not included in the procurement plan.

The finding occurred as a result of the fact that:

1. Per inspection of the internal memorandum there was an urgent need to relocate the client to the new house as he was left with no accommodation.
2. Per discussion with Assistant Director: Tenders she indicated that the procurement plan in the auditor’s possession is outdated.

Impact of the finding:

1. Due to the fact that competitive bidding process was not followed, the department may have lost a chance to procure goods with the supplier that could have offered a lower price.
2. Irregular expenditure due to:

Deviations from competitive bidding were approved on the basis of it being an emergency, even though immediate action was not necessary and/or sufficient time was available for bidding process as required by PN 8 of 2007/08 and TR 16A6.4. Please note that since the total amount contracted with Queens lifestyle has not yet been paid the irregular expenditure is limited to the amount that has already been paid as at 31 March 2012.

c) Non-compliance with the above mentioned laws and regulations.

**Internal control deficiency**

*Leadership*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

1. The department should invite various suppliers for all bids above R500 000 to achieve the most economical procurement.
2. The deviation from following a competitive bidding process should be approved by the relevant authority per the delegations.
3. The department should submit to the relevant treasury by 30 April of each year, a procurement plan containing all planned procurement for the financial year in respect of the procurement of goods, works and/or services which exceed R500 000.
4. A list of all payments made up to the 31 March 2012 year end need to be included in management’s comment.
5. A guideline pertaining to the procurement of prestige assets needs to be developed to clearly indicate the processes to be followed and also indicating the thresholds for furniture for which Ministers qualify. The latter need to be signed off by all roll players as to prevent the officials from the department being place in a position where SCM processes are not followed.
6. A comprehensive database for prestige assets need to be compiled to ensure that sufficient suppliers are available.

**Management response**

No management comment received

**Auditor’s conclusion**

No management comment received. The matter therefore remains unresolved.

1. **Deviations from SCM - Nthinya Communications and Projects Ex 6**

**Audit finding**

Laws, rules and Regulations:

a) Public Finance Management Act 38(1)(a)(i) and (iii)

*“38(1) The accounting officer for a department, trading entity or constitutional institution-*

1. *must ensure that that department, trading entity or constitutional institution has and maintains-*
2. *effective, efficient and transparent systems of financial and risk management and internal control;*
3. *an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;”*

b) Treasury Regulations 16A9.1(d) and 16A3.2(a) states:

*“16A9.1(d)reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must-*

1. *be fair, equitable, transparent, competitive and cost effective;”*

c) Practice Note 8 of 2007/8 paragraph 6.1 and 6.2 states:

*“6.1 The Accounting officer/ authority must be in possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).*

*6.2 If an accounting officer/ authority is in possession of a supplier’s original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or a bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the accounting officer’s/ authority’s possession. Whenever this ruling is applied, cross-reference must be made to the original tax clearance for audit purposes. “*

d) Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 requires that:

*“3.1 The 80/20 preference point system – (1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

**

*Where*

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

*16 No contract may be awarded to a person who failed to submit an original Tax Clearance Certificate from the South African Revenue Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.”*

Although the department requested and received three quotations (OR-052631, PM-132781) from the following suppliers, the following concerns were noted indicating that the award may have been made to a favoured supplier (Ntinya Communications and Projects):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **SUPPLIER** | **DESCRIPTION** | **QUANTITY** | **UNIT PRICE**  **R** | **AMOUNT (INCLD VAT)**  **R** | **TOTAL**  **(INCLD VAT)**  **R** |
| Nthinya Communications and Projects | Sunday Times | 1 | 2 200,00 | 2 508,00 | **6 156,00** |
| Business Times | 1 | 3 200,00 | 3 648,00 |
| Mosekate Trading and Projects | Sunday Times | 48 | 45,00 | 2 160,00 | **11 760,00** |
| Business Times | 240 | 40,00 | 9 600,00 |
| Ahamabuya Construction and Projects CC | Sunday Times | 48 | Unknown | 367 245,00 | **367 245,00** |
| Business Times | 240 | Unknown |

1. The internal memo (approval to purchase newspapers from Nthinya Communications and Projects CC), states the following:

*“The request for Newspapers was received from* ***SMU Risk Management*** *-118A (****Business day and Sunday Times****) – the request was created on 13/06/2011 and closed on 22/06/2011. The Request for Quotation (RFQ) was sent to the following suppliers using Proquote system.*

* *Ahamabuya Construction & Projects CC*
* *Mosekate Trading and Projects*
* *Betmond Investment*
* *Shumaseni Construction*
* *Logistics Today*
* *Cedoh Trading 23 CC*
* *Gidi Business Solutions*
* *Kone Staffing Solutions CC*
* *Perpertual Event Management*
* *Mokolobate Construction*

*On the closing date 20/06/2011 two suppliers responded and submitted quotations:*

* *Ahamabuya Construction & Projects CC R367 245.00*
* *Mosekate Trading and Projects R11 760.00*

***Motivation***

*At this stage the Supply Chain Management unit has done price analysis direct from media houses and expenditure patterns of the newspapers. The challenge at this stage is that, we cannot procure directly from the media houses as they are not registered on the database. The Department is in the process for registering media house on the database for future business.”*

a) From the above it is clear that no quotation was initially requested from the winning supplier (Nthinya Communications and Projects). The department only received two quotations (from Ahamabuya and Mosekate) on their initial request and no documentation was attached indicating that the department needed to request for additional quotations and the suppliers from whom they were requested.

It is therefore not clear when the quotation from Nthinya was requested and why. From the above extract, the closing date for the quotations was 20/06/2011, the Nthinya only submitted their quotation on 30/08/2011, after the closing date.

1. From the table above it is also evident that the winning supplier, Nthinya Communications and Projects, did not quote for the same quantity of newspapers as the other two companies resulting in them submitting a lower quote.
2. Furthermore the internal memo (approval to purchase newspapers from Nthinya Communications and Projects CC), states the following:

“Based on the above, the Director: Demand and Acquisition Management recommends appointment of Nthinya Communication & Projects CC.”

However, the page 3 of the internal memo indicates that the internal memo was approved by the same person referred to above, Director: Demand and Acquisition Management.

There was therefore no segregation of duties between the recommendation and approval thereof.

1. No documentation was attached indicating the manner in which the department will evaluate the quotations such as a PA-16, preference certificate. As one of the quotations was above R30 000 paragraph 3.1 of the regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 applies to this transaction.

1. No documentation was provided indicating that the department received and is possession of an original tax clearance certificate for the winning supplier.
2. It was further noted from the names of the suppliers, listed below, invited to quote that they may not be in the business of providing and distributing newspapers. This statement was confirmed by the indication in the supporting documentation that the reason why the quotation of Ahamabuya Construction and Projects CC is so high is due to the fact that this is not their core business.

* *Ahamabuya Construction & Projects CC*
* *Shumaseni Construction*
* *Kone Staffing Solutions CC*
* *Perpertual Event Management*
* *Mokolobate Construction*

The finding occurred as a result of the fact that:

Per the internal memo it was noted the following was noted:

*“At this stage the Supply Chain Management unit has done price analysis direct from media houses and expenditure patterns of the newspapers. The challenge at this stage is that, we cannot procure directly from the media houses as they are not registered on the database. The Department is in the process for registering media house on the database for future business. The department has a mandate to grow and support emerging suppliers with the aim of making sure that they sustain their business.*

*Having done a trend analysis from 1 May 2011 to date, we have realized that out of (44) registered on DPW Database, so far Nthinya Communication & Projects CC has a media buying contract with media house hence the price offering is acceptable compared to other service providers that gives them a competitive edge.”*

Impact of the finding:

a) Awards being made to favoured suppliers.

1. Irregular expenditure of R6 156 due to:
2. Non-compliance with Treasury Regulations 16A9.1(d) and Practice Note 8 of 2007/8 as no tax clearance certificate was attached to the batch.
3. The preference point system was not applied in the procurement of goods and services above R30 000 (VAT included) as required by PPPF Act section 2(a).

c) Non-compliance with the following legislation:

1. Treasury Regulations 16A3.2
2. Public Finance Management Act section 38

**Internal control deficiency**

*Leadership*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Financial and Performance Management*

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

1. In cases where the department did not obtain three quotations and needs to request for more, an appropriately delegated official should approve the list of additional suppliers to whom a request will be sent.
2. The department should inspect all responses received to ensure that all suppliers have quoted on the correct goods and/or services at the correct quantities.
3. When requesting for quotations the department should disclose to the suppliers, the manner in which the quotations will be evaluated.
4. The department should ensure that they obtain an original tax clearance certificate from the winning suppliers. Where the department is already in possession of an original tax clearance certificate the department should make reference to that fact on the payment batch.

**Management response**

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | The matter of negotiating the price with other Companies and market research delayed the procurement process, resulting in an urgent intervention of a deviation, for which the Director was delegated to can approve | |

*Name:* Salome Malebye

*Position:* Director DAM

*Date:* 10/07/12

b) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | SCM Circular 24 of 2011 | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | SCM Circular 24 of 2011 came into effect after (9 Nov 2011) the approval of the deviation by the Director: Demand and Acquisition Management(22 Sep 2011) | |

*Name:* Salome Malebye

*Position:* Director DAM

*Date:* 10/07/12

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | | **RESPONSE** | |
| Corrective action to be taken | |  | |
| Does the finding affect an amount disclosed in the financial statements | | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population | |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. | |  | |
| Position of official responsible to take corrective actions | | Director | |
| Estimated completion date for corrective action | |  | |
| **DESCRIPTION** | **RESPONSE** | | |
| Does management agree with the root cause indicated | **Yes** | | **No** |
|  | | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | According to practice,the evaluation method will be determined based on the estimate. In this instance, the estimate was below R30 000.00 and the quotations were to be evaluated on the price only. | | |

*Name:* Salome Malebye

*Position:* Director DAM

*Date:* 10/07/12

d) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | SCM circular 2 of 2006 | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director | |
| Estimated completion date for corrective action |  | |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | SCM Circular 2 of 2006 stated that par. 2, an original tax clearance certificate must accompany each and every offer received exceeding R30 000-00(VAT incl.) The offer was below R30 000.00, so it was not required. | |

*Name:* Salome Malebye

*Position:* Director DAM

*Date:* 10/07/12

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

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  | X |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  | X |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | Suppliers tend to indicate on Supplier regisration forms that they trade in all aspects and are captured as such on the database. | |

*Name:* Salome Malebye

*Position:* Director DAM

*Date:* 10/07/12

**Auditor’s conclusion**

1. Although management indicated that they do not agree with the finding no information was provided with management’s response to contradict the finding. The response was also not signed by an official. The matter therefore remains unresolved.

Due to the fact that on the closing date of the quotations the department only received two quotations and the fact that the winning supplier’s quotations was only received two months after the closing date the department did not get the required three quotations as required in terms of PN 8 of 2007/08 par 3.3 TR16A6.1

1. Although management indicated that they do not agree with the finding no information was provided with management’s response to contradict the finding. Management only indicated pertaining to the root cause that “The matter of negotiating the price with other Companies and market research delayed the procurement process, resulting in an urgent intervention of a deviation, for which the Director was delegated to can approve”

It therefore did not address the matter pertaining to the differences in quantities ordered. The matter therefore remains unresolved.

1. Although management indicated that they do not agree with the finding no additional information was provided to contradict the finding.

Under the root cause management indicated that “SCM Circular 24 of 2011 came into effect after (9 Nov 2011) the approval of the deviation by the Director: Demand and Acquisition Management(22 Sep 2011)”

It was further confirmed that although management referred to SCM circular number 24 it should actually have been SCM circular number 33 of 2011. This circular pertain to the withdrawal of delegations by the then acting DG; Mr. Mandla Mabuza. This delegation does therefore also not address the segregation issue raised.

The matter pertaining to the lack of segregation of duties was therefore not addressed and the matter remains unresolved.

1. As two of the quotations were below R30 000, management’s comment is accepted and the matter is considered to be resolved.
2. Procurement below R30 000 matters considers to be resolved.

1. Although cognisance is taken of management’s comment, it should be noted that the commodities listed in the table below are reflected on the suppliers list with commodities provided for audit purposes. It is evident that the service providers are not in the business of providing and distributing newspapers and may be the reason why the department does not get the required responses.

|  |  |
| --- | --- |
| **Name of service provider** | **Commodities provided by the services provider indicated on the database.** |
| Ahamabuya Construction & Projects CC | General hardware |
| Mosekate Trading and Projects | Not on the prospective supplier list with the commodities. It was however on the supplier list without the commodities |
| Betmond Investment | Service |
| Shumaseni Construction | Building material, paint, sealer, adhesive and accessories |
| Logistics Today | Not on the prospective supplier list with the commodities. It was however on the supplier list without the commodities |
| Cedoh Trading 23 CC | Not on the prospective supplier list with the commodities. It was however on the supplier list without the commodities |
| Gidi Business Solutions | Video recording and reproducing equipment, publications, books and forms |
| Kone Staffing Solutions CC | Service, publications, books and forms |
| Perpertual Event Management | Service |
| Mokolobate Construction | Building material |

1. **Travel and subsistence advances not timeously cleared Ex 35**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act No.1 of 1999 section 38(1)(c), 38(1)(d), 38(1)(e), 38(1)(g) and 38(1)(h) state the following:

*“The accounting officer for a department, trading entity or constitutional institution-*

*(c)   must take effective and appropriate steps to-*

*(i) collect all money due to the department, trading entity or constitutional institution;*

*(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct;*

*(iii) manage available working capital efficiently and economically;*

*(d)  is responsible for the management, including the safe-guarding and the maintenance   
 of the assets, and for the management of the liabilities, of the department, trading entity   
 or constitutional institution;*

*(e)  must comply with any tax, levy, duty, pension and audit commitments as may be   
 required by legislation;*

*(g)  on discovery of any unauthorised, irregular or fruitless and wasteful expenditure, must   
 immediately report, in writing, particulars of the expenditure to the relevant treasury   
 and in the case of irregular expenditure involving the procurement of goods or services,   
 also to the relevant tender board;*

*(h) must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution who-*

*(i) contravenes or fails to comply with a provision of this Act;*

*(ii) commits an act which undermines the financial management and internal control system of the department, trading entity or constitutional institution; or*

*(iii) makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure;”*

b) Treasury Regulations 11.2 and 12.3 state:

*“11.2.1 The accounting officer of an institution must take effective and appropriate steps to timeously collect all money due to the institution including, as necessary-*

*(a) Maintenance of proper accounts and records for all debtors, including   
 amounts received in part payment; and*

*(b) Referral of a matter to the State Attorney, where economical, to consider a   
 legal demand and possible legal proceedings in a court of law.*

