**ANNEXURE C: SUMMARY OF DETAILED AUDIT FINDINGS**

| **Page. no.** | **Finding** | **Classification** | | | | | **Rating** | | | **Number of times reported in previous 3 years** | **Status of implementation of previous year(s) recommendation** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Misstatements in financial statements** | **Misstatements in annual performance report** | **Non-compliance with laws & regulations** | **Internal control deficiency** | **Service delivery** | **Matters affecting the auditor’s report** | **Other important matters** | **Administrative matters** |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Compliance** | | | | | | | | | | | |
| 76 | COAF 4 - Lack of policies and procedures |  |  |  | **✓** |  | **✓** |  |  | 2 | In progress |
| 81 | COAF 36 - Limitation of scope RFI 53 |  |  | **✓** |  |  | **✓** |  |  | 1 | Not addressed |
| 83 | COAF 37 - Business case not finalised yet (Non-compliance with TR 19.3.1) |  |  | **✓** |  |  | **✓** |  |  | 3 | In progress |
| 85 | COAF 42 - Internal Audit: Non compliance with TR3.2 |  |  | **✓** |  |  | **✓** |  |  | 1 | Not addressed |
| 93 | COAF 44 - Potential irregularities not being timeously investigated |  |  | **✓** |  |  | **✓** |  |  | 2 | Not addressed |
| 97 | COAF 102 - AFS review | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 108 | COAF 73 - Fruitless and wasteful expenditure |  |  | **✓** |  |  | **✓** |  |  |  |  |
| 113 | COAF 240 - Deviations with GIAMA (Maintenance backlog) |  |  | **✓** |  |  | **✓** |  |  | 1 | Not addressed |
| 117 | COAF 241 - Non compliance with SACPCMP Act |  |  | **✓** |  |  | **✓** |  |  |  |  |
| 120 | COAF 242 - Building and evaluation checklist |  |  | **✓** |  |  | **✓** |  |  |  |  |
| 122 | COAF 238 - Prior period errors | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| **Commitments** | | | | | | | | | | | |
| 125 | COAF 119 - Other commitments – sub-schedule amounts do not agree to the summarised schedule amounts for Port Elizabeth and Polokwane |  |  | **✓** |  |  | **✓** |  |  | 2 | Not addressed |
| 128 | COAF 151 - Operating Lease Commitments: misstatements identified in the calculation of operating lease commitments and PMIS data used for the calculation | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 143 | COAF 211 - Other Commitments limitation |  |  | **✓** |  |  | **✓** |  |  |  |  |
| **Procurement and contract management** | | | | | | | | | | | |
| 151 | COAF 16 - Deviations with the SCM Prescripts: Johannesburg Scaffolding (Tender HP11/047: Scaffolding hire) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 157 | COAF 19 - Deviations with the Supply Chain Management Prescripts: Kwagga Holdings (Pty) Ltd (Kwagga) Tender HP11/09: Repairs to various potholes: Tshwane, North West region |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 165 | COAF 23 - Deviations with the Supply Chain Management Prescripts: BSE Distributors CC (Tender HP11/030: Construction of the Low Cost Bridges in the Rural Eastern Cape) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 170 | COAF 25 - Deviations with the Supply Chain Management Prescripts: Mamli Projects CC (Mamli)(Tender H10/029: Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 176 | COAF 26 - Deviations with the Supply Chain Management Prescripts: Yikusasa Building Contractors SA CC (H11/006:Installation of Security Measures at 11 & 12 Anselia Street Waterkloof) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 183 | COAF 30 - Deviations with the Supply Chain Management Practices: Kwagga Holdings (Pty) Ltd (Kwagga Holdings) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 190 | COAF 34 - Deviations with the Supply Chain Management Prescripts: Mercy Civils & Building CC (Mercy Civils)(Tender H10/021): Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 196 | COAF 38 - Procurement in terms of TR 16A6.4 not reported to AGSA within 10 working days |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 208 | COAF 50 - Deviations with the Supply Chain Management Practices: Yikusasa Building Contractors SA CC (Yikusasa)(Tender number H11/032- Repairs, Renovation and Upgrade of the Old Government Garage for Government Printing Works (GPW) – Pavilion Two: Additional Development |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 213 | COAF 83 - Deviations with the Supply Chain Management Prescripts: Midnight Star Trading 186 CC (Midnight)(Tender H10/002) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 221 | COAF 90 - Deviations with the Supply Chain Management Prescripts: Momacha Trading CC (Momacha)(Tender H10/018) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 227 | COAF 91 - Deviations with the Supply Chain Management Practices: Multi-Net Systems (Pty) Ltd (Multi-Net) (Tender number H10/024 - Beitbridge Port of Entry: 36 months - Maintenance and Servicing of Buildings, Civil, Mechanical and Electrical Infrastructure and Installations) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 233 | COAF 93 - Deviations with the Supply Chain Management Prescripts: OPD Construction (Pty) Ltd (OPD)(Tender H11/10: Repairs to various potholes: Tshwane, South Region) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 242 | COAF 94 - Deviations with the Supply Chain Management Prescripts: Reabetswe Projects CC (Reabetswe) Tender H11/013: Repairs to various potholes: Tshwane, East Region |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 250 | COAF 118: Deviations with the Supply Chain Management Prescripts: Sizwe Ntsaluba VSP Services (Pty) Ltd (Tender H10/047): Provision of financial management assistance for DPW |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 254 | COAF 183: Deviations with the Supply Chain Management Prescripts: Appointment for professional services of PHASE III Bryntirion Estates-Refurbishment of Mahlamba-Ndlopfu |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 258 | COAF 256:Irregular Expenditure – Prior Year irregular expenditure findings |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 262 | COAF 141 - Deviations with the Supply Chain Management Practices: Summermania Seven (Pty) Ltd, Water Affairs, Zamadaka building (6029/0134) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 267 | COAF 166 - Deviations with the Supply Chain Management Practices: Redefine (Pty) Ltd/Isivuno Apex Properties Shorburg Building (6029/5387) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 271 | COAF 169 - Deviations with the Supply Chain Management Practices: INA Building, South African National Defence Force (SANDF), City Property (6029/0078) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 275 | COAF 174 - Deviations with the Supply Chain Management Practices: Khulemani Mangisita (Pty) Ltd, Department of Defence, Boulevard Academy 186 Struben Street (6029/6050) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 279 | COAF 181 - Procurement in terms of TR 16A6.4 not reported to AGSA and National Treasury within 10 working days |  |  | **** |  |  | **** |  |  | 3 | Not addressed |