*12.3.1 If the State suffers a loss or damage and the other person denies liability, the accounting officer must, if deemed economical, refer the matter to the State Attorney for legal action, including the recovery of the value of the loss or damage.”*

c)   DPW Domestic Subsistence policy paragraph 68,69 and 70 requires that:

“68 *Within 30 days of returning from the trip, the official must settle any difference between the advance amount and the actual. No claim will be paid or reimbursed if submitted after 30 days of return from the trip”*

“69 *Officials who do not comply with the above will not be paid a second advance.”*

“70 *Officials, who do not settle any outstanding advance accounts, may have the entire advance amount deducted from their salary, in accordance with the relevant financial procedures.”*

d) DPW International Travel and Subsistence policy paragraph 126, 69 and 70 requires that:

“126 *Within 30 days of returning from the trip, the official must settle any difference between the advance amount and the actual claim. Receipts must be provided for any additional amounts claimed.”*

“69 *Officials who do not comply with the above will not be paid a second advance.”*

“70 *Officials, who do not settle any outstanding advance accounts, will have the entire amount that was advanced deducted from their salary, in accordance with the relevant procedures.”*

e)  Income Tax Act no.58 of 1962 section 8 (1) *(a)* (i) (aa); (bb); (c); (cc) states:

*“There shall be included in the taxable income of any person (hereinafter referred to as*

*the 'recipient') for any year of assessment any amount which has been paid or granted during that year by his or her principal as an allowance or advance, excluding any portion of any allowance or advance actually expended by that recipient -on travelling on business, on any accommodation, meals and other incidental costs, while such recipient is by reason of the duties of his or her office or employment obliged to spend at least one night away from his or her usual place of residence in the Republic by reason of the duties attendant upon his or her office”*

f) Guide for employers in respect of allowances (2012 Tax Year), paragraph 5.1 state:

*“If a subsistence allowance or advance is paid to an employee on or after 1 February 2006, the allowance or advance is deemed to become payable to the employee in the following month in respect of services rendered where such an allowance or advance was paid to the employee during the month in respect of a night away from his/her usual place and that has not by the last day of the following month either spent the night away or refunded that amount to the employer.”*

The following misstatements were noted:

The following advances, as at 31 March 2012, are more than 30 days overdue and have not been cleared by a subsistence and travel claim. Furthermore it was noted that although the reconciliation was performed on monthly basis, there is no follow up by the management for the long outstanding amounts, neither were the outstanding amounts included in the relevant employees’ salaries as per the legislation listed above. It was noted that the payment for financial assets includes an amount of R22 672,59 for transactions originating in 2004 and 2005.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| | **Employee Name** | **PERSAL Number** | **Reference Number** | **Date** | **R** | | --- | --- | --- | --- | --- | | Sooklal Ajay | 00550619 | AP 0000110755 | 06/05/2010 | 8 974,85 | | Brey A | 00610330 | AP 0000110757 | 06/05/2010 | 9 349,65 | | Brey A | 00610330 | AP 0000136447 | 20/12/2010 | 13 569,24 | | Jonas SNM | 05308542 | AP 0000149568 | 31/03/2011 | 12 439,91 | | Vukela S | 10786350 | AP 0000443369 | 11/02/2008 | 5 518,20 | | Vukela S | 10786350 | AP 0000049347 | 16/01/2009 | 7 352,95 | | Vukela S | 10786350 | AP 0000050368 | 26/01/2009 | 10 925,45 | | Ditsebe MJ | 12943258 | AP 0000120073 | 04/08/2010 | 5 654,33 | | Meyering AJ | 13364243 | AP 0000181343 | 29/04/2005 | 8 171,68 | | Subban S | 13372700 | AP 0000098126 | 02/02/2010 | 8 251,65 | | Subban S | 13372700 | AP 0000110737 | 06/05/2010 | 8 974,85 | | Rasiluma LM | 13748912 | AP 0000270382 | 23/11/2005 | 260,00 | | Rasiluma LM | 13748912 | AP 0000390092 | 29/03/2007 | 460,00 | | Rasiluma LM | 13748912 | AP 0000396754 | 31/05/2007 | 410,70 | | Rasiluma LM | 13748912 | AP 0000007427 | 22/05/2008 | 675,00 | | Rasiluma LM | 13748912 | GJ 0000162192 | 08/08/2011 | 1 093,00 | | Nkuna E | 14408961 | AP 0000075910 | 2004/10/09 | 390,00 | | Nkuna E | 14408961 | GJ 0000004181 | 18/10/2004 | 550,00 | | Nkuna E | 14408961 | AP 0000282393 | 15/12/2005 | 520,00 | | Nkuna E | 14408961 | AP 0000351503 | 2006/01/08 | 215,00 | | Nkuna E | 14408961 | AP 0000354090 | 18/08/2006 | 45,00 | | Nkuna E | 14408961 | AP 0000372503 | 21/12/2006 | 215,00 | | Zwane NP | 15549925 | AP 0000159997 | 19/07/2011 | 201,00 | | Diaho SK | 15768465 | GJ 0000030588 | 15/08/2011 | 2 880,00 | | Chauke MT | 15983757 | AP 0000140574 | 28/01/2011 | 2 042,00 | | Masemola MC | 16127935 | GJ 0000030872 | 24/08/2011 | 819,00 | | Modisakeng EN | 16658647 | AP 0000156169 | 20/06/2011 | 497,00 | | Mahlatjie MR | 16905385 | AP 0000343101 | 2006/05/06 | 175,00 | | Mahlatjie MR | 16905385 | AP 0000356052 | 2006/01/09 | 175,00 | | Mahlatjie MR | 16905385 | AP 0000378371 | 2007/05/02 | 175,00 | | Mahlatjie MR | 16905385 | AP 0000112380 | 24/05/2010 | 650,00 | | Matlala DP | 18542077 | AP 0000067709 | 2009/08/06 | 5 127,45 | | Phambane EM | 18601031 | AP 0000252796 | 2005/11/10 | 17 574,05 | | Phambane EM | 18601031 | AP 0000267852 | 15/11/2005 | 901,73 | | Phambane EM | 18601031 | AP 0000338755 | 2006/02/05 | 8 348,91 | | Phambane EM | 18601031 | AP 0000352222 | 2006/03/08 | 4 140,58 | | Phambane EM | 18601031 | AP 0000399376 | 20/06/2007 | 5 473,85 | | Phambane EM | 18601031 | AP 0000450874 | 2008/10/03 | 1 208,94 | | Phambane EM | 18601031 | AP 0000030489 | 19/09/2008 | 10 903,35 | | Phambane EM | 18601031 | AP 0000042735 | 26/11/2008 | 1 396,00 | | Phambane EM | 18601031 | AP 0000043125 | 26/11/2008 | 1 085,80 | | Phambane EM | 18601031 | AP 0000059240 | 24/03/2009 | 3 585,35 | | Phambane EM | 18601031 | AP 0000077869 | 01/09/2009 | 4 613,90 | | Gudlhuza NJ | 18631410 | AP 0000049972 | 22/01/2009 | 4 156,80 | | Bici L | 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(CD) | 19065469 | AP 0000079333 | 15/09/2009 | 915,90 | | Makitshi PN | 19130627 | GJ 0000030588 | 15/08/2011 | 890,00 | | Ngcukuva L | 19388110 | AP 0000130146 | 02/11/2010 | 622,00 | | Ngcukuva L | 19388110 | AP 0000136445 | 20/12/2010 | 1 740,00 | | Ngcukuva L | 19388110 | AP 0000150173 | 08/04/2011 | 1 348,00 | | Ngcukuva L | 19388110 | AP 0000151148 | 04/05/2011 | 262,00 | | Skosana AS | 19426861 | AP 0000339071 | 2006/05/05 | 435,00 | | Shirinda RG | 20624263 | GJ 0000030795 | 22/08/2011 | 2 491,00 | | Lelala PY | 21365393 | AP 0000265578 | 2005/07/11 | 345,00 | | Lelala PY | 21365393 | AP 0000267852 | 15/11/2005 | 901,73 | | Lelala PY | 21365393 | AP 0000269150 | 21/11/2005 | 848,63 | | Lelala PY | 21365393 | AP 0000399376 | 20/06/2007 | 5 473,85 | | Lelala PY | 21365393 | AP 0000450607 | 2008/07/03 | 1 212,33 | | Lelala PY | 21365393 | GJ 0000003807 | 26/09/2008 | 10 903,35 | | Lelala PY | 21365393 | AP 0000042735 | 26/11/2008 | 1 396,00 | | Lelala PY | 21365393 | AP 0000049699 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Mathonsi KH | 53500725 | GJ 0000030653 | 17/08/2011 | 1 928,00 | | Mathonsi KH | 53500725 | AP 0000164439 | 30/082011 | 718,00 | | Molefe PC | 53516117 | AP 0000444898 | 19/02/2008 | 4 622,95 | | Molefe PC | 53516117 | AP 0000056489 | 27/02/2009 | 4 722,28 | | Molefe PC | 53516117 | AP 0000120009 | 04/08/2010 | 3 832,60 | | Molefe PC | 53516117 | AP 0000135144 | 09/12/2010 | 13 569,24 | | Molefe PC | 53516117 | AP 0000135865 | 15/12/2010 | 2 750,00 | | Sibindlana BAG | 53645987 | AP 0000015826 | 2008/01/07 | 275,00 | | Sibindlana BAG | 53645987 | AP 0000032500 | 2008/06/10 | 260,00 | | Sibindlana BAG | 53645987 | AP 0000034324 | 2008/09/10 | 530,00 | | Sibindlana BAG | 53645987 | AP 0000039945 | 2008/06/11 | 350,00 | | Mazibuku TP | 61755371 | GJ 0000030872 | 24/08/2011 | 819,00 | | Gabarone J | 74071553 | AP 0000151123 | 03/05/2011 | 786,00 | | Gabarone J | 74071553 | AP 0000151907 | 09/05/2011 | 121,00 | | Gabarone J | 74071553 | AP 0000153283 | 26/05/2011 | 828,00 | | Gabarone J | 74071553 | AP0000155978 | 15/06/2011 | 376,00 | | Gabarone J | 74071553 | AP 0000162870 | 16/08/2011 | 130,00 | | Maluleke V | 79052355 | AP 0000151123 | 03/05/2011 | 786,00 | | Maluleke V | 79052355 | AP 0000151907 | 09/05/2011 | 121,00 | | Maluleke V | 79052355 | AP 0000153283 | 26/05/2011 | 828,00 | | Maluleke V | 79052355 | AP 0000155978 | 15/06/2011 | 376,00 | | Maluleke V | 79052355 | AP 0000162870 | 16/08/2011 | 130,00 | | Hlatshwayo TB (CD) | 80090419 | AP 0000030489 | 19/09/2008 | 15 476,60 | | Hlatshwayo TB (CD) | 80090419 | AP 0000147554 | 24/03/2011 | 1 820,73 | | Mavi CB | 81539720 | AP 0000144935 | 04/03/2011 | 2 240,00 | | Noni MH | 81882599 | AP 0000133412 | 26/11/2010 | 506,00 | | Noni MH | 81882599 | AP 0000135804 | 14/12/2010 | 506,00 | | Noni MH | 81882599 | AP 0000142177 | 09/02/2011 | 506,00 | | Noni MH | 81882599 | AP 0000144563 | 01/03/2011 | 506,00 | | Noni MH | 81882599 | AP 0000156169 | 20/06/2011 | 443,00 | | Noni MH | 81882599 | AP 0000159183 | 08/07/2011 | 529,00 | | Kekana NM | 82099278 | AP 0000077868 | 09/01/2009 | 7 966,90 | | Kganyago NM | 82143986 | AP 0000252796 | 10/11/2005 | 17 574,05 | | Kganyago NM | 82143986 | AP 0000267852 | 15/11/2005 | 901,73 | | Kganyago NM | 82143986 | AP 0000269150 | 21/11/2005 | 848,63 | | Kganyago NM | 82143986 | AP 0000347157 | 07/04/2006 | 4 140,58 | | Kganyago NM | 82143986 | AP 0000351083 | 08/01/2006 | 6 365,96 | | Kganyago NM | 82143986 | AP 0000355983 | 09/04/2006 | 7 208,22 | | Kganyago NM | 82143986 | AP 0000399376 | 20/06/2007 | 5 473,85 | | Kganyago NM | 82143986 | AP 0000399376 | 20/06/2007 | 5 473,85 | | Kganyago NM | 82143986 | AP 0000450869 | 03/10/2008 | 1 327,74 | | Kganyago NM | 82143986 | GJ 0000003807 | 26/09/2008 | 5 074,75 | | Kganyago NM | 82143986 | AP 0000042735 | 26/11/2008 | 1 529,15 | | Kganyago NM | 82143986 | AP 0000049532 | 19/01/2009 | 11 999,45 | | Kganyago NM | 82143986 | AP 0000049530 | 19/01/2009 | 5 857,25 | | Kganyago NM | 82143986 | AP 0000059224 | 23/03/2009 | 3 174,75 | | Ntombela CT | 90034295 | AP 0000145064 | 07/03/2011 | 476,00 | | Ntombela CT | 90034295 | AP 0000150231 | 15/04/2011 | 604,00 | | Ntombela CT | 90034295 | AP 0000153283 | 26/05/2011 | 1 552,00 | | Mnqojana L | 90780001 | AP 0000107860 | 25/03/2010 | 507,00 | |  |  |  |  | **931 193,71** | |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |

Potential impact of the findings raised above:

a) Advances becoming irrecoverable if not timeously followed up and cleared due to the non adherence to the subsistence and travel policy of the department.

b) Non compliance with PFMA and Treasury Regulations.

c)  Due to the qualitative factors considered, long outstanding claims could potentially be highlighted in the audit report of the department.

Reason for the deviation:

These deviations are due to management not enforcing the policy, even though the policy requires amounts not claimed within 30 days of the advance being taken to be deducted from the officials’ salary. Management also does not ensure that the outstanding amounts are added to the IRP5 or deducted from the salaries of the respective officials.

Similar findings were reported in the previous year and management responded by stating that responsible officials will be assigned to follow up all advances not cleared after 30 days from the return date of travel. Management has stated that they will revise the Subsistence and Travel policy and amend the business process to assist in the prompt clearing of advances for international travel. To date the above advances are more than 30 days overdue and have not been cleared by a subsistence and travel claim.

**Internal control deficiency**

*a) Leadership*

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

*Establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes and responsibilities*

## b) Financial and performance management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

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**Recommendation**

a) Employees should be informed of outstanding claims on a timely basis.

b)  The finance department should be notified on a timely basis of all employees who have exceeded the 30 day limit. Recovery of the claim from the relevant employee should be initiated promptly.

c)  An appropriate official should review all outstanding claims and confirm that the amounts have been recovered from the relevant employees on a timely basis. All discrepancies should be followed up.

d)  An appropriately delegated official should approve the advances on the system to ensure that they are correctly classified.