| 284 | COAF 187 - Deviations with the Supply Chain Management Practices: Sefako Consortium (Tender HP07/16: Golela Border post |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 288 | COAF 190 - Deviations with the Supply Chain Management Practices: Phumi Trading CC (Tender PT10/ 046: Zonderwater Prison: Repair and Maintenance of Building and Basic Civil Engineering Services.) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 291 | COAF 191 - RC Civils (Tender PT10/047: Pretoria, Central Prison: Repair and Maintenance of civil infrastructure) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 295 | COAF 209 - Deviations with the Supply Chain Management Practices: Demenges (Tender H10/ 022: Van Rooyenshek Port of Entry: Appointment of contractor: Maintenance and Serving of Building, Civil, Mechanical and Electrical Infrastructure) |  |  | **** |  |  | **** |  |  | 3 | Not addressed |
| 299 | COAF 248 - Deviations with the Supply Chain Management Practices: Phumi Trading CC |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 302 | COAF 237 - Deviations with the Supply Chain Management Prescripts: Mphosha security services (Tender PT11/003): Rendering of security services at the Union Buildings Public area for a period of 24 months |  |  | **** |  |  | **** |  |  | 3 | Not addressed |
| 305 | COAF 245 -Deviations with the Supply Chain Management Prescripts: Phutoma security services (PTQ11/037 and PTQ10/196) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 308 | COAF 251 - Deviations with the Supply Chain Management Prescripts: Mphosha security services (PTQ11/214): Rendering of security services at 193 Rigel Street Waterkloof |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 311 | COAF 186 - Deviations with the Supply Chain Management Prescripts: Magwa Construction CC (Magwa) (Tender H11/004): Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 317 | COAF 210 - Deviations with the Supply Chain Management Prescripts: Keren Kula Construction (Tender H10/016): Heritage Refurbishment of Maroela house for VIP medical team |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 321 | COAF 217 - Deviations with the Supply Chain Management Prescripts: Magwa Construction CC (Magwa) (Tender H10/025): Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations |  |  | **** |  |  | **** |  |  | 3 | Not addressed |
| 325 | COAF 219: Irregular Expenditure – Condonement |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 328 | COAF 224: Deviations with the Supply Chain Management Prescripts: Facilities Management-day to day Maintenance contract (WCS 044107- Contract 02) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 333 | COAF 227 - Deviations with the Supply Chain Management Prescripts: Kirkwood, Patensie, Colesberg Prisons: Repair, Maintenance and operation of Water and Waste water works-Tender No H08/018 |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 336 | COAF 233 - Limitation of scope – RFI no. 201 |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 338 | COAF 235 - Upgrading of essential Infrastructure at the Skilpadshek Border Post Residential Component |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| **Leases** | | | | | | | | | | | |
| 346 | COAF 103 - PTA - Summermania Seven (Pty) (Ltd): Lease contract renewed on month to month basis |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 350 | COAF 104 - Deviations with Supply Chain Management Practices: Aluane Town Lodge, Residential accommodation for Cubans (6029/6798) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 354 | COAF 109 - PTA - Deviations with Supply Chain Management Prescripts: Bono infrastructure and facilities and project management/Bay Breeze Trading 263 CC / Fruitless and wasteful expenditure: Department of Trade and Industry – Nedpark Building (6029/7056) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 359 | COAF 112 - Deviations with the Supply Chain Management Practices: Faerie Glen Waterpark (Pty) Ltd (Tender PT11/013) (6029/6913): Alternative Office Accommodation and parking for the Film and Publication Board - Eco Glade 2 Block C Centurion |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 363 | COAF 113 - Deviations with the Supply Chain Management Practices: New Heights 326 (Pty) Ltd 6029/2787, South African National Defence Force, Voortrekker |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 368 | COAF114 - Deviations with the Supply Chain Management Practices: Fountain Head Property Trust, Department of Human Settlements, 240 & 260 Walker Street |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 373 | COAF 120 - PTA - Deviations with the Supply Chain Management Practices: Petatype (Pty) Ltd, Department of Agriculture, 140 Hamilton Forum building (6029/6820) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 378 | COAF 121 - PTA - Deviations with the Supply Chain Management Practices: City Properties (Pty) Ltd (Tender PT11/ 030: Department of Human Settlement: New Accommodation for Sanitation Regional Office. Pretoria (CBD, Acardia, Sunnyside) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 383 | COAF 122 - PTA - Deviations with the Supply Chain Management Practices: Faerie Glen Water Park (Pty) Ltd (Tender PT10/077: South African Defence force: New alternative accommodation) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 387 | COAF 131 - PTA - Deviations with the Supply Chain Management Practices: JR 209 (Pty) Ltd (Tender PT10/071): Landbank Building Department of Energy |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 390 | COAF 144 - Deviations with the Supply Chain Management Practices: Growth point (Pty) Ltd Department of Public Enterprise Infotech Building (6029/2347) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 395 | COAF 149 - Deviations with the Supply Chain Management Practices: Zambili (Pty) Ltd, Department of Justice, Spooral Park Building (6029/6895) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 401 | COAF 154 - PTA - Fruitless and wasteful - Continental Building |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 404 | COAF 155 - PTA - Leased property: utilisation and lease agreements - Metropark building |  |  | **✓** |  |  | **✓** |  |  | - | - |
| 406 | COAF 156 - PTA - Extension of COAF 103 |  |  | **✓** |  |  | **✓** |  |  | - | - |
| 409 | COAF 159 - Deviations with the Supply Chain Management Practices: Zambli 216 Pty Ltd, Department of Home Affairs, 140 Byrons Place building (6029/0216/2) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 414 | COAF 161: Operating Lease debtor/creditor: misstatements identified in the straight-lining of leases and PMIS data used | **✓** |  |  |  |  | **✓** |  |  | 3 | Not addressed |
| 417 | COAF 165 - Sinodale Centre – Fruitless and wasteful expenditure |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 423 | COAF 170 - Deviations with the Supply Chain Management Practices: Redefine Properties, Watloo Building for Department of Home Affairs-6029/7008 |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 427 | COAF 171 - Deviations from Supply Chain Management Practices: Phomella Property Services, Department of Justice, Salu Building (6029/6672/2) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 435 | COAF 172: Deviations from Supply Chain Management Practices: Majestic Silver Trading, Independent Complaints Directorate City Forum Building (6029/6810) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 442 | COAF 173 - Operating Leases : Incorrect classification of refurbishment/upgrade/maintenance | **✓** |  |  |  |  | **✓** |  |  | - | - |
| 446 | COAF 177 - Deviations with the Supply Chain Management Practices: Ons Tuis Beleggings (Pty) Ltd, Department of Defence, Rietfontein: Interim Building (6029/1377) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 452 | COAF 189 - Deviations from Supply Chain Management Practices: Manaka Property Management, Department of Home Affairs, Hallmark Building (6029/0059) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 457 | COAF 214 - Leases: Assessment to determine whether a lease is a finance or operating lease not performed/supported by evidence | **✓** |  |  |  |  | **✓** |  |  | 3 | Not addressed |
| 460 | COAF 244 - Operating Lease debtor/creditor: misstatements identified in the straight-lining of leases and PMIS data use | **✓** |  |  |  |  | **✓** |  |  | 3 | Not addressed |
| **Operating expenditure** | | | | | | | | | | | |
| 470 | COAF 22 - Opening balance – Irregular and fruitless and wasteful expenditure | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 474 | COAF 41, 143 and 157 - Non compliance with TR 8.2.3 Payment not made within 30 days (PTA region) |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 478 | COAF 110 - - PTA - Deviations with the Supply Chain Management Practices: Autumn Star Duct Cleaning & Indoor Air Quality |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| 482 | COAF 123 - - Non compliance with TR 8.2.3: Payments not made within 30 days |  |  | **✓** |  |  | **✓** |  |  | 3 | Not addressed |
| **Payable** | | | | | | | | | | | |
| 485 | COAF 136 - Trade Creditors (Advances Opening Balances). | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 491 | COAF 146 - - Payables: Discounting not done in accordance with SA GAAP | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 494 | COAF 215 - Trade payables – Debt receivable interest | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 497 | COAF 229 - Trade creditors - Advances | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| **Receivables** | | | | | | | | | | | |
| 505 | COAF 7 - Reconstruction of trade and other receivables |  |  | **✓** |  |  | **✓** |  |  | 2 | In progress |
| 507 | COAF 48 - Limitation of scope RFI 58 - Pace receivable detailed schedule |  |  | **✓** |  |  | **✓** |  |  | 2 | Not addressed |
| 509 | COAF 135 - disclosure of Financial instruments | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 512 | COAF 137 Claims Recoverable: CA (Opening Balances) | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 521 | COAF 160 –Prepayments not identified and accounted for in accordance with SA GAAP. | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 524 | COAF 197 - Management Response - Debtors - Municipal services | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 530 | COAF 198 - – Misstatements in– PACE figures disclosed in the financial statements | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 533 | Limitation of scope: Disallowances | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 536 | COAF 201 – Misstatement of provision for Impairment | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 543 | COAF 202 – Misstatements in the accommodation debtors - Private Leases | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 550 | COAF 203 - - Discounting of Trade and other receivables | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 553 | COAF 205 - Misstatements in the opening balance of Municipal Services | **✓** |  |  |  |  | **✓** |  |  | 1 | Not addressed |
| 567 | COAF 207 - –Misstatements regarding completeness of claims recoverable – PACE | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 570 | COAF 208 - Missstatement regarding completeness of claims recoverable – PACE (PTA region). | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 572 | COAF 236 - Trade receivables – Municipal services completeness | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 575 | COAF 249 - Accommodation debtors – Private lease debtors listing | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 580 | COAF 250 - Accommodation debtors – State owned debtors listing | **✓** |  |  |  |  | **✓** |  |  |  |  |