**Management response**

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

Management disagrees with the balance of R**931,193.71.** The closing amount on the T&S Advance suspense account at 31 March 2012 was R**299,727.45** for Head Office therefore a total of R**631,466.26** were cleared as per your population sample. The Department fulfilled the corrective measures indicated in last year’s audit report regarding S&T Advances; a new Travel and Subsistence Directive (policy) was approved on 7 March 2012 and updated the business process which was communicated to the entire Department. See attached approved Directive.

Management furthermore disagrees with the finding that no follow up on long outstanding advances were made. Several communications were made to the employees, see attached evidence. Several more individual emails per employee were issued, which are one individual files. However, management agrees with the long outstanding amounts that were not included in the employees’ salaries as required by the tax legislation.

Management has put responsible officials dedicated to the management of all S&T advances paid to all employees. The following evidence is testimony to management’s action to ensuring compliance as per the reduced amounts:

|  |  |
| --- | --- |
| **T&S Advance Per Month** | **Balance** |
| 31 March 2012 | 299 727,45 |
| 30 April 2012 | 175 597,55 |
| 31 May 2012 | 151 383,45 |
| 30 June 2012 | 166 348,23 |

See attached monthly reconciled S&T Advance reports.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | YES | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
| X |  |
| If yes, what corrections will be made to the population | Action has already been taken. | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | D: Provisioning & Logistics | |
| Estimated completion date for corrective action | 30 September 2012 | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| NO |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. | See above | |

Name: Eulala Kruger

Position: Acting chief director: SCM

Date: 5 July 2012

**Auditor’s conclusion**

We agree with management that that the closing balance on the T&S advance suspense account at 31 March 2012 was R299 727,45 for head office. We have agreed this amount to the schedule. However the following accounts were not timeously followed up:

| **Persal Nr** | **Date** | **Reference Number** | **Description** | **Advance taken** | **Amount Deducted** | **Balance** |
| --- | --- | --- | --- | --- | --- | --- |
| 18542077 - In service | 8/6/2009 | AP 0000067709 | Germany | 5 127,45 | 0,00 | 5 127,45 |
| 18601031 - In service | 11/10/2005 | AP 0000252796 | London | 17 574,05 | 0,00 |  |
|  | 15/11/2005 | AP 0000267852 | Botswana | 901,73 | 0,00 |  |
|  | 2/5/2006 | AP 0000338755 | Uganda | 8 348,91 | 0,00 |  |
|  | 3/8/2006 | AP 0000352222 | DRC | 4 140,58 | 0,00 |  |
|  | 20/06/2007 | AP 0000399376 | Not indicated | 5 473,85 | 0,00 |  |
|  | 10/3/2008 | AP 0000450874 | Not indicated | 1 208,94 | 0,00 |  |
|  | 14/03/2008 | GJ 0000043269 | Not indicated | 0,00 | 25 097,85 |  |
|  | 19/09/2008 | AP 0000030489 | New Zealand | 10 903,35 | 0,00 |  |
|  | 15/10/2008 | GJ 0000004078 | Not indicated | 0,00 | 988,57 |  |
|  | 26/11/2008 | AP 0000042735 | Uganda | 1 396,00 | 0,00 |  |
|  | 26/11/2008 | AP 0000043125 | Not indicated | 1 085,80 | 0,00 |  |
|  | 24/03/2009 | AP 0000059240 | Uganda | 3 585,35 | 0,00 |  |
|  | 01/09/2009 | AP 0000077869 | New Zealand & Australia | 4 613,90 | 0,00 |  |
|  | 15/06/2010 | GJ 0000020345 | Not indicated | 0,00 | 10 071,59 |  |
|  | 13/08/2010 | GJ 0000022181 | (24/05/2009-27/05/2009) |  | 2 815,85 |  |
|  | 13/08/2010 | GJ 0000022182 | (12/03/2006-16/03/2006) |  | 4 226,15 | 16 032,45 |
| 18649726  - In Sevice | 2/9/2004 | AP 0000073817 | Meetings in CTN | 1 000,00 | 0,00 |  |
|  | 14/10/2004 | GJ 0000004153 | Not indicated | 0,00 | 4 746,11 |  |
|  | 12/10/2005 | AP 0000253094 | USA | 7 674,88 | 0,00 |  |
|  | 15/12/2006 | GJ 0000031090 | Not indicated | 0,00 | 6 167,47 |  |
|  | 9/1/2009 | AP 0000048772 | Brazil | 4 670,60 | 0,00 |  |
|  | 16/01/2009 | AP 0000049346 | Brazil (DP) | 4 670,60 | 0,00 |  |
|  | 09/06/2011 | AP 0000155229 | Not indicated | 2 754,79 | 0,00 |  |
|  | 24/11/2011 | AP 0000175591 | Not indicated | 4 723,36 | 0,00 |  |
|  | 30/11/2011 | AP 0000176621 | Not indicated | 2 595,79 |  |  |
|  | 12/03/2012 | AP 0000187615 | Not indicated | 9 280,41 |  |  |
|  | 26/03/2012 | DT 0001567770 | Not indicated |  | 589,51 | 25 867,34 |
| 18651640 - In service | 12/10/2011 | AP 0000170486 | Not indicated | 7 658,31 |  | 7 658,31 |
| 18859763 - In service | 18/08/2006 | AP 0000354088 | Valuations - Cape Town | 2 555,00 | 0,00 | 2 555,00 |
| 19065469 - In service | 17/09/2008 | AP 0000030163 | DRC | 6 312,45 |  |  |
|  | 11/10/2011 | AP 0000170433 | Not indicated | 2 489,45 |  |  |
|  | 17/11/2011 | AP 0000175100 | Not indicated | 718,20 |  |  |
|  | 24/11/2011 | AP 0000175589 | Not indicated | 647,94 |  | 10 168,04 |
| 21365393 - In services | 7/11/2005 | AP 0000265578 | Polokwane | 345,00 | 0,00 |  |
|  | 15/11/2005 | AP 0000267852 | Botswana | 901,73 | 0,00 |  |
|  | 21/11/2005 | AP 0000269150 | Zimbabwe | 848,63 | 0,00 |  |
|  | 20/06/2007 | AP 0000399376 | Italy | 5 473,85 | 0,00 |  |
|  |  | GJ 0000037775 | Claim for Italy | 0,00 | 5 408,43 |  |
|  | 29/02/2008 | GJ 0000042747 | Not indicated | 0,00 | 1 716,01 |  |
|  | 7/3/2008 | AP 0000450607 | Tanzania 07/10/2007-10/10/2007 | 1 212,33 | 0,00 |  |
|  | 26/09/2008 | GJ 0000003807 | New Zealand 16/04-20/04/2008 | 10 903,35 | 0,00 |  |
|  | 26/11/2008 | AP 0000042735 | Uganda 13/10-15/10/2008 | 1 396,00 | 0,00 |  |
|  | 20/01/2009 | AP 0000049699 | New Zealand 07/04-20/04/2008 | 4 613,90 | 0,00 |  |
|  | 23/03/2009 | AP 0000059234 | Dubai 24/05/2008 - 28/05/2008 | 2 815,85 | 0,00 |  |
|  | 15/09/2009 | GJ 0000013642 | Limpopo | 1 500,00 | 0,00 |  |
|  | 29/06/2010 | AP 0000115717 | Not indicated | 720,00 | 0,00 |  |
|  | 24/08/2011 | GJ 0000030872 | Not indicated | 940,00 |  | 24 546,20 |
| 21844381 - in service | 3/10/2007 | AP 0000420366 | Not indicated | 1 416,39 | 0,00 |  |
|  | 14/12/2007 | GJ 0000041271 | Not indicated | 0,00 | 1 416,35 |  |
|  | 22/01/2008 | AP 0000439087 | Trip to Durban | 1 279,50 | 0,00 |  |
|  | 14/03/2008 | GJ 0000043269 | Claim for trip to Durban | 0,00 | 1 368,00 |  |
|  | 06/07/2011 | AP 0000159020 | Not indicated | 1 309,00 |  |  |
|  | 30/08/2011 | AP 0000164414 | Not indicated | 354,00 |  |  |
|  | 05/10/2011 | AP 0000169925 | Not indicated | 529,00 |  | 2 103,54 |
| 22294279 - in service | 19/02/2008 | AP 0000445190 | Trip to Cuba | 5 518,20 | 0,00 | 5 518,20 |
| 22386696 - in service | 7/7/2008 | AP 0000016525 | Trip to New York 19/01-26/01/2008 | 4 699,14 | 0,00 | 4 699,14 |
| 22509984 - in service | 26/09/2011 | GJ 0000031736 | Not indicated | 1 880,00 |  | 1 880,00 |
| 22681078 - in service | 15/06/2010 | GJ 0000020345 | (Lesotho 28/04/2010 - 1/05/2010 ) | 0,00 | 1 542,00 |  |
|  | 12/10/2011 | AP 0000170486 | Not indicated | 7 658,31 |  | 6 116,31 |
| 23780134 - Transferred | 22/06/2011 | GJ 0000029343 | Not indicated | 2 223,00 |  |  |
|  | 16/08/2011 | AP 0000162870 | Not indicated | 1 130,00 |  |  |
|  | 28/09/2011 | GJ 0000031828 | Not indicated | 886,00 |  |  |
|  | 04/10/2011 | AP 0000169827 | Not indicated | 1 000,00 |  |  |
|  | 05/10/2011 | GJ 0000032004 | Not indicated | 1 685,00 |  |  |
|  | 15/11/2011 | GJ 0000032926 | Not indicated |  | 395,00 | 6 529,00 |
| 53467337 - Transferred | 7/10/2009 | AP 0000083503 | Trip to Limpopo 17/09-18/09/2009 | 250,00 | 0,00 |  |
|  | 9/12/2009 | AP 0000092303 | Trip to Free State (20/11-21/11/2009) | 500,00 | 0,00 |  |
|  | 2/2/2010 | AP 0000098243 | Vietnam (05/12-13/12/2009) | 5 339,10 | 0,00 |  |
|  | 3/3/2010 | CR 0000031906 | Regional Office Pretoria receipt | 0,00 | 280,60 |  |
|  | 24/03/2010 | AP 0000107850 | Trip to Limpopo - (19/03/2010-21/03/2010) | 250,00 | 0,00 |  |
|  | 03/05/2011 | AP 0000151123 | Not indicated | 786,00 |  |  |
|  | 02/08/2011 | AP 0000161452 | Not indicated | 4 756,00 |  |  |
|  | 05/09/2011 | GJ 0000031177 | Not indicated | 443,00 |  |  |
|  | 15/11/2011 | GJ 0000032926 | Not indicated |  | 529,00 |  |
|  | 19/12/2011 | AP 0000179103 | Not indicated | 16 628,55 |  | 28 143,05 |
| 53474309 - Resigned | 26/06/2009 | AP 0000068831 | JHB - DBN - CTN 29/05/2009-01/06/2009 | 900,00 | 0,00 |  |
|  | 20/08/2009 | AP 0000075210 | Trip to Mpumulanga 07/08-10/08/2009 | 4 000,00 | 0,00 |  |
|  | 20/08/2009 | AP 0000075210 | Petrol for hired vehicle for Minister 08/2009 | 1 000,00 | 0,00 |  |
|  | 15/10/2010 | GJ 0000023494 | Claim 11-13/08/2010 Harvey to submit invoice | 0,00 | 1 437,70 |  |
|  | 10/12/2010 | GJ 0000025458 | Belgium & Denmark (26/10-04/11/2010) | 14 919,76 |  |  |
|  | 20/12/2010 | AP 0000136448 | Belgium & Denmark (26/10-04/11/2010) | 13 569,24 |  |  |
|  | 31/03/2011 | AP 0000149593 | Lesotho (11/08-13/08/2010) | 2 250,00 |  |  |
|  | 30/03/2012 | GJ 0000037258 | Not indicated |  | 10 176,96 |  |
|  | 30/03/2012 | GJ 0000037258 | Not indicated |  | 280,50 |  |
|  | 30/03/2012 | GJ 0000037258 | Not indicated |  | 11 189,82 |  |
|  | 30/03/2012 | GJ 0000037258 | Not indicated |  | 491,95 |  |
|  | 30/03/2012 | GJ 0000037258 | Not indicated |  | 304,99 | 12 757,08 |
| 53500725 -  Transferred | 13/05/2011 | AP 0000152171 | Not indicated | 188,00 |  |  |
|  | 02/08/2011 | AP 0000161452 | Not indicated | 4 756,00 |  |  |
|  | 17/08/2011 | GJ 0000030653 | Not indicated | 1 928,00 |  |  |
|  | 30/082011 | AP 0000164439 | Not indicated | 718,00 |  |  |
|  | 07/09/2011 | GJ 0000031250 | Not indicated | 443,00 |  |  |
|  | 28/09/2011 | GJ 0000031828 | Not indicated | 631,00 |  |  |
|  | 04/10/2011 | AP 0000169827 | Not indicated | 1 000,00 |  |  |
|  | 11/01/2012 | AP 0000180631 | Not indicated | 521,19 |  | 10 185,19 |
| 74071553 - in service | 03/05/2011 | AP 0000151123 | Not indicated | 786,00 |  |  |
|  | 09/05/2011 | AP 0000151907 | Not indicated | 121,00 |  |  |
|  | 26/05/2011 | AP 0000153283 | Not indicated | 828,00 |  |  |
|  | 15/06/2011 | AP0000155978 | Not indicated | 376,00 |  |  |
|  | 16/08/2011 | AP 0000162870 | Not indicated | 130,00 |  | 2 241,00 |
| 79052355 - In service | 03/05/2011 | AP 0000151123 | Not indicated | 786,00 |  |  |
|  | 09/05/2011 | AP 0000151907 | Not indicated | 121,00 |  |  |
|  | 26/05/2011 | AP 0000153283 | Not indicated | 828,00 |  |  |
|  | 15/06/2011 | AP 0000155978 | Not indicated | 376,00 |  |  |
|  | 16/08/2011 | AP 0000162870 | Not indicated | 130,00 |  | 2 241,00 |
| 80090419 in service | 19/09/2008 | AP 0000030489 | Trip to Cuba (DP) | 15 476,60 | 0,00 | 15 476,70 |

We also agree that a new travel and subsistence directive policy was approved on the 7 March 2012. The implementation thereof will be audited in the 2012-2013 financial year.

We also agree with management that communications were made to employees relating to long outstanding advances. However, actions need to be taken in order for these amounts to timeously be recovered and to avoid any amounts being written off.

Management agreed with the finding that long outstanding amounts were not included in the employees salaries as required by tax legislation. The matter therefore remains unresolved.