| **Related parties** | | | | | | | | | | | |
| 582 | COAF 246 - related party disclosures (DPW and PMTE balances). | **✓** |  |  |  |  | **✓** |  |  |  |  |
| 586 | COAF 247 - related party disclosures | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 594 | COAF 252 - Related parties – Direct costs incurred on behalf of PMTE | **✓** |  |  |  |  | **✓** |  |  |  |  |
| **Revenue** | | | | | | | | | | | |
| 598 | CAOF 140 - Offsetting of planned maintenance agaist Revenue | **✓** |  |  |  |  | **✓** |  |  | 2 | Not addressed |
| 600 | COAF 231 - Accommodation charges – Private leases | **✓** |  |  |  |  | **✓** |  |  |  |  |
| **Cash and cash equivalents** | | | | | | | | | | | |
| 603 | COAF 147 - - Bank overdraft - non compliance |  |  | **✓** |  |  | **✓** |  |  | 1 | Not addressed |
| **Prepayments** | | | | | | | | | | | |
| 605 | COAF 158 - PTA - Rental payments made in advance incorrectly classified as operating lease expenditure | **✓** |  |  |  |  | **✓** |  |  | - | - |
| **Compliance** | | | | | | | | | | | |
| 608 | COAF 6 - Risk management not effective |  |  |  | **✓** |  |  | **✓** |  | 2 | Not addressed |
| 611 | COAF 1 by DPW - Communication of code of conduct |  |  |  | **✓** |  |  | **✓** |  | 2 | Not addressed |
| 614 | COAF 43 - Availability of Fraud Prevention Plan |  |  | **✓** |  |  |  | **✓** |  | 2 | Not addressed |
| 616 | COAF 46 - Limitation of scope - RFI no 71 - 2002 contract file |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 618 | COAF 72 - Deviations with GIAMA (CAMP and user template). |  |  | **✓** |  |  |  | **✓** |  | 1 | Not addressed |
| 627 | Project files not submitted |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 629 | COAF 130 - Limitation of scope (Fruitless and wasteful expenditure) |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 631 | Internal Audit: External review was not timeously done |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 633 | COAF 243 - Project information on WCS |  |  | **✓** |  |  |  | **✓** |  | 1 | Not addressed |
| 636 | COAF 107 - - Limitation of scope - RFI 175 |  |  | **✓** |  |  |  | **✓** |  |  |  |
| **Accruals** | | | | | | | | | | | |
| 638 | COFF 28: : Accruals: Incorrect Classification of Accruals Journal and incomplete supporting documentation | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| 641 | COAF 127 - - Annual Financial Statements – Accruals - Limitation of scope – RFI no. 157 | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| 643 | COAF 178 - - Accruals: Payment made in April 2012 for rent relating to April 2011 to March 2012 not included in accrual listing | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| **Contingent Liabilities** | | | | | | | | | | | |
| 646 | COAF 128 - - Contingent Liabilities: Misstatements identified in the amounts disclosed for Provisions, Contingent Liabilities and Contingent Assets in the annual financial statements for the year ended 31 March 2012. | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| 653 | COAF 184 - - Misstatement on the Contingent assets disclosed due to incomplete contingent asset schedule | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| 655 | COAF 258: Misstatements identified in the amounts disclosed for Provisions, Contingent Liabilities and Contingent Assets in the annual financial statements for the year ended 31 March 2012 | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| 659 | COAF 259: Misstatements identified: Incomplete disclosure for Contingent Liabilities/Provisions and Prior Period Errors in the annual financial statements for the year ended 31 March 2012 | **✓** |  |  |  |  |  | **✓** |  | 2 | Not addressed |
| **Rates and taxes** | | | | | | | | | | | |
| 663 | COAF 168 - IE Works & PMIS – Rates and Taxes and Immovable Asset register |  |  |  | **✓** |  |  | **✓** |  | - | - |
| **Procurement and contract management** | | | | | | | | | | | |
| 667 | COAF 12 - Limitation of scope RFI nr 41 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 669 | COAF 21 - Deviations with the Supply Chain Management Prescripts: Delport Du Preez and Associates (Pty) Ltd(Delport)(Tender HP11/051: Repairs, Renovation and Upgrade of Old Government Garage for Government Printing Works – Pavilion Two: Additional Development - Electrical) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 672 | COAF 32 - Limitation of scope - RFI nr 47 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 673 | COAF 39 - Limitation of scope RFI 48 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 675 | COAF 40 - Limitation of scope on requested information: Consultants contract files |  |  | **** |  |  |  | **** |  | 3 | Not addressed |
| 677 | COAF 45 - Limitation of scope - RFI no. 69 (property maintenance) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 679 | COAF 60 Limitation of scope (RFI no. 83) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 681 | COAF 61 Limitation of scope (RFI 83) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 683 | COAF 68 - Limitation of scope RFI 116 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 685 | COAF 69 - Limitation of scope RFI 117 (procurement docs) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 687 | COAF 70 - Limitation of scope RFI 100 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 689 | COAF 76 - Limitation of scope RFI 82 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 692 | COAF 80 - - Limitation of scope – RFI no. 80 (PTA region) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 694 | COAF 81 - Limitation of scope RFI 81 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 696 | COAF 84 - Limitation of scope RFI 139 (PTA region) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 698 | COAF 85 - Limitation of scope RFI 140 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 699 | COAF 