1. **Deviations from supply chain management –MaphaleMotuba – Pretoria region Ex 76**

**Audit Finding**

Laws, rules and legislation:

a) Practice Note 8 of 2007/ 2008 paragraph 3.3.1 states:

*“Accounting officers/ authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.”*

b) Treasury Regulations 16A6.1 states the following:

*“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.”*

c) The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

d) Regulationissued in terms ofPreferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001 paragraph 3(1) requires that:

*“The 80/20 preference point system- (1)The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

*Where*

**

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

*e)* PFMA Section 40 paragraph 40 (1) (a)

*“ The accounting officer for a department, trading entity or constitutional institution must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

The following deviations were noted:

Order number 169169 relates to the procurement of prestige assets, curtains. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **FANO** | **TOTAL AMOUNT AWARDED** | **ITEM SELECTED FOR TESTING** |
| MaphaleMotubaCreations | 169169 | R328 122,78 | R19 983,06 |
| R92 476,80 |
| R33 242,40 |
| **Total value of items selected** | | | **R145 884,26** |

The detail of the invoice is as follows:

|  |  |  |
| --- | --- | --- |
| **Description of items** | **Quantity** | **Unit cost including VAT** |
| **R** |
| Rod, rail | 2 | 1 732,80 |
| Rod, rail | 6 | 6 087,60 |
| Rod, rail | 3 | 3 180,60 |
| Rod, rail | 2 | 4 195,20 |
| Rod, rail | 3 | 1 908,36 |
| Lace(Voile) | 1 | 21 107,10 |
| Venetian Blinds | 6 | 19 983,06 |
| Venetian Blinds | 3 | 12 465,90 |
| Venetian Blinds | 3 | 18 126,00 |
| Tieback | 6 | 3 078,00 |
| Lace(Voile) | 2 | 3 283,20 |
| Lace(Voile) | 2 | 92 476,80 |
| Curtain | 2 | 12 667.68 |
| Curtain | 3 | 29 220,48 |
| Curtain | 3 | 33 242,40 |
| Curtain | 2 | 26 744,40 |
| Curtain | 1 | 38 623,20 |
| **GrandTotal** |  | 1. **122,78** |

a) The department invited the following suppliers to submit quotations:

1. Into Fabric & Design
2. Senex Interior
3. Maphale Fabrics & Design
4. Elrika Interior
5. Motse Interior

Contrary to the legislation listed above a request for a quotation was submitted to Elrika Interior who was not a prospective supplier listed on the prospective supplier list, provided for audit purposes.

b) Furthermore the invoices received from the winning supplier (MaphaleMotubaCreations), does not appear to be consistent when compared to each other. Invoice number 250 for the amount of R328 122,78 differs from invoice 256 for the amount of R139 807,83 in the following manner:

1. Invoice 256 indicates the suppliers VAT registration number whereas invoice number 250 does not.
2. The total per invoice 256 includes VAT whereas the total per invoice 250 does not state if it includes VAT or not.
3. Invoice 256 indicates the unit price of an item whereas invoice 250 does not.
4. The alignment of the tables in both invoices differs.

It does make sense for a supplier, who is a registered VAT vendor, to charge VAT on some of their invoices and not on others especially since goods purchased relate to taxable supplies. Based on the above the procurement therefore appears to be indicators to warrant further investigation of potential fraudulent activities.

c) It further appears as if Maphale Fabrics & Design only provide services to DPW based on the sequence of the invoice numbers on different payments made to the service provider.

|  |  |  |  |
| --- | --- | --- | --- |
| **Batch** | **Invoice number** | **Date on invoice** | **R** |
| 169169 | 250 | 30 August 2011  Date written in | 328 122,78 |
| 167711 | 252 | 30 August 2011 | 16 599,60 |
| 169144 | 253 | 19 September 2011 | 34 130,00 |
| 172011 | 255 | 10 October 2011 | 19 380,00 |
| 175408 | 256 | 21 October 2011 | 139 807,83 |

d) Per inspection of the department’s PA-20(Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the preferential procurement policy framework. Please note that although an incorrect formula was used it does affect the outcome.

Please see the table below for differences identified in the point calculations:

| **SUPPLIER EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| --- | --- | --- | --- |
| MaphaleMotuba Creations | 97,00 | 97,00 | 0,00 |
| Senex Interior | 61,00 | 53,00 | 7,00 |
| Info Fabrics & Design | 77,00 | 71,00 | 6,00 |

e) As per inspection of the SCOA it was noted that blinds should be disclosed as F&O/EQP<R5000:LINEN&SOFT FURNISH, however it was noted that the department has disclosed as F&O/EQP<R5000:DOMESTIC FURNITURE, therefore blinds were incorrectly classified. The incorrect classification will not have an impact on the disclosure in the financial statements.

The finding occurred as a result of the fact that:

1. As per discussion with the assistant director: procurement, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

b) As per discussion with DD: Supplier’s Register (SCM) it was noted that the department uses a separate suppliers list for the procurement of prestige assets, the suppliers are not included in the suppliers database. Per inspection of the separate database Elrika Interiors was included in the database.

c) As per discussion with ASD:Finance it was noted that the department was not aware of the differences in the format for the invoices, the other invoice no including the VAT number the department has now introduced a new system if the invoice does not say VAT or the supplier has used the incorrect VAT, the department only pays the amount excluding VAT.

Similar findings were also noted in the 2010/2011 financial year. The department’s audit clearing action plan indicated that the following actions will be implemented to address the issue:

a) The pro-quote database is currently being cleansed to update information.

b) Checklists for orders and payments have been reviewed and updated.

Impact of the finding:

a) There is a risk that quotations may have been requested from fictitious suppliers.

b) Non-compliance with Practice Note 8 of 2007/ 2008 and Treasury Regulations 16A6.1.

c) Non Compliance withPreferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001.

d) F&O/EQP<R5000:DOMESTIC FURNITUREbeing overstated by R19 983,06 and F&O/EQP<R5000:LINEN&SOFT FURNISH being understated byR19 983,06. The incorrect allocations will however not have an impact on the disclosure in the financial statements.

e) Risk of payments being made to favoured suppliers.

f) Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

## Financial and Performance Management

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

*The department did not procure goods and service in accordance with the supply chain management requirements*

**Recommendation**

a) The department should only request for quotations from suppliers listed on the prospective supplier list. In cases where they are unable to obtain quotations from suppliers listed on the prospective supplier list the deviation should be approved by an appropriately delegated official.

b) All points must be calculated in accordance with the preference point formula.

c) A test of the automated system should be performed and data input onto the system should be reviewed by a second person.

d) The department should ensure that the official responsible to record the goods and services procured should records the goods per SCOA’s, to ensure that goods are recorded to the correct accounts.

e) All accounts recorded should be monitored and reviewed by delegated official who is senior to the official who record before the compilation of the financial statements.

f) The procurement pertaining to this service provider should be investigated to determine if there were any irregularities involved. Disciplinary actions need to be instigated if required.

**Management response**

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

The prestige acquisition is currently done manually with a list of prestige service providers adopted from Pretoria Regional Office as per decision made by management that prestige acquisition will be done by Head Office as from 2009. A manual list adopted from Pretoria Regional Office specifically for prestige is categorized as follows:

| **Type of commodity** | **Number of Service Providers on the list** |
| --- | --- |
| Furniture | 14 |
| Curtains and fabrics | 9 |
| Interior decorators | 33 |
| Building | 8 |
| Pest control | 2 |
| Lock smith | 1 |
| Air conditioning | 1 |
| Electrical and electronics | 8 |
| Generator | 2 |
| Mechanical | 3 |
| Sound and lighting | 6 |
| Buying of silver | 2 |
| Cleaning | 18 |
| Cleaning material | 03 |
| Linen | 05 |
| Kitchen wear | 01 |
| Cut glass | 02 |
| Antique furniture | 02 |
| Repair work of silverware and furniture | 04 |
| Household and electrical appliance | 03 |
| Banquet and set up | 02 |

It is a requirement that all prestige service providers must be vetted and NIA cleared.

| **DESCRIPTION** | **RESPONSE** | | |
| --- | --- | --- | --- |
| Corrective action to be taken: | Implement Proqoute system for acquisition of prestige suppliers | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | No |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | Director: Demand and Acquisition | | |
| Estimated completion date for corrective action: | End of September 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  | No | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | The national Treasury Practice Note allow DPW to source outside the database. | | |

*Name:*BassieKgasoane

*Position: Chief Director: Prestige*

*Date:*

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

The quotation received indicated that the amount is VAT inclusive but DPW note that there is a discrepancy in the form of the invoices and agrees with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | To investigate the discrepancy in the invoices | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | No |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | Director: Inspectorate and Compliance | | |
| Estimated completion date for corrective action: | End of September | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:*BassieKgasoane

*Position: Chief Director: Prestige*

*Date:*

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

We note that however the Department is constraint to give a comment on the invoicing system of the service provider

*Name:*BassieKgasoane

*Position: Chief Director: Prestige*

*Date:*

d) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

The scoring model used was based on the CIDB model but it was corrected since November 2011 to reflect the correct formula.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The correct formula is currently in use. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* Bassie Kgasoane

*Position: Chief Director: Prestige*

*Date:*

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

I am in agreement with the finding. A journal will be processed to correct the error on or before 30 June 2012.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | A journal will be processed to correct the error | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | Director Supply Chain and Management: Pretoria Regional Office. | | |
| Estimated completion date for corrective action: | July 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* BassieKgasoane

*Position: Chief Director: Prestige*

*Date:*

**Auditor’s conclusion**

1. Per inspection of the prestige supplier list provided by management together with their response, it was noted that the supplier is listed as a prospective supplier.

However please take note of the following:

1. The prestige supplier register was not provided together with management’s response on our initial request for supplier registers (RFI 82).
2. The prestige supplier list is not uploaded on the pro-quote database, it is therefore not apparent how management ensures that suppliers are rotated in accordance with SCM practices.

The matter therefore remains unresolved.

1. Management is in agreement with the finding. The matter therefore remains unresolved.

It is however, recommended that management ensure that this matter is further investigated.

1. Management is not in agreement with the finding and indicated that they are “constrained to give comments on the invoicing system” of the service provider. The discrepancies reported in paragraph (b) and the fact that it appears as if DPW is the main customer of this service provider warrant further investigations of potential fraudulent activities. The matter therefore remains unresolved.
2. Although management is not agreement with the finding and has indicated that the scoring model has been amended, the incorrect scoring model was used for the procurement.

The matter therefore remains unresolved.

1. Although management has indicated that they are in agreement with the finding, no supporting documentation was provided indicating that they have passed a journal.

The matter remains unresolved.

1. **Deviations from supply chain management – Kayro’s Decorating Planet – Pretoria Region Ex 77**

**Audit Finding**

Laws, rules and legislation:

1. Practice Note 8 of 2007/ 2008 paragraph 3.3.1 states:

*“Accounting officers/ authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.”*

1. Treasury Regulation 16A6.1 states:

*“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.”*

1. In terms of Practice Note 7 of 2009/10, effective date of 2 October 2009, paragraphs 4.1.2 and 4.2 requires the following pertaining to SBD 4 forms,:

*“4.1.2 with effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting price quotations, advertised competitive bids, limited bids or proposals. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.*

*4.2 Use of the SBD 4 when establishing lists of potential / prospective suppliers when obtaining quotations  The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.”*

1. Regulation issued in terms of Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 paragraph 3(1) requires that:

*“The 80/20 preference point system – (1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30 000, if and when appropriate:*

**

*Where*

*Ps = Points scored for price of tender under consideration*

*Pt = Rand value of offer tender consideration*

*Pmin = Rand value of lowest acceptable tender”*

1. The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

The following deviations were noted:

Batch number 152027 relates to the procurement of prestige assets, curtains from Kayro’s Decorating Planet, on 10 May 2011. Please see the table below for information on the payment selected for testing:

|  |  |  |  |
| --- | --- | --- | --- |
| **Batch Number** | **Items purchased** | **Total value of the award** | **Values of items selected for testing** |
| **R** | **R** |
| PM-018570 - OR-010342 | Curtains | 236 844,05 | 17 726,85 |
| Cushions | 6 716,88 |
| Curtains | 12 897,60 |
| **Total** | | | 1. **341,33** |

a) The department requested quotations from the following suppliers:

1. Montsho’s Curtain Design
2. J Kekana
3. Maphale Fabrics
4. Mosiwa Enterprise
5. Senakakgwedi Security and Design
6. Kayros Décor Planet
7. Smart Curtains
8. Surface Design

Contrary to the legislation listed above it was noted that quotations were requested from Montsho’s Curtain Design as well as Senakakgwedi Security and Design, who are not listed as a prospective suppliers on the department’s database.

b) Furthermore, the following discrepancies were noted on winning supplier’s invoice:

(i) The name of the company was incorrectly spelt on the tax invoice, as “Kayro’ decorating planet cc” instead of “Kayro’s decorating planet cc”.

(ii) The email address on the invoice ([deignkayro@webmail.co.za](mailto:deignkayro@webmail.co.za)) is not the same as the email address on the company stamp ([kayro@webmail.co.za](mailto:kayro@webmail.co.za))

(iii) The trading name of the company per the tax clearance certificate (Kayro’s decorating planet) is not the same as the supplier’s trading name on the SARS website (Kay’s Décor Planet).

1. Per inspection of the procurement information provided it was noted that no documentation was attached indicating that the supplier has completed the SBD 4 (declaration of interest) or PA-11 (declaration of interest and the bidders past Supply Chain Management practices) of the department as required by Practice Note 7 of 2009/10.
2. Per inspection of the PA 20 as well as the PA 16.3 we noted that preferential points were calculated using an incorrect formula, for all bidders evaluated under the quotation. The department did not use Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001 paragraph 3(1) as required; please note however this does not affect the outcome. Please see the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| Maphale Motuba Creations | 76,64 | 76,49 | 0,15 |
| Surface Design | 65,74 | 62,65 | 3,09 |
| Smart Curtains | 65,18 | 61,80 | 3,38 |

The finding occurred a result of the fact that:

a) As per discussion with DD: Supplier’s Register (SCM) it was noted that the department uses a separate suppliers list for the procurement of prestige assets, the suppliers are not included in the prospective supplier’s list. Per inspection of the separate database Senakakgwedi Security and Design was included in the database.

c) As per discussion with ASD: Finance it was noted that the department was not aware of the differences in the format for the invoices.

b) As per discussion with the assistant director: procurement, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

e) As per discussion with the senior administration officer: procurement (Prestige) it was noted that the SBD (4), (declaration of interest) or PA-11 (declaration of interest and the bidders past Supply Chain Management practices) are kept at the head office by the SCM unit (acquisition).

Similar findings were also noted in the 2010/2011 financial year. The department’s audit clearing action plan indicated that the following actions will be implemented to address the issue:

1. The pro-quote database is currently being cleansed to update information.

b) Checklists for orders and payments have been reviewed and updated in conjunction with Financial Administration.

1. The new SCM Practice Notes was implemented throughout the department.

Impact of the finding:

1. Irregular expenditure being understated with R236 0844,05 due to the non-compliance with the Practice Note 7 of 2009/10 as neither the SBD 4 certificate nor the equivalent of the department (PA-11) was completed as required.
2. Non-compliance with the Preferential Procurement Policy Framework Act 5 of 2000 GN R725 of 10 August 2001.
3. The discrepancies present on the supplier’s invoice as well as the variance between the trading name on the invoice vs. the name on the tax clearance certificate might potentially be indicative of irregularities.
4. Non-compliance with Practice Note 8 of 2007/ 2008 as quotations were requested from suppliers not included on the department’s database of prospective suppliers.

**Internal control deficiency**

## Leadership

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

1. All points must be calculated in accordance with the preference point formula stipulated in the PPPFA.
2. A test of the automated system should be performed to ensure that the calculation is being performed in line with the prescripts contained in the PPPFA and data input onto the system should be reviewed by a second person.
3. Invitation for quotations must stipulate as a condition to tender that bidders must sign and submit a declaration of interest.
4. Prospective suppliers must be required to submit a declaration of interest when they apply for registration on the list.
5. The abovementioned conditions must clearly be stated in the SCM policy.
6. The department should ensure that all relevant supporting documentation is attached to the procurement batches.
7. The department should probe the discrepancies on the invoice/tax clearance certificate highlighted in the finding to ensure that there are no irregularities present.

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | For prestige requirements, the department had separate suppliers list that were vetted but we will upload the prestige service providers onto a normal departmental database after vetting is completed. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **No** |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: | Director: DAM | | |
| Estimated completion date for corrective action: | End of September 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  | **No** | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | That the delegated authority considered and approved the deviation is an indication that management exercised oversight, and implemented the internal controls in place. Root cause is that there is a limited security vetted list of prestige service providers | | |

b) I am in agreement with the finding for the following reasons:

1. Quotation unit does not deal with invoices; therefore we requested assistance from Finance. We will investiagate.
2. The important information when transacting with a vendor is the Name of the Entity, names of shareholders and Identity Numbers, Company registration and Income Tax as well as Vat number. Vendors turn to change emails for various reasons and update files as such.
3. The department cannot provide an answer based on what is on the website of SARS, our records as per Registrar of Companies & Close reflect “Kayro’s Decorating Planet CC” and SARS as Kayro’s Decorating Planet

c) The PA-20.1 scoring model is a standard form used to calculate points manually. When using the electronic version, the system automatically take the total score to the nearest decimal hence if you compare PA-16 and electronic calculation you will realize a slide change.

The HDI calculation for the losing bidder is in line with what is been claimed on PA16.3 by the shareholders. They claimed 90+10 for HDI and 90+10 for women and 0 for Disabled subsequently the PA20 reflect that their total score claimed is 18 points of which 14 for HDI and 4 for Women (annexure B).

It is conceded however that the scoring model that was used was based on the CIDB formula!

Name: Eulala Kruger

Position: Acting Director – Supply Chain Management

Date: 28 June 2012

**Auditor’s conclusion**

1. Although it was noted that management has provided us with a manual list for prestige and the supplier is listed on the prestige register, the following can be noted:
2. The prestige register was not provided together with management’s response to our request for supplier registers (RFI 82).
3. The list provided has not been signed or approved.
4. The department can easily add and delete suppliers of the list as it is not uploaded onto a system.

The matter therefore remains unresolved.

1. Management is in agreement with the finding, the matter therefore remains unresolved.
2. Management has not provided a response. The matter therefore remains unresolved.
3. Although management is not in agreement with the finding and has indicated that the differences noted is a rounding error, the following was noted:
4. The formula per the PA-20 (scoring model) used to calculate the point is not in accordance with the formula per the PPFR.
5. Not all of the differences noted above can be attributed to rounding differences.

The matter therefore remains unresolved.

1. **Partially paid or none payment for accommodation by other clients departments not disclosed in the related party disclosure note. Ex 82**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act sections 40 and 41 states the following:

i) section 40(1)

*“The accounting officer for a department, trading entity or constitutional institution-*

*(a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

ii) section 41

*“An accounting officer for a department, trading entity or constitutional institution 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”*

1. Treasury Regulations 17.2.1 states:

*“Accounting officers of institutions must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows-*

1. *information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or*
2. *information relating to more than one financial year – for one after the date of the audit report for the last of the financial years to which the information relates.”*

A list of all entities who partially pay for accommodation or who do not pay for accommodation together with the following information was requested on 23 March 2012 and was due on 27 March 2012, however as at 11 April 2012 only a list of entities or departments was submitted:

1. The parties responsible for bearing the remainder of the cost or the total cost
2. The total amounts for the current and prior year

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |  |

The finding occurred as a result of the fact that:

The department is still acquiring the information.

Impact of the finding:

a) Non compliance with Section 40 and 41 of the PFM

b) Non compliance with TR 17.2.1.

c) A limitation of scope being placed on the audit.

**Internal control deficiency**

*Financial and performance management*

*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**

1. All information requested be provided to the AGSA within three days from the date of request.
2. The information provided should also indicate the name of the property and the physical address per department.
3. The schedule should indicate and quantify all types of costs incurred pertaining to the buildings which are not recovered or only partially recovered.

**Management response**

I am in agreement with the finding and the requested information has been submitted

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **X** |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **x** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* J Prinsloo

*Position: CD*

*Date: 18/05/2012*

**Auditor’s conclusion**

The information has now been submitted on 18 May 2012.

The department should ensure that all instances where the Department of Public Works are providing other departments/entities with accommodation free of charge or for a reduced cost are comprehensively disclosed in the related party disclosure note of the Department of Public Works in line with the following provisions pertaining to related party transactions in the annual preparation guide by National Treasury:

Chapter 8 – page 32 requires the following under related party transactions:

“However for the 2011/12 financial year the following applies:

(a) a department need only disclose those related party transactions that in terms of the above qualify for disclosure, between itself and the public entities falling under its Minister/MEC‟s portfolio. The disclosures exclude transfers & subsidies paid to public entities where these have been included in the annexures to the financial statements. However, the fact that the public entity is a related party should be included in this note; (e.g. the National Treasury will only list the ASB, FSB, IRBA, StatsSA, SARS etc); but

(b) where a department transacts with another party other than those under (a) above and these transactions were not at arms-length then the relationship and the transaction must be disclosed. (e.g. if the Department A occupied a building owned by DPW without paying for this service then the relationship and the fact that a building is provided free of charge would have to be disclosed in the notes to the Department A‟s AFS).” (own emphasis added)

Year end follow up: Although the department responded to the finding on 18 May 2012 and the auditor’s conclusion was discussed in the audit steering committee meeting of 30 May 2012, the department did not disclose the related party transactions as indicated above in the financial statements. Communication of factual finding 237 was issued in this regard.

1. **Deviations from SCM – Mokonyane Catering Service – PTA Region Ex 98**

**Audit Finding**

Laws, rules and legislation:

a) The department’s SCM policy paragraph’s 49 and 50a. states:

*“49 A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register.*

*50 The following key principles will apply to the supplier register:*

*a. The use of the register will be mandatory for the acquisition through the quotation procedure for all goods and services.”*

b) Practice Note 8 of 2007/08 paragraph 3.2 states:

*“Accounting officers / authorities may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally.”*

The following non compliance was identified during the audit of the procurement catering services pertaining to the batch as indicated in the table below:

|  |  |  |
| --- | --- | --- |
| **Supplier** | **Batch Number** | **R** |
| Mokonyane’s Catering and General Services | 157999 | 9 240,00 |

Contrary to the requirements listed above a request for quotation was submitted to Malindo Properties and Entertainment who was not a prospective supplier listed on the prospective supplier list, provided for audit purposes.

No documentation was provided indicating that suppliers on the prospective supplier list is unable to provide the required goods, resulting in the department soliciting quotations from other suppliers.

Potential impact of the findings raised above:

a) Requests for quotations may be issued to favoured suppliers.

b) Non compliance with the SCM policy of the department

Reason for the deviation:

As per discussion with the DD: Acquisition(SCM) it’s was noted that department has a suppliers register were all suppliers that can provide cleaning materials are registered and when the department needs service they will contact the relevant supplier.

Similar findings were also noted in the 2010/2011 financial year. The department’s SCOPA action plan indicated that the following actions will be implemented to address the issue:

1. Update the supplier list.
2. Improve controls around the use on supplies not on the supplier database.

## Internal control deficiency

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

## Recommendation

a) The department should only request quotations from suppliers listed on the prospective supplier list.

b) The prospective supplier list should be regularly updated to ensure that there are sufficient suppliers available to procure the required services from.

**Management response**

No management response has been received

**Auditor’s conclusion**

Although this finding was issued on 16 July 2012 to management, at 8 August 2012, no response has been received from management. The matter therefore remains unresolved.

1. **Deviations from supply chain management requirements – Spadi Civil Building Construction – Pretoria regional office Ex 122**

**Audit Finding**

Laws, rules and legislation:

1. PFMA paragraph 38(1)(c)(ii) states:

*“(1)* *The accounting officer for a department, trading entity or constitutional institution-*

*(c)* *must take effective and appropriate steps to*-

*(ii)* *prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct*;”

b) Treasury Regulation 16A3 states:

*“16A3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain manager system in his or her institution for-*

1. *the acquisition of goods and services;*

*16A3.2 A supply chain management system referred to in paragraph 16A3.1 must be fair, equitable, transparent, competitive and cost effective”*

1. Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

d)     In terms of the PPPFA selection 2(1) (e):

*“Bid documentation specify evaluation and adjudication criteria which include the preference point system (80/20 or 90/10) to be used, 80/20 preference point system is applicable to amounts below R500 000 (i.e. quotes)and 90/10 to those above (i.e. competitive bidding)”*

e*)* Supply chain management policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The following deviations relating to the procurement of uniforms on the 21 September 2011 from Spadi Civil Building Construction has been noted. Please see the table below for information on the payment selected for testing:

|  |  |  |
| --- | --- | --- |
| **Supplier** | **Batch Number** | **R** |
| Spadi Civil Building Construction | 167727 | 1. 60,00 |

a) Contrary to the legislation listed above the department did not obtain and evaluate three written quotations as required by Practice Note 8.

b) Although deviation has been approved by the Acting Director of Finance and SCM, the reasons for not obtaining three valid written quotations do not appear reasonable or justifiable as there are at least 766 suppliers listed on the prospective supplier list who can supply the department with “clothes”.

1. Quotations requested from:

|  |  |  |
| --- | --- | --- |
| **No.** | **Name of service provider** | **On prospective supplier list** |
| 1. | Spadi Civil Building Construction | Yes |
| 2. | Uhuru Holdings | No |
| 3. | Pet Dog and Iglo | Yes |
| 4. | MHJ Marketing | Yes |
| 5. | Insukamini Trading | Yes |
| 6. | Mahlongwa Clothing | Yes |
| 7. | Monatoedi Clothing CC | Yes |
| 8 | Surface Design | Yes |
| 9. | Mthonzima Trading and Project | Yes |
| 10 | Gulukudela Trading | Yes |

1. Quotations received :

* Spadi Civil Building Construction – quotation was accepted
* Uhuru Holdings – disqualified on basis on no tax clearance certificate
* Pet Dog and Iglo – only submitted quotation with materials and not the end product

c) Uhuru Holdings was invited to bid but were not listed on the department’s prospective supplier list as prospective suppliers

No documentation was provided indicating the reasons for soliciting quotations from a supplier not listed on the prospective supplier list.

Furthermore, considering that the pro-quote system can only recommend a supplier that is listed on the supplier database, it is unclear where the department obtained the suppliers information from.

d) No documentation was provided indicating that the department would have evaluated the quotations received in accordance with the Preferential Procurement Framework, as documentation such as the PA-20, scoring model, was not attached to the batch.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance it was noted that a request was sent to ten suppliers. However, only three suppliers responded. Uhuru Holdings and Pet Dog and Iglo were disqualified. He also noted that all quotations are done at Head Office and therefore he doesn’t know why some of the suppliers chosen are not on the prospective supplier list.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the Director of Supply Chain before approval is given. The target date for the aforementioned actions was December 2011.

Impact of the finding:

1. The non compliance with Practice Note 8 of 2007/2008, as deviations were approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement may possibly contribute to the expenditure of R63 460,00 being classified as irregular.

b) Risk of payments being awarded to favoured suppliers.

c) Since the department did not obtain and evaluate three valid quotations, nor were all of the quotations requested from suppliers on the prospective supplier list, the goods may not have been obtained at a reasonable price.

1. Increased risk of bribery and fraudulent activities.

**Internal control deficiency**

*Leadership*

1. Management did not provide effective leadership based on a culture of honesty, ethical

business practices and good governance, protecting and enhancing the interests of the entity

b) Management did not effectively exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

c) Management does not establish and communicate policies and procedures effectively to enable and support understanding and execution of internal control objectives, processes and responsibilities

## Financial and performance management

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

**Recommendation**

a) Deviations from official procurement processes must only be approved in cases where it is impractical or impossible to follow the official procurement process.

b) The list of prospective suppliers must be updated on a regular basis to ensure that suitable prospective suppliers are registered on the list and quotations are only obtained from these suppliers.

c) The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were specified as required.

**Management response**

a) I am not in agreement with the finding for the following reasons

Ten suppliers were invited, however only three responded.

Name: J Thobejane

Position: DD: SCM

Date: 22/06/2012

b) I am not in agreement with the finding for the following reasons

All invites were sourced from the Departmental Pro-quote system, proof of invites is attached in the submission.

Name: J Thobejane

Position: DD: SCM

Date: 22/06/2012

c) I am [not] in agreement with the finding for the following reasons

The Tender evaluation report as per the PPPFA criteria is attached in the submission. The Pro quote system automatically generates a tender evaluation scoring model, not PA 20.

Name: J Thobejane

Position: DD: SCM

Date: 22/06/2012

**Auditor’s conclusion**

1. The department has received three quotations, therefore the matter is resolved.
2. Although management has indicated that supplier is listed on the supplier database, the supplier could not be found on the supplier registers provided for audit purposes. Management has not provided any other information supporting their response.

The matter therefore remains unresolved.