92 - - Deviations with the Supply Chain Management Practices: Vusela Construction (Tender PT11/015: Roodeplaat: SAPS Dog School: Repair and Renovations: Upgrade and New Additions) Limitation of scope: RFI no. 54 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 701 | COAF 96 - Limitation of scope RFI 159 (PTA region) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 703 | COAF 167 - - Limitation of scope, Pretoria Thabo Tshwane, Follow on RAMP Dolomite risk management: WCS 047106 Tender No PT10/027 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 705 | COAF 179 - - Deviations with the Supply Chain Management Practices: Contract no 6029/6701/1 (award date 24 June 2011) Building: Ex-Mercedes Benz Skinner and Potgieter |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 708 | COAF 182 - - Deviations with the Supply Chain Management Prescripts: Momacha Trading CC (Tender H10/023): Groblersbridge and Stockpoort ports of entry: 36 months maintenance and servicing of building |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 710 | COAF 185 - - Deviations with the Supply Chain Management Practices: Magwa Construction CC (Tender P11/ 057: Mahamba, Bothashoop and Emahlathini port of entry: 36 months maintenance and servicing of buildings, civil, mechanical and electrical infrastructure) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 714 | COAF 228: :: Limitation of scope – RFI no. 238 |  |  |  | **✓** |  |  | **✓** |  | 3 | Not addressed |
| 715 | COAF 234 - Limitation of scope – RFI no. 99 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 717 | COAF 255: Khotso Moleko Architects – Supplier validity |  |  |  | **✓** |  |  | **✓** |  | 3 | Not addressed |
| 719 | COAF 257: Limitation of scope – RFI no. 220 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 720 | COAF 74: Deviations with the Supply Chain Management Practices: Acquisition and appointment of consultants |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| **Leases** | | | | | | | | | | | |
| 726 | COAF 65 - Limitation of scope (RFI 115) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 728 | COAF 100 - Limitation of scope RFI 156 (PTA region) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 730 | COAF 111 - - PTA - Suppliers VAT registration information not found on SARS website, supplier paid without valid invoice/lease contract and without original tax clearance certificate |  |  | **✓** |  |  |  | **✓** |  | - | - |
| 734 | COAF 152 - - PTA - Limitation of scope – RFI no. 213 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 736 | COAF 175 - - Suppliers VAT registration information not found on SARS website, supplier paid without valid invoice/lease agreements and without original tax |  |  | **✓** |  |  |  | **✓** |  | - | - |
| 739 | COAF 176 - - Difference between amounts paid to the landlords and the amounts as per the lease agreement as well as differences between details as per the lease agreement and PMIS records | **✓** |  |  |  |  |  | **✓** |  | 3 | Not addressed |
| **Operating expenditure** | | | | | | | | | | | |
| 744 | COAF 63 Limitation of scope (RFI 109) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 746 | COAF 67 - Limitation of scope RFI 122 (PTA region) |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 747 | COAF 125 - - PTA - Limitation of scope – RFI no. 203 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 750 | COAF 142 - : Non-compliance with Delegations of Authority: Payments not approved in terms of delegations by the Accounting officer |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 753 | COAF 192 - - Limitation of scope – RFI no. 92 |  |  | **✓** |  |  |  | **✓** |  | 3 | Not addressed |
| 755 | COAF 220: : Legal Costs – Incorrect classification of Construction (PACE receivable) and Interest payments (Fruitless and wasteful expenditure) | **✓** |  |  |  |  |  | **✓** |  | - | - |
| 757 | COAF 221 - - Tokologo Technical Assignments CC – Amount paid exceeds invoice amount (Construction Claims Recoverable) | **✓** |  |  |  |  |  | **✓** |  | - | - |
| **Payable** | | | | | | | | | | | |
| 760 | COAF 195 - - Property Maintenance: Payment made in April 2012 for invoices received in March 2012 not included in the accrual listing | **✓** |  |  |  |  |  | **✓** |  | - | - |
| 763 | COAF 17 - Non compliance: clearing of suspense account |  |  | **✓** |  |  |  | **✓** |  | 2 | In progress |
| 766 | COAF 47 - Limitation of scope - RFI no. 72 (Correspondance with creditors not provided) |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 768 | COAF 213 - - Trade payables – Security deposits | **✓** |  |  |  |  |  | **✓** |  |  |  |
| 770 | COAF 239: Fruitless and wasteful disclosed as a liability | **✓** |  |  |  |  |  | **✓** |  |  |  |
| **Receivables** | | | | | | | | | | | |
| 772 | COAF 79 - Limitation of scope RFI 127 (Dissallowance supporting documents not submitted) (PTA region) |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 773 | COAF 88 - Limitation of scope – RFI no. 142 (HO - Disallowances) |  |  | **✓** |  |  |  | **✓** |  |  |  |
| 774 | COAF 200 - PTA - Limitation of scope: Disallowances |  |  | **✓** |  |  |  | **✓** |  |  | Not addressed |
| 776 | COAF 206 – Misstatements in CA figures disclosed in the financial statements | **✓** |  |  |  |  |  | **✓** |  | 1 | Not addressed |
| 779 | COAF 226: : Misstatements in the Receivables journals | **✓** |  |  |  |  |  | **✓** |  | 1 | Not addressed |
| 787 | COAF 230 - Trade receivables – Debt account | **✓** |  |  |  |  |  | **✓** |  | 1 | Not addressed |
| 789 | COAF 232 - Trade receivables – disallowances ageing | **✓** |  |  |  |  |  | **✓** |  |  |  |
| **Revenue** | | | | | | | | | | | |
| 791 | COAF 138 - Revenue (Credit Notes). | **✓** |  |  |  |  |  | **✓** |  |  |  |
| 795 | COAF 139 - Revenue (Augmentation) | **✓** |  |  |  |  |  | **✓** |  |  |  |
| 797 | COAF 150 - - Misstatements in revenue – Other operating income | **✓** |  |  |  |  |  | **✓** |  |  |  |
| 803 | COAF 196 - Management fees | **✓** |  |  |  |  |  | **✓** |  |  |  |
| 807 | COAF 216 - Misstatements identified in Revenue journals | **✓** |  |  |  |  |  | **✓** |  |  |  |

**DETAILED AUDIT FINDINGS**

**ANNEXURE C1: MATTERS AFFECTING THE AUDITOR’S REPORT**

Compliance

1. **Lack of policies and procedures**

**Audit finding**

Section 38 of the PFMA states that a trading entity should have and maintain effective, efficient and transparent systems of financial and risk management and internal control.

A policy can be defined as a "documented set of principles, rules, regulations and sanctions that prescribe employee behaviours. It is a broad statement of intent, with widespread application and expressed in broad terms of ‘what’ and ‘why’.”

While procedure is defined as “A series of steps followed in regular order taken to implement a policy Procedures can be mapped using flow chart. It is a more specific document with narrow application and stated in detail, describing the process of ‘how’.”

Thus a policy would be an overview of ‘what and ‘why’ certain activities need to be performed while a procedure would indicate ‘how’, ‘when’ and ‘who’ must carry out such.

Furthermore, on 14 March 2006, when National Treasury granted approval for the establishment of PMTE, it was subject to certain conditions.  These conditions included amongst others that the accounting officer of Public Works must formulate a policy and reporting framework for the trading entity.

During the planning phase of the audit, it was identified that are no policies and procedures governing the Property Management Trading Entity in the following areas:

1.    Related party transactions and balances:

*ISA 24 para 9 states that a* party is related to an entity if:

(a)  directly, or indirectly through one or more intermediaries, the party:

**(**i) controls, is controlled by, or is under common control with, the entity

(this includes parents, subsidiaries and fellow subsidiaries);

(ii) has an interest in the entity that gives it significant influence over the

entity; or

     (iii) has joint control over the entity**;**

The PMTE does not have policies and procedures in place over the identification, authorisation, and recording and reporting of related party transactions.

2.    Reporting on modified cash basis

 IAS 1.27 states that an entity shall prepare its financial statements, except for cash flow information, using the accrual basis of accounting.

PMTE has not developed and documented written policies and procedures to guide financial accounting processes, specifically relating to the reporting of financial statements in terms of SA Statements of GAAP.

The entity’s accounting records is currently being prepared on the modified cash basis of accounting and it does not enable the PMTE to report certain transactions in line with the accrual basis of accounting as required by the accounting framework.

3.    Bank and Cash Policy

Paragraph 15.10.1.1 of the Treasury Regulations states that the accounting officer is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.

The trading entity has not developed and documented written policies and procedures to guide the entity on how to achieve efficient and effective banking and cash management. The trading entity has a bank overfdraft and there is no policy or procedure which documents the process for managing this overdraft and any related bank and cash balances.

4.    Journal Policy

It was identified that there is no policy for initiation, processing, recording and authorisation of journals in place. Journals are an integral part of the financial system of the PMTE. To ensure valid, accurate and complete data in the financial system it is important to have control over journals.

It has also been determined during the audit that there is no formal delegation in place for the processing and approval of journals.

Journals are susceptive to fraud and a risk exists that inappropriate journal entries could be passed in the absence of a formal delegation policy.

5.    Subsequent events

ISA 560 paragraph 5 (e) defines a subsequent event as “events occurring between the date of the financial statements and the date of the auditor’s report, and facts that become known to the auditor after the date of the auditor’s report.”

It was identified that the trading entity does not have policies and procedures to identify subsequent events and exercise appropriate action and report on them appropriately.

We will therefore not be able to obtain audit evidence about whether events occurring between the date of the financial statements and the date of the auditor’s report that require adjustment are appropriately reflected in the financial statements.

6.    Lease Policy

PMTE enters into lease agreements on behalf of client department as well as leases buildings to client departments. However there is no policy that addresses the circumstances when a lease can be entered into, the recognition criteria and finalisation of contracts and the compliance thereof with the laws and regulations.

An analysis of the financial statements was done in order to identify whether there are policies and procedures for major components of the financial statements. The results are summarized in the table below as follows:

|  |  |  |
| --- | --- | --- |
| **No** | **Description** | **Does the Entity have the policy and /or procedures? Yes/No** |
| 1. Trade and other receivables | | |
|  | 1.1  Claims Recoverable- PACE | No |
| 1.2  Claims Recoverable – CA | No |
| 1.3  Disallowance | No |
| 1.4  Debtors – Municipal services | No |
| 1.5  Provision for Impairment | No |
| 1.6  Municipal Deposits | No |
| 2. Cash and cash equivalent | | |
|  | 2.1. Bank overdraft | No |
| 3. Trade and Other Payables | | |
|  | 3.1  Trade creditors | No |
| 3.2  Deferred income | No |
| 3.3  Accruals | No |
| 3.4  Suspense account | No |
| 4. Revenue | | |
|  | 4.1  Accommodation charges – State Owned and Private leases | No |
| 4.2 Government Grants | No |
| 4.3 Management Fees | No |
| 5. Operating Expenditure | | |
|  | 5.1 Property Maintenance | No |
| 5.2 Lease Rentals  on operating lease | No |
| 5.3 Municipal rate and taxes | No |
| 6. Related Parties                                                                                   No | | |
| 7. Contingent Liabilities                                                                          No | | |
| 8. Financial Instruments                                                                         No | | |
| 9. Fruitless and Wasteful expenditure                                                    No | | |

It would appear that the entity is not aware of the policies that they will need to have specific to the trading entity. They have not done an analysis of what policies are in place at the DPW that are also applicable to the PMTE and identify the policies that need to be developed for the PMTE.