1. The department disqualified two quotations, thus only one quotation remained. Therefore no purpose for the scoring model. The matter is therefore resolved.
2. **Deviations from supply chain management requirements –Maphale Motuba Creations CC – Pretoria regional office Ex 160**

**Audit Finding**

Laws, rules and legislation:

a) PFMA

Section 38(1)(c)(ii) – general responsibilities of accounting officers

*“The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; ”*

b) Practice note 8 of 2007/8 paragraph 3.3.1 to 3.3.3:

*“3.3.1 Accounting officers / authorities should invite and accept written price quotations for requirements up to an estimated value of R500 000 from as many suppliers as possible, that are registered on the list of prospective suppliers.*

*3.3.2 Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers.*

*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”*

c) Supply chain management policy paragraph 49 states:

*“A supplier is a provider of goods or services, which meets the criteria of the Department, is registered on the Department’s supplier register and who is able to perform services or provide goods for the Department. The Department will only contract with suppliers registered on the supplier register. Suppliers to be registered on the Departments supplier register include consultants, professional and specialist service providers, and general goods and service providers.”*

The following issues were identified during the audit of the procurement batch listed below. The service provider provided furniture.

|  |  |  |  |
| --- | --- | --- | --- |
| **SUPPLIER** | **BATCH NUMBER** | **DATE** | **R** |
| **Maphale Motuba Creations** | 172011 | 2011/10/24 | 19 380,00 |

* 1. The department did not obtain and evaluate three written quotations as required by   
      Practice Note 8, paragraph 3.3.1 to 3.3.3. There are currently 1 244 suppliers on list that are able to provide the department with furniture. However, only two quotations were obtained.

1. Requests were send to the following suppliers:

* Fedishia Trading Enterprises
* Vuma Furniture Projects PTY LTD
* Velakude Trading
* Maphale Motuba Creations
* Siyahlobisa Exclusive Furniture
* Ramken General Projects
* Kobane Designs
* Ability Holdings 41

1. Quotations were received from the following suppliers:

* Maphale Motuba
* Ramkem General Projects

No internal memorandum was issued requesting approval to award quotation where less than three quotations were received.

b) Of the eight suppliers from whom quotations were requested, Vuma Furniture Projects (Pty) Ltd was not listed on the department’s prospective supplier list as prospective suppliers.

No documentation was provided indicating the reasons for soliciting quotations from suppliers not listed on the prospective supplier list.

Furthermore considering that the pro-quote system can only recommend a supplier that is listed on the supplier database it is unclear where the department obtained the supplier information from and then also to have the service provider being non- responsive.

The finding occurred as a result of the fact that:

As per discussion with ASD: Finance (Mpho Selepe) requests were sent to eight suppliers, four of which could not be reached. On the closing date, only two suppliers responded and provided quotations. Mr Selepe also noted that, all quotations for prestige are done at head office and as a result head office personnel are responsible for the choice of suppliers and therefore he does not understand why some of the suppliers chosen are not on the prospective supplier list as the regional office’s only deals with the payment.

Matters pertaining to quotations were also raised in the prior financial year. On page 29 of the National Department of Public Works management action plan relating to the audit report for the year ending 31 March 2011, management indicated that they will improve the controls around the use of suppliers on the supplier database. The target date has been indicated as June 2012.

It has been indicated in the action plan that the controls pertaining to three quotes and the updating of the supplier database has been improved. All deviations are first interrogated by the director of supply chain before approval is given. The target date for the aforementioned actions was December 2011.This date is however after the date that this expense was incurred.

Impact of the finding:

1. Irregular expenditure was understated with R19 380 due to deviations being approved for the invitations of three written price quotations from accredited prospective suppliers even though it was possible to comply with the requirement.as required by ractice Note 8 of 2007/08.
2. Non compliance with paragraph 3.3.2 of Practice Note 8 of 2007/2008 as the department obtained quotations from a service provider not on the supplier list even though there are sufficient suppliers on the approved supplier list to provide the services.

c) Since the department did not obtain and evaluate three quotations, nor were all of the quotations requested from suppliers on the prospective supplier list, the goods may not have been obtained at a reasonable price.

**Internal control deficiency**

## Leadership

*The department did not effectively exercise its oversight responsibility regarding financial and performance reporting and compliance and related internal controls.*

## Financial and Performance Management

*The department did not effectively review and monitor compliance with applicable laws and regulations*

**Recommendation**

a) In cases where requests for a quotation are submitted and less than three quotations are received, the department should follow up the reason for non submission with the respective suppliers.

b) It needs to be followed up why the officials keep on sending requests for quotations to service providers who does not respond.

c) The department should request quotations from suppliers on the supplier register.

d) The department must ensure that only in cases where the suppliers per the supplier register is unable to provide the goods desired the department may then request quotations from other suppliers and only after the appropriate approval has been obtained.

e) For each and every payment batch the relevant supporting documents should be attached.

f) The approved supplier list of the department needs to be updated on a quarterly basis. This includes the contact detail of the suppliers. When the supplier list is updated it should be ensured that there is sufficient suppliers to provide the service required by the department.

**Management response**

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

The list indicated above are suppliers that were invited and three responded before the closing date. Therefore three quotations were obtained, however the most cost effective supplier did not respond on a set specification (annexure A).

• Vuma Furniture Projects PTY LTD R 11 628.00.

* Maphale Motuba R 19 380.00.
* Ramkem General Projects R 32 700.00

Because three quotations are obtained therefore there is no need to request approval to deviate and award quotations where less than three quotations were received.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken |  | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions |  | |
| Estimated completion date for corrective action |  | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
|  |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

b) I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

Vuma Furniture Projects PTY LTD is not traceable on the list of Prestige prospective suppliers.

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Corrective action to be taken | Upload the vendors of the prestige on the DPW Supplier Register database | |
| Does the finding affect an amount disclosed in the financial statements | **Yes** | **No** |
|  |  |
| If yes, what corrections will be made to the population |  | |
| If yes and no corrections will be made, the reason why such a conclusion has been reached should be indicated. |  | |
| Position of official responsible to take corrective actions | Director: DAM | |
| Estimated completion date for corrective action | End of September | |

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | |
| Does management agree with the root cause indicated | **Yes** | **No** |
| Yes |  |
| If management does not agree with the root cause indicated, please provide the root cause according to management. |  | |

*Name: Eulala Kruger*

*Position: Acting Chief Director - Supply Chain Management*

*Date: June 2012*

**Auditor’s conclusion**

1. Inspected the quotation register provided together with management’s response and noted that the department did receive three quotations.

The matter is therefore resolved.

1. Management is in agreement with the finding, the matter is therefore unresolved.
2. **Deviation from SCM: KZN Oils – PTA regional office** **Ex 164**

**Audit Finding**

Laws, rules and legislation:

Treasury Regulations paragraph 16A6.6 state that:

*“The accounting officer or accounting authority may, on behalf of the department, constitutional institution or public entity, participate in any contract arranged by means of a competitive bidding process by any other organ of State, subject to the written approval of such organ of State and the relevant contractors.”*

The following issue has been identified during the audit of the procurement batch listed below. The service provider provided petrol:

|  |  |  |
| --- | --- | --- |
| **BENEFICIARY NAME** | **FANO** | **R** |
| KZN OILS | 166382 | 63 580,10 |

As per inspection of the procurement batch 166382 from KZN Oils, it was noted that the department (Pretoria region) has procured petrol using the Transversal contract number RT70-2010 as issued by National Treasury. However, it was noted that the transversal contract indicates that the Department of Public works: Western Cape may participate in the transversal contract, and not the national department of Public Works.

Below is the list of the suppliers and departments that were allowed to participate as per the Transversal contract number RT70-2010: Supply and Delivery of Petrol, Automotive diesel, Illuminating paraffin, marine gas oils, heavy furnace oil, polar diesel and aviation to the paraffin between National Treasury and KZN Oils for the period 01 December 2010 to 30 December 2013.

| **PARTICIPANTS** | **CONTACT PERSON** | **TEL NUMBER** |
| --- | --- | --- |
| Department of Defence and Military veterans | P W Redeemer | 012 312 2857 |
| South African Police Service | L Roods | 012 841 7216 |
| Department of Correctional Services | Pinkie Bapela | 012 307 2981 |
| Department of Environmental Affairs | Chuma Phamoli | 021 405 9423 |
| Department of Water Affairs | Basil Chinasamy | 012 336 7875 |
| Department of Health: Free State | M E Roberts | 051 408 1989 |
| Department of Health: Western Cape | W B Loubser | 021 483 8893 |
| Department of Transport and Public Works: Western Cape | H Strydom | 021 483 8956 |
| Department of Argriculture:Western Cape | Willem van Zyl | 021 483 4930 |
| Office of the Premier: Western Cape | William Tarantal | 021 483 6062 |
| Department of Agriculture, Environmental Affairs and Rural Development: Kwa Zulu Natal | B.L Zikali | 033 355 9170 |

Impact of the finding:

Non-compliance with Treasury Regulations paragraph 16A6.6

The finding occurred as a result of the fact that:

As per discussion with the ASD: SCM it was noted that the Department was not aware that the Pretoria region was not allowed to participate in the transversal contract with KZN Oils.

**Internal control deficiency**

*Financial and performance management*

*The department has not reviewed and monitored compliance with applicable laws and regulations.*

**Recommendation**

Processing must be established to monitor the transversal contracts which the department of Public Works: Pretoria Region participates in; to ensure that when the department decides to procure through a transversal contract, the department should be listed on the list of departments that opted to procure through that specific transversal contract.

**Management response:**

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

The Department deemed it appropriate to source quotations from the listed Service Provider seeing that there was value for money contrary to using quotations that were far too exorbitant. The Department applied the principle of cost effectiveness in the procurement of goods as required by legislation.

*Name:* J Thobejane

Position: DD: SCM

Date: 22/06/2012

**Auditor’s conclusion**

Although management has indicated that they are not in agreement with the finding, no documentation was provided indicating that they have obtained approval from National Treasury to participate in the contract.

The matter therefore remains unresolved.

1. **Deviation from Supply Chain Management – Turner and Townsend – Head Offic****e Ex 278**

**Audit finding**

Laws, rules and Regulations:

*a) Preferencial Procurement Policy Framework Act No.2 of 2000*

*“2.1(a) An organ of state must determine its preferential procurement policy and implement it within the following framework – a preferential point system must be followed.”*

*b) Preferencial Procurement Policy Framework Act No.2 of 2000: Regulations GN R725 of 10 August 2001*

*“4(1) The 90/10 preference point system: The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value above R500 000,00*

*Ps = 90(1(Pt-Pmin)/Pmin)*

*Where*

*Ps = Points scored for price tender of tender under consideration*

*Pt = Rand value of tender under consideration*

*Pmin = Rand value of lowest acceptable tender”*

The following deviation relating to the development of an immovable asset life cycle management guidelines for national and provincial custodians by Turner and Townsend

|  |  |  |
| --- | --- | --- |
| **SUPPLIER NAME** | **Tender no** | **Amount**  **R** |
| Turner and Townsend | HP10/045 | 2 668 237,00 |

As per inspection of the department’s PA-20(Scoring model) it was noted that the formula used to calculate the preference points awarded is not in line with the preferential procurement policy framework. Please note that although an incorrect formula was used it does affect the outcome.

|  |  |  |  |
| --- | --- | --- | --- |
| **EVALUATED** | **POINTS PER PA-20 (SCORING MODEL)** | **POINTS PER RECALCULATION (EXCLD HDI POINTS)** | **DIFFERENCE** |
| CSIR | (201,28) | 2,12 | 203,40 |
| Core Focus | 73,29 | 7,59 | 65,70 |
|  |  |  |  |

The finding occurred as a result of the fact that:

As per discussion with the DD: SCM, the points awarded to the suppliers is calculated by the automated scoring system. The fields of the system are entered manually based on the information provided in the PA-20 (Scoring model – Price input & submission to Bid). The difference between the actual points awarded and the recalculated points could be due to a combination of incorrectly set automated formulae and human error.

Impact of the finding:

Non- compliance with Preferential Procurement Policy Framework Act 5 OF 2000 GN R725 of 10 August 2001.

**Internal control deficiency**

*Leadership*

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

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

1. The adjudication committee and/or the official delegated with the final approval must verify that the evaluation criteria were correctly applied and preference points were correctly calculated.

b) All points must be calculated in accordance with the Preferential Procurement Policy Framework Act point formula.

c)    A test of the automated system should be performed and data input onto the system should be reviewed by a second person.

**Management response**

I am in agreement with the finding for the following reasons [and supply the following/attached information in support of this]:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* E Kruger

*Position:* Acting CD:SCM

*Date:*

**Auditor’s response**

Management agrees with the finding. The corrective action will be followed up in the 2012-2013 audit.

1. **SCM deviations – Sita contract 285-1** **– Customised solutions Ex 301**

Laws, rules and Regulations:

a) Treasury regulation:

i) 16A8.3(a)

*“A supply chain management official or other role player -*

* + - * 1. *must recognise and disclose any conflict of interest that may arise;”*

1. 16A8.4(a)

*“If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must—*

1. *disclose that interest;”*

16A9.1(b)

*“16A9.1  The accounting officer or accounting authority must—*

1. *check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;”*

b) SITA Act General Regulations

1. Regulation 8.1.1

*“The designated department or public body must -*

* + 1. *Determine the need to procure information technology goods or services and;*
    2. *Compile a business case and the user requirements specifications for the need.”*

(ii) Regulation 8.1.3

*“For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representative -*

1. *to make proposals regarding the business case and user requirement specifications and approve such case and specifications*
2. *To authorise the accounting authority of the designated department to award the bid on their behalf”*
3. Regulation 8.1.5

*“For purpose of advertising, the agency must compile the bid documentation consisting of –*

1. *The evaluation criteria for the bid in accordance with the Preferential Procurement Policy Framework Act, including but not limited to, specific goals for-*
2. *Black economic empowerment, and*
3. *Procuring from suppliers situated in the specific province where goods or services are required”*
4. *Tax clearance certificate requirements;*
5. *If the value of the envisaged contract exceed R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and industry;*
6. *In respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.”*
7. Regulation 8.1.7(a)

*“Before the bid is advertised –*

1. *the designated department or public body must approve the final bid documentation; and*
2. *the Agency must compile a value proposal on the cost for the designated department or public body in respect of advertising and evaluation of the bid”*
3. Regulation 8.2.1

*“Within 10 working days after receipts of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval -*

1. *A procurement schedule for the execution of the request for a bid;*
2. *A detailed costing for the subsequent contract management, if required.”*
3. Regulation 13.1.