The absence of documented policies and procedures may results in material errors in the financial statements, related parties not being conducted at arm's length as well as related party transactions not being identified timeously and disclosed adequately in the financial statements.

In the absence of policies for journal entries, invalid or unauthorised entries could remain undetected for a long period and if not timeously followed up and corrected it could result in financial losses for the PMTE.

The finding was also reported in the prior financial year and insufficient corrective action was taken by management to avoid similar findings

**Internal control deficiency**

**Leadership**

The entity did not establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities

**Recommendation**

1. Management should urgently take the required steps to procure a financial system which will facilitate recording and reporting on the accrual basis of accounting. Cognisance is taken of the fact that certain actions have been taken in respect of this process however all possible steps must be taken to expedite this process.
2. Until such time as the required financial system is in place, compensating controls in the form of adequate processes and procedures must be put in place without delay to identify and record transactions on an accrual basis of accounting (even if such accounting must be done manually until an appropriate system has been procured).
3. Policies and procedures covering all processes and aspects of the trading entity should be drafted as a matter of urgency and approved in terms of the delegations of authority. These policies and procedures should be communicated to staff effectively. Management should ensure that there is thorough understanding by all staff members and that they have the necessary skills and experience to carry out their responsibilities in an effective and efficient manner.
4. A committee should be formed to deal with all cases that could potentially result in irregular/fruitless and wasteful expenditure and they should be documented in a noted case register which should be followed up on a regular basis to ensure that corrective measures are put in place and disciplinary action taken where necessary.
5. Management must ensure that sufficient and appropriate audit evidence can be provided to the audit team to satisfy them that subsequent to the audit qualification in the prior year management has inspected and interrogated the entire expenditure population of the previous year (10/11 financial year) and identified and disclosed any additional irregular expenditure. Failure to provide the required evidence in this regard will automatically lead to a repeat audit qualification in this area.

**Management response**

Management agrees with the findings and recommendations and have initiated processes to address these findings and recommendations

Signed off business processes (in the format of system descriptions) were submitted as part of RFI 3

Management is in the process of acquiring a financial system. A procurement strategy has been agreed upon, specifications have been finalised and supply chain unit advertise on open tender.

Management has made an analysis of policies in place at the DPW that are also applicable to the PMTE and are listed as follows:

* Supply chain management,
* Subsistence and travel,
* All HR related policies,

Management has made an analysis of policies required for the PMTE and has drafted the following policies which are to be finalised with the Chief Financial Officer (CFO):

*   Accounts receivable.
* Bank and cash;
* Commitments;
* Contingent liabilities;
* Lease accounting;
* Manual journals;
* Related parties;
* Revenue management;
* Trade and other payables and
* Agency agreement

After finalisation of the policies, management will workshop the relevant officials on the application and implementation of same to ensure understanding.

All reported cases of irregular, fruitless and wasteful expenditure are reported monthly and consolidated by Head Office. These are checked and signed off by the Chief Director and Chief Financial Officer and submitted to National Treasury

Follow ups of irregular, fruitless and wasteful expenditure are done on a regular basis. The compliance unit has started with an analysis and review of all cases of irregular expenditure from 2010/11 financial year as well as those disclosed in the current financial year

Name: J Prinsloo

Position: Chief Director

Date: 20/02/2012

**Auditor’s conclusion**

Management comment noted, however the following matters still emanate from the finding:

1. The supply chain management policy is outdated as the circulars issued in relation to the policy are not incorporated in the policy.
2. The approval and application of the policies should be expedited as this matter has now been reported since the inception of the PMTE..
3. The policies should incorporate all the relevant GAAP requirements and should be reviewed and updated on an annual basis once approved to ensure alignment to the standards.
4. Documented policies and procedures relating to subsequent events, financial instruments as well as irregular and fruitless and wasteful expenditure is not included in the list of draft policies awaiting approval as per management response, there should either be separate policies for the aforementioned items or all applicable requirements should be incorporated in the policies awaiting approval.
5. The processes relating to the monthly reporting to National Treasury of irregular, fruitless and wasteful expenditure only commenced in December 2011.  PMTE was qualified on the completeness of irregular expenditure for the 2009-10 as well as 2010-11 financial years and in 2010-11 for the completeness of fruitless and wasteful expenditure.  Therefore PMTE is required to re-interrogate all procurement that took place in 2009-10 and 2010-11 to ensure that all irregular and fruitless and wasteful expenditure is retrospectively completely disclosed as well to ensure a complete register of irregular and fruitless and wasteful expenditure is reported to National Treasury going forward.
6. Should the department fail to complete the exercise to re-evaluate the relevant populations for irregular and fruitless and wasteful expenditure, these balances will again be qualified in 2011-12.
7. **Outstanding information - List of vacant buildings**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following documents as per request for information no 53 dated 16 February 2012 were requested, but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 3 | A list of all vacant buildings, land and residential buildings.  The list should include the following details:  3.1   The period and dates during which the building has been vacant  3.2.  The rental income that was previously gained for the letting of the building |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.  Note is taken of the fact that the immovable asset management plan will only be finalized by 31 March 2012, thus resulting in valid and accurate information regarding the properties not being able to be provided at this point in time for audit purposes.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

1. Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
2. A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.
3. The information requested should be submitted without further delay.

**Management response**

Managment comments have not been received.

**Auditor’s conclusion**

The list of vacant buildings, land and residential buildings was not received and no management's response was received.  The finding is therefore unresolved and will be reported in the final management report. Thus there are insufficient processes in place to confirm that all instances of fruitless and wasteful expenditure are identified.

1. **Business case not yet finalised**

**Audit finding**

Treasury Regulation 19.3.1 states the following: *“The accounting officer of a department operating a trading entity must formulate a policy and reporting framework for the head of the trading entity.”*

The establishment of the Property Management Trading Entity (PMTE) originates from the 2006 decision by National Treasury, in line with the 1997 White Paper on Public Works, to devolve accommodation related costs from the Department of Public Works (DPW) to client departments.  This included expenditure relating to maintenance, property rates, municipal services and leasing.  Furthermore property rates for provincial properties were devolved to the respective provinces.  This was aimed at the long term sustainability of the DPW and its immovable assets as well as ensuring enhanced compliance to the PFMA which requires that the “full cost of service be visible on each departments budget”.

On 28 November 2005 the DPW submitted a business case for an interim mechanism for approval to National Treasury which subsequently granted approval on 14 March 2006 for the establishment of PMTE subject to certain conditions, which included amongst others the following:

         The accounting officer of Public Works must formulate a policy and reporting framework for the trading entity.

         During the first year of operation of the trading entity, Public Works must seek approval from National Treasury to establish a full-fledged trading entity by 1 April 2007, which would comply with all the conditions for trading entities contained in Treasury Regulation 19.

 It has been ascertained that the main reason for the fact that the business case is still not finalised is the inconsistency in leadership in the Department in recent years.

The business case for the PMTE is at present still not finalised which results in non-compliance with Treasury Regulation 19.3.1.  In addition to the non-compliance the entity is currently not functioning optimally as a trading entity and is therefore not fulfilling the initial objective that it was created for namely to ensure the sustainability of the DPW and its immovable assets.

**Internal control deficiency**

## Leadership

Lack of oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

**Recommendation**

The business case for the PMTE must be finalised as a matter of urgency taking into consideration how the following critical factors, amongst others, will be resolved:

1. The fact that PMTE is responsible for all property management activities and the immovable assets are still located in the Department of Public Works.
2. Current situation with the bank overdraft and outstanding debts/revenue collection from client departments (how cash flow will be improved).
3. The current lack of enough sufficiently skilled resources to manage a fully fledged trading entity that has to report in accordance with the South African Statements of Generally Accepted Accounting Practice.
4. The current lack of a comprehensive policy and procedure framework.

**Management response**

Management is in agreement with the finding.

The executive management of the department is still in the decision-making process on the direction of the PMTE, and therefore the business case has not been finalized.

Name: Juanita Prinsloo

Position:  CD: Trading Account

Date: 26/03/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This non-compliance will be reported in the audit report.

1. **Internal Audit: Non compliance with TR3.2**

**Audit finding**

The PFMA section 38(1)(a)(ii) states the following:  *“The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains 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 sections 76 and 77;”*

Treasury Regulation 3.2 contains, amongst others, the following provisions:

*“3.2.1  The accounting officer must ensure that a risk assessment is conducted regularly to identify emerging risks of the institution. A risk management strategy, which must include a fraud prevention plan, must be used to direct internal audit effort and priority, and to determine the skills required of managers and staff to improve controls and to manage these risks. The strategy must be clearly communicated to all officials to ensure that the risk management strategy is incorporated into the language and culture of the institution.”*

*“3.2.8  An internal audit function must assess the operational procedure and monitoring mechanisms over all transfers made and received, including transfers in terms of the annual Division of Revenue Act.”*

*“3.2.11  The internal audit function must assist the accounting officer in maintaining efficient and effective controls by evaluating those controls to determine their effectiveness and efficiency, and by developing recommendations for enhancement or improvement. The controls subject to evaluation should encompass the following—*

*(a)  the information systems environment;*

*(b)  the reliability and integrity of financial and operational information;*

*(c)  the effectiveness of operations;*

*(d)  safeguarding of assets; and*

*(e)  compliance with laws, regulations and controls.”*

*“3.2.12  The internal audit function must assist the accounting officer in achieving the objectives of the institution by evaluating and developing recommendations for the enhancement or improvement of the processes through which—*

*(a)  objectives and values are established and communicated;*

*(b)  the accomplishment of objectives is monitored;*

*(c)  accountability is ensured; and*

*(d)  corporate values are preserved.”*

As at 31 December 2011 the status of audit projects planned was as follows (per report tabled at audit committee meeting on 27 January 2012):

| **No.** | **Audit Project** | **Location** | **Scope Reviewed** | **Project status** |
| --- | --- | --- | --- | --- |
| **1st QUARTER** | | | | |
| 1 | Audit of Performance Information | HO & 11 regions |          Availability of Business Processes for Performance Monitoring and Evaluation;           Alignment of Programme & Branch Objectives to the Department’s Strategic