*“The agency must, in consultation with the designated department, establish the following committees to deal with the evaluation fo bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body:*

1. *A Bid Evaluation Committee to;*

*i) evaluate bids; and*

*ii) make a recommendation for award to the Recommendation Committee, including the identification of all the risks associated with the recommendation and the rating of all the risks (herein referred to as “the risk report of the BEC”); and*

1. *Recommendation Committee to-*

*i) verify compliance of the procurement process with all applicable legislation and generally the integrity of that process;*

*ii) if the process is verified as not compliant or its integrity was compromised, refer the recommendations back to the Bid Evaluation Committee with its reasons;*

*iii) Identify any risks additional (if any) to those identified in the risk report of the BEC and provide its own rating for all the risks (herein referred to as the risk report of the RC); and*

*iv) If the process has been verified as compliant and for its integrity, submit the recommendations of the Bid Evaluation Committee and the risk reports of the BEC and RC to the relevant accounting authority of the designated department of public body”*

1. Regulation 13.3 (a) – Chair person of the TEC (BEC)

*“The BID Evaluation Committee is mandatory services and transversal term contract must consist of at least the following:*

1. *An employee designated by the Agency as the chairperson”*

c) Practice note 5 of 2009/10 pertaining to the procurement through SITA and the accountability of accounting officers states in paragraph 4.2.1

*“The following represents the two types of transversal term contracts that are available for ICT related procurement, namely:*

*a) transversal framing contracts where the ICT related goods and/or services may be procured by means of quotations from pre-identified potential suppliers whose products meet the standard certification; and*

*b) transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices.”*

The following deviations pertaining to the SITA contract was noted:

a) The following deviations pertaining to the SITA contract (285-1) was reported at SITA

| **Deviation reported** | **Act, Regulation or Policy contravened** | **Comment** | **Potential impact** |
| --- | --- | --- | --- |
| The declaration of interest of the Bid Evaluation Committee (BEC) members was not received and therefore it could not be confirmed if the members of the BEC declared their interest in the bidders under evaluation | Treasury Regulations par 16A8.3(a), 16A8.4(a) and (b) & SITA Procedure Manual paragraph 8.3.1 | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| A declaration of interest form was not signed by all the members of the Recommendation Committee (RC)/Sourcing Review Council (SRC)/Supplier Selection Board (SSB)/Procurement Committee (PC)/Supplier Selection Authority (SSA). Consequently, no evidence could be provided that all the members of the RC/SRC/SSB/PC did not were free of any interest in any of the suppliers being adjudicated. | Treasury Regulations par 16A8.3(a) and 16A8.4 (a) & (b) | Alternative procedures could not perform on RC/SRC/SSB/PC to determine if conflicts existed as the tenders were awarded in prior years and the information is no longer available | Non compliance with applicable laws and regulations. |
| There was no evidence available to prove that SITA verified whether any of the winning suppliers were restricted from doing business with the public sector | Treasury Regulations 16A9.1(c) | There were no transactions with prohibited suppliers at DWP | Non compliance with applicable laws and regulations. |
| The following information could not be obtained in tender file 285-1: - Signed business case on file.  -The Invitation to Bid document/tender document  -Approval for publication form  -Tender Proposals received register  - Proof that the Technical evaluation committee was chaired by the contract manager  -Proof if any of the representatives were designated by National Treasury | Refer to SITA Act Regulations:  Business Case requirement - 8.1.1  Bid approval document - 8.1.5  Project Plan - 8.2.1  Approval of bid publication - 8.1.7  Chairperson of TEC (BEC) - 13.3(a)  Evaluation report from the TEC (BEC) - 13.1(a)  SSA / SSB (RC) requirements - 13.1(b)  SSA / SSB (RC) resolution - 13.1(b) | Non-compliance with applicable laws and regulations | Scope limitation - could not assess whether the possible non-compliance could have led to irregular expenditure |
| Refer to SITA Procurement Policies and Procedures (SPPP) par. 8.1 and Annexure E & P  Refer to SPPP par E.5.1  Refer to SPPP Annexure E par. E.3.1  Refer to SPPP par. E.5.1  Refer to SPPP Annexure I par I.1  Refer to SPPP E.7.3  Refer to SPPP E.7.10 and R6  Refer to SPPP E.7.10 and R6 | Control deficiency |
| Where the tender was requested from a Government Department / Provincial department / Public entity, the designated / delegated official did not sign the business case, procurement schedule and bid document as evidence of approval | SITA Act General Regulations: 8.1.3(a), 8.2.1 & 8.1.7(a) | Non compliance with applicable laws and regulations. | It may result in irregular expenditure where the business case is not signed by the designated authority at the department. Further, it may result in fruitless and wasteful expenditure where supplier awarded does not meet the needs detailed in the business case due to them not being clearly defined in the bid invitation document. |

b) The following deviations pertaining to procurement of printers from Cutomised Solutions in terms of the SITA 285/1 contract Order - 009095 was identified:

|  |  |  |  |
| --- | --- | --- | --- |
| **ORDER** | **DESCRIPTION** | **QUANTITY** | **AMOUNT (INCLD VAT)**  **R** |
| 009095 | Printer (Network Printer) | 10 | 1. 6,92 |

c) Although it is acknowledged that in terms of paragraph 4.2.1(b) there may be transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices, it could not be confirmed whether prices for the goods procured were in line with the pricelist of the SITA 285/1 contract as we could not obtain access to the pricelist and the department did not make a printout and attach it to the payment batch. It could therefore not be established whether the prices for the procurement of the printers are fixed or whether, if indeed the prices are fixed, the correct (agreed upon) prices have been charged by the supplier.

The amount consists of the following items:

|  |  |  |  |
| --- | --- | --- | --- |
| **Description of item** | **Quantity** | **Unit price** | **R** |
| Laserjet M5035XS MFP print copy scan fax-USB, auto duplex, embedded fast enternet print server, w0 GB HDD, tow sided printing analog fax, stand, stapler, stacker, standared, 2 x 250 sheet tray and 100 sheet multipurpose tray,(Media handling: up to 199G/M2 for the 100 sheet and 120G for the 250 and 500 sheet trays) pdl | 5 | 72 999,00 | 364 995,00 |
| Next day onsite response 3 years | 5 | 9 828,00 | 49 140,00 |
| Installation per printer | 5 | 1 500,00 | 7 500,00 |
| **Sub – total** |  |  | **421 635,00** |
| VAT |  |  | 59 028,90 |
| **Total** |  |  | **480 663,90** |

| **Description of item** | **Quantity** | **Unit price** | **R** |
| --- | --- | --- | --- |
| Laserjet M5035X MFP print copy scan fax-USB, auto duplex, embedded fast enternet print server, w0 GB HDD, tow sided printing analog fax, stand, stapler, stacker, standared, 2 x 250 sheet tray and 100 sheet multipurpose tray,(Media handling: up to 199G/M2 for the 100 sheet and 120G for the 250 and 500 sheet trays) pdl | 3 | 69,835.00 | 209,505.00 |
| Laserjet M5035XS MFP print copy scan fax-USB, auto duplex, embedded fast enternet print server, w0 GB HDD, tow sided printing analog fax, stand, stapler, stacker, standared, 2 x 250 sheet tray and 100 sheet multipurpose tray,(Media handling: up to 199G/M2 for the 100 sheet and 120G for the 250 and 500 sheet trays) pdl | 2 | 72,999.00 | 145,998.00 |
| Next day onsite response 3 years | 5 | 9,828.00 | 49,140.00 |
| Installation per printer | 5 | 1,500.00 | 7,500.00 |
| **Sub – total** |  |  | **412,143.00** |
| VAT |  |  | 57,700.02 |
| **Total** |  |  | **469,843.02** |

The finding occurred as a result of the fact that:

a) Due to documentation not being available at SITA and DPW compliance with SCM requirements for procurement amounting to R950 506,92could not be confirmed.

b) Due to the fact that there was no printout attached to confirm the prices charged in terms of the SITA 285/1 contract the accuracy of the prices charged could not be confirmed for the procurement of capital machinery and equipment amounting to R950 506,92.

**Internal control deficiency**

## Leadership

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

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

The department must attached a printout of the SITA price list to enable the reviewers of the payment batches also to confirm that the prices charged were in line with the amounts per the SITA contract and if the correct amounts were charged.

**Management response**

**Audit Finding**

Laws, rules and Regulations:

a) SITA Act Section 7(6)(a) and (b) states that:

*“Duties and powers of agency - The Agency*

1. *Must set standards regarding -*
2. *The interoperability of information systems between department, subject to the approval of the Minster; and*
3. *A comprehensive information systems security environment for department, subject to the approval of the Minister and the Minister of Intelligence;*
4. *Must certify every acquisition of any information technology goods or services by a department for compliance with those standards;”*

b) SITA Act General Regulations state that:

Regulation 4.3.3

*“The Agency must conduct standard certification of information technology goods or services –*

1. *Acquired or after the commencement of these Regulations by department from the Agency in terms of section 7(4)(a)(i) or (b)(i) of the Act before conclusion of the relevant service level agreement; and*
2. *Procured on or after commencement of these Regulations by a department through the Agency in terms of section 7(4)(a)(ii) or (b)(ii) in accordance with the applicable provisions of Part 3 of these Regulations.”*

Regulation 8.1.1

*“The designated department or public body must -*

1. *Determine the need to procure information technology goods or services and;*
2. *Compile a business case and the user requirements specifications for the need.”*

Regulation 8.1.3

*“For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representative -*

1. *to make proposals regarding the business case and user requirement specifications and approve such case and specifications*
2. *To authorise the accounting authority of the designated department to award the bid on their behalf”*

Regulation 8.1.5

*“For purpose of advertising, the agency must compile the bid documentation consisting of –*

1. *The evaluation criteria for the bid in accordance with the Preferential Procurement Policy Framework Act, including but not limited to, specific goals for-*
2. *Black economic empowerment, and*
3. *Procuring from suppliers situated in the specific province where goods or services are required”*
4. *Tax clearance certificate requirements;*
5. *If the value of the envisaged contract exceeds R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and industry;*
6. *In respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.”*

Regulation 8.2.1

*“Within 10 working days after receipts of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval -*

1. *A procurement schedule for the execution of the request for a bid;*
2. *A detailed costing for the subsequent contract management, if required.”*

Regulation 8.2.2

*“The Agency must comply with the approved procurement schedule”*

Regulation 8.2.3

*“The Agency must immediately notify the designated official of the designated department or public body in writing if at any time it is unable to comply with the approved procurement schedule and the reasons for such inability.”*

Regulation 13.3(e)

*“The Bid Evaluation Committee for mandatory service and transversal term contracts must consist of at least the following:*

1. *One or more representative designated by the National Treasury; but as a minimum one supply chain management practitioner to ensure compliance with the applicable legislation regarding procurement.”*

Regulation 14.6

*“The accounting authority of the department or public body must in writing notify the Agency and the unsuccessful bidder or bidders of the award of the bid.”*

*c)* Treasury Regulations state that:

i) 16A3.1(a)

*“The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain management system in his or her institution for—*

1. *the acquisition of goods and services;”*

ii) 16A3.2(a)

“A supply chain management system referred to in paragraph 16A3.1 must—

1. be fair, equitable, transparent, competitive and cost effective;”

iii) 16A6.3(d)

*“16A6.3  The accounting officer or accounting authority must ensure that—*

*(d) awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised;”*

iv) 16A8.3(a)

*“A supply chain management official or other role player -*

1. *must recognise and disclose any conflict of interest that may arise;”*

vi) 16A8.4(a)

*“If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must—*

1. *disclose that interest;”*

vii) 16A9.1(c)

*“16A9.1  The accounting officer or accounting authority must—*

1. *check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;”*

The following deviations pertaining to the SITA contract was noted:

1. The following deviations pertaining to the SITA contract 431 has been noted at SITA.

| **Deviation reported** | **Act, Regulation or Policy contravened** |
| --- | --- |
| The designated authority did not approve the business case issued to SITA to initiate the tender process. | SITA Act Regulations par 8.1.1 & 8.1.3 |
| There was no evidence that SITA submitted the project plan to the department within 10 working days after receipt of the business case from the designated department | SITA Act Regulations par 8.2.1 & SITA's Sourcing Procedure Manual section 3.3.4(b) |
| The project plan was not authorised by the Senior Manager: Strategic Sourcing. | SITA Act Regulations par 8.2.1 & SITA's Own Procurement Policy (SOPP) par 10 |
| The project plan was not authorised by the designated official at the department. | SITA Act Regulations par 8.2.1 & SITA's Sourcing Procedure Manual section 3.3.4(b) |
| SITA did not comply with the dates set out in the project plan. Further, no evidence was available that SITA notified the Government Department in writing that they will be unable to comply with the dates set out in the project plan and the reasons for such inability. | SITA Act Regulations par 8.2.2 & 8.2.3 |
| The approval for bid publication document was authorised by the Manager: Strategic Sourcing/other person in the sourcing department instead of by the Senior Manager: Strategic Sourcing (as required by SOPP) without the necessary delegation of authority given to him. | Treasury Regulations par 16A3.2(a) & SOPP 11.2.1 |
| For tenders the designated official at the government department did not approve the bid invitation. | (SOPP 11.2.1) |
| For tenders the Senior Manager: Strategic Sourcing did not approve the bid invitation. | (SOPP 11.2.1) |
| There is no process in place to ensure that the tax clearance certificates received are validated through a third party. i.e. SARS. | Treasury regulations par 16A9.1 & SITA act regulations par 8.1.5. |
| The declaration of interest for of the BEC Members was not received and therefore it could not be confirmed that the members of the BEC signed the declaration of interest form. | Treasury Regulations par 16A8.3(a) & SITA Sourcing Procedure Manual par 8.3.1 |
| There was no proof provided that at least one of the members of the BEC was designated by the National Treasury for mandatory services and transversal term contracts. | SITA Act Regulations par 13.3 (e) |
| SITA did not perform a standard certification process of goods/services for mandatory services and transversal contracts prior to awarding/recommending the supplier. | SITA act par 7(6)(a) & (b) and SITA act regulations 4.3.3 |
| There is no evidence on file that SITA published the winning supplier in the Government Bulletin. | Treasury Regulations 16A6.3(d) and SITA Sourcing procedure manual par 4.13.1.8 |
| The turnaround time taken from the publication of the bid to the day of the recommendation of the bid by the RC is longer than the average turnaround time reported as per the procurement balance score card of 78 days. | Treasury Regulations 16A3.1(a) |
| The Government Department has not yet notified SITA as to which supplier the contract was awarded and therefore SITA was not able to determine if the award made by the Government Department was the same as the recommendation made by the RC (the recommendations were made by SITA between June 2009 and February 2010). | SITA Act regulations par 14.6 and SITA Sourcing Procedure Manual 4.13(a) |

1. The business case approved by the designated authority of the department was also not provided at DPW.

|  |  |  |
| --- | --- | --- |
| **SUPPLIER** | **AMOUNT TENDERED** | **AMOUNT PAID** |
| Omega Digital Technology | R5 829 820,14 | R5 829 820,14 |

The finding occurred as a result of the fact that:

The director of IT support indicated that suppliers to be used for the month are chosen. At the beginning of every week quotations are selected for utilisation. The prices will not change within a week and prices for the 285-1 contract are predefined and therefore only change per quarter.

Impact of the finding:

1. Non compliance with the above SITA Act regulations and Treasury regulations.
2. Risk of payments being awarded to favoured suppliers.
3. Increased risk of bribery and fraudulent activities.
4. Limitation of scope to determine if the amount should be classified as irregular expenditure of R5 829 820, 14 as the business case was not provided.

**Internal control deficiency**

## Leadership

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

*Financial management*

*The department does not effectively reviews and monitors compliance with applicable laws and regulations*

**Recommendation**

The approved business case should be provided.

**Management response**

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

**Auditor’s conclusion**

a) The non compliance matters will be reported at SITA.

b) The approved business case was submitted and the matter is therefore resolved.

1. **Independent Development Trust information not timeously submitted Ex 28**

**Audit Finding**

Laws, rules and legislation:

1. Public Finance Management Act contains the following provisions**:**

“*38(1) The accounting officer for a department   trading entity or constitutional institution—*

(*a*) *must ensure that that department   trading entity or constitutional institution has and maintains—*

*(i) effective   efficient and transparent systems of financial and risk management and internal control;”*

*“38(2) An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.”*

*“13  Deposits into National Revenue Fund.—(1)  All money received by the national government must be paid into the National Revenue Fund”*

1. Accounting Framework:

*“The Public Finance Management Act (PFMA), No. 1 of 1999, requires departments to “prepare financial statements for each financial year in accordance with generally recognised accounting practice1”. As mentioned in the Treasury Regulations, the financial statements of all national and provincial departments are prepared using a modified cash basis of accounting. In the South African public sector the modified cash basis of accounting has been defined as “the cash basis of accounting modified for the recognition of certain near-cash balances3 and supplemented with disclosures on transactions and balances not recognised in the primary statements”.*

1. Accounting Policies:
2. Goods and Services*:*

*“Payments made during the year for goods and/or services are recognised as an expense in the statement of financial performance when the final authorisation for payment is effected on the system (by no later than 31 March of each year).”*

*The expense is classified as capital if the goods and/or services were acquired for a capital project or if the total purchase price exceeds the capitalisation threshold (currently R5, 000). All other expenditures are classified as current.*

*Rental paid for the use of buildings or other fixed structures is classified as goods and services and not as rent on land.”*

1. Movable Assets

*“Initial recognition:**A capital asset is recorded in the asset register on receipt of the item at cost. Cost of an asset is defined as the total cost of acquisition. Where the cost cannot be determined accurately, the movable capital asset is stated at fair value. Where fair value cannot be determined, the capital asset is included in the asset register at R1. All assets acquired prior to 1 April 2002 are included in the register R1. Subsequent recognition:**Subsequent expenditure of a capital nature is recorded in the statement of financial performance as “expenditure for capital assets” and is capitalised in the asset register of the department on completion of the project. Repairs and maintenance is expensed as current “goods and services” in the statement of financial performance.”*

1. Immovable Assets

*“Initial recognition: A capital asset is recorded on receipt of the item at cost. Cost of an asset is defined as the total cost of acquisition. Where the cost cannot be determined accurately, the immovable capital asset is stated at R1 unless the fair value for the asset has been reliably estimated. Subsequent recognition: Work-in-progress of a capital nature is recorded in the statement of financial performance as “expenditure for capital assets”. On completion, the total cost of the project is included in the asset register of the department that is accountable for the asset. Repairs and maintenance is expensed as current “goods and services” in the statement of financial performance.”*

Deviations noted pertaining to prepayments and advances:

1. Background:

During the previous financial year the transactions pertaining to IDT were not timeously or correctly recorded in the financial statements of the department. In the management report under emerging risks the following matters were emphasised:

“Capital expenditure incurred by the Independent Development Trust with the management and implementation of Expanded Public Works Programme as well as the Alternative Schools Programme should be correctly classified in the following financial years. Detailed asset schedules, with sufficient information should be obtained from the Independent Development Trust to ensure that these assets are appropriately accounted for and recorded in the asset register of the department. At the completion of the Alternative Schools Programme the furniture should be transferred to the relevant schools in terms of section 42 of the PFMA. Management must ensure that they:

i) have inventory lists of all assets

ii) obtain substantiating records pertaining to the cost of the assets

iii) the department and the receiving school or provincial department, if applicable, signs the inventory when transfer takes place

1. The accounting officer must ensure that a copy of the singed inventory is filed, with National Treasury and the AGSA within 14 days of the transfer.”

On 2 December 2012 Coff 8 was issued detailing deviations pertaining to IDT, which amongst others included the fact that transactions were not recorded from the statement of financial position to the general ledger. The following was also reported:

“It was noted that the supporting file submitted to support the interim financial statements did not contain any printout pertaining to payments made to IDT. There were also no schedules from IDT included in the supporting files. It is therefore not evident how the reviewers of financial statements ensured that the disclosure was correct and complete.”

Request for information 161 was issued on 18 April 2012 requesting the information listed below which were not submitted. Of this information the information listed below was not submitted. This information is required to make sample selections for testing. In the absence of the information we cannot make the selections and the audit work cannot be performed. I should be noted that the information is at IDT and our audit team need to go and audit it there.

Information requested with RFI 161 not received:

1. Commitments and accruals as at 31 March 2012. The detail should be sufficient enough to enable us to make selections from and to audit the batches and or information. It should be noted that accruals in the records of IDT should be reflected in the statement of financial performance of DPW as the service were received by IDT prior to year end and were paid by DPW prior to year end. It will there affect the appropriation statement, notes to the appropriation statement, statement of financial position, statement of financial performance and the notes to both the statement of financial position and statement of financial performance as well as the disclosure notes.
2. Actual expenditure to date as at 31 March 2012. The detail should be sufficient enough to enable us to make selections from and to audit the batches and or information. The schedule below indicates the value of transactions pertaining to projects of DPW at IDT. Of these only detail schedules for the R38 763 148 were attached to the information provided.

| **Project** | **2010-2011** | **2011-2012** | **Total** |
| --- | --- | --- | --- |
| Alternative method | 111 016 795 | 48 086 577 | 159 103 372 |
| Energy efficiency | 58 5110 115 | 52 000 000 | 110 510 1115 |
| Project management support (EPWP) |  | 38 763 148 | 38 763 148 |
| Food for waste (EPWP) |  | 20 177 941 | 20 177 941 |
| Black Economic Empowerment (Policy) |  | 2 370 000 | 2 370 000 |
| **Total** | **169 526 910** | **161 397 666** | **330 924 576** |

1. There were not a policy in place pertaining to prepayments and advances. In paragraph 7.3 of the Directive: Financial Statement Working Files Framework, which was approved by the previous CFO on 20 February 2012, it only lists the documents that must be included in the working file for prepayments and advances.

The finding occurred as a result of the fact that:

It was indicated that the department has not received the required information from IDT.

Impact of the finding:

a) The completeness, occurrence, accuracy, classification and cut-off of classes of transactions, for example goods and services and capital expenditure, pertaining to IDT not being confirmed.

b) The completeness, rights and obligations, existence and valuation of balance accounts pertaining to IDT not being confirmed.

c) The completeness, occurrence, rights and obligations, accuracy, valuation and classification of related party disclosure not being confirmed.

1. Compliance with SCM procedures cannot be confirmed resulting in the completeness or irregular expenditure not being confirmed.

In addition to the aforementioned it is unclear how the Department of Public Works is managing this process (projects being run by IDT) when information that is required for sound decision making is not readily available as at the end of the day these projects link directly to the Department executing its mandate in an effective and responsible fashion.

**Internal control deficiency**

Financial and performance management

*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**

1. It is recommended that all information requested be provided to the AGSA within three days from the date of request.
2. Information submitted should be reconciled to payments made to ensure that it is accurate and complete.
3. This information should be accumulated on a monthly basis to ensure that transactions are timeously accounted for in the records of DPW.

**Management response**

a)(i) I am not in agreement with the finding for the following reasons; the information was submitted on the 31 May 2012 with the financial statement. Index no 5 disclosure notes.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | **n/a** | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **x** |
| If yes, what corrections will be made to the population? | **n/a** | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | **n/a** | | |
| Position of official responsible to take corrective action: | **n/a** | | |
| Estimated completion date for corrective action: | **n/a** | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  | **x** | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | **n/a** | | |

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Name:* *Khathutshelo Mashapha*

*Position: Deputy Director*

*Date:25/06/2012*

a)(ii) I am not in agreement with the finding for the following reasons; the information was submitted on the 31 May 2012 with the financial statement. Index no 5 disclosure notes.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | **n/a** | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **Yes** |
|  | |  |
| If yes, what corrections will be made to the population? | **n/a** | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | **n/a** | | |
| Position of official responsible to take corrective action: | **n/a** | | |
| Estimated completion date for corrective action: | **n/a** | | |
| Does management agree with the root cause indicated | **Yes** | **Yes** | |
|  |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | **n/a** | | |

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Name:* *Khathutshelo Mashapha*

*Position: Deputy Director*

*Date: 25/06/2012*

b) I am not in agreement with the finding for the following reasons: The Directive: Financial Statement Working Files Framework does not only reflect the documents required. The directive provides amongst other things the description for prepayments and Advances, guidance and different type of Advances. However the department will develop a detailed Business Process

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **x** |
| If yes, what corrections will be made to the population? | **n/a** | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | **n/a** | | |
| Position of official responsible to take corrective action: | **n/a** | | |
| Estimated completion date for corrective action: | **n/a** | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
|  | **n/a** | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | **n/a** | | |

*Name:* *Khathutshelo Mashapha*

*Position: Deputy Director*

*Date:25/06/2012*

**Auditor’s conclusion**

The response on this communication was due on 17 May 2012. In the audit steering committee meeting of 16 May 2012 a commitment was given by management to provide the information by the latest on 21 May 2012. On 22 May 2012 the audit team followed up this matter as the information was still not submitted. Only a schedule pertaining to the energy efficiency grant was submitted.

As concerns pertaining to IDT were reported to management since December 2011 and the information already requested on 18 April 2012 was not submitted on time it will not be considered for the 2011-2012 audit and will be reported as a limitation of scope as follows:

a)(i) Commitments and accruals as at 31 March 2012. As this information should be included in the financial statements that is due on 31 May 2012 this will be the latest this information will be accepted for audit purposes.

a)(ii) Actual expenditure to date as at 31 March 2012.

| **Project** | **2010-2011** | **2011-2012** | **Total** |
| --- | --- | --- | --- |
| Alternative method | 111 016 795 | 48 086 577 | 159 103 372 |
| Energy efficiency | 58 5110 115 | 52 000 000 | 110 510 1115 |
| Food for waste (EPWP) |  | 20 177 941 | 20 177 941 |
| Black Economic Empowerment (Policy) |  | 2 370 000 | 2 370 000 |
| **Total** | **169 526 910** | **122 634 518** | **292 161 428** |

b) Matter remains unresolved as no management response has been received.

**Final Auditor’s conclusion**

A contract register has eventually been provided to the auditors for the above mentioned programmes. The contract register indicated the unspent funds for the 2010/11 financial year, as well as the amounts transferred to IDT during the current financial year. The schedule provided also indicated the expenditure for the current financial year.

However, cognisence should be taken that the auditors experienced extreme difficulty in obtaining the requested information. Many attempts were made by the auditors in order to obtain the information. In lieu of the difficulties encountered, the auditors also communicated with IDT directly in order to obtain the requested information.

As a result of the matter is considered to be unresolved as difficulties in obtaining information needs to be solved in order to prevent unnecessary delays for future audits. Management need to engage throughout the year with IDT to get the supporting documentation to timeoulsy record the transactions and properly follow up progress to date.

1. **Procurement deviation registers not timeously provided. Ex 56**

**Audit Finding**

Laws, rules and legislation:

a) Public Finance Management Act sections 40 and 41 states the following:

i) section 40(1)

*“The accounting officer for a department, trading entity or constitutional institution-*

*must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;”*

1. section 41

*“An accounting officer for a department, trading entity or constitutional institution 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”*

b) Treasury Regulations 17.2.1 states:

*“Accounting officers of institutions must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows-*

*information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or*

*information relating to more than one financial year – for one after the date of the audit report for the last of the financial years to which the information relates.”*

The updated procurement deviation register was requested with RFI 73 on 27 January 2012 and was due on 31 January 2012. The information has not yet been provided.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |  |

The finding occurred as a result of the fact that:

The department is still updating the information with that of the regions.

Impact of the finding:

a) Non compliance with Section 40 and 41 of the Public Finance Management Act

b) Non compliance with Treasury Regulation 17.2.1.

c) A limitation of scope being placed on the audit as it could not be confirmed if the new control measures put in place by the department to identify non compliance with SCM requirements were adhered to.

d) Irregular expenditure disclosed in the annual financial statements and reported monthly to NT may be understated if management did not have a measure in place to identify all non compliance and then evaluating it to determine whether it should not be reported as irregular expenditure.

**Internal control deficiency**

*Financial and performance management*

*The department 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***

a) It is recommended that all information requested be provided to the AGSA within three days from the date of request.

b) Management should utilise this register to assist in determining the completeness of irregular expenditure disclosed.

**Management response**

List of updated procurement deviation register is attached as Annexure A

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

*Name:*

*Position:*

*Date:*

*Final audit response*

I am in agreement with the finding and herewith attached is the information requested initially

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | **Reports to be submitted on a monthly basis by regions** | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | **X** |
| If yes, what corrections will be made to the population? |  | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached |  | | |
| Position of official responsible to take corrective action: |  | | |
| Estimated completion date for corrective action: |  | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| **x** |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

*Name:* T Tladi

*Position: D*

*Date: 21/05/2012*

**Auditor’s conclusion**

Although the department committed in the audit steering committee meeting of 9 May 2012 to submit the information by 11 May 2012 it was reported in the audit steering committee meeting of 16 May 2012 that this information was still outstanding.

On 21 May 2012 the register for Mmbatho was submitted. The deviation register of the Free Sate is still outstanding.

Therefore the measures implemented by management to identify deviations from SCM processes appear to be ineffective.

1. The results of the CAATs have been provided to management to enhance their corrective action to be taken in view of the audit findings raised, as a result of the volume of the information it has not been included in the auditor’s conclusion in full. It is a concern that it doesn’t appear that much has been done with respect to corrective action since the audit finding was raised in February 2012. [↑](#footnote-ref-1)
2. The officials to whom the functions were delegated to by the accounting officer [↑](#footnote-ref-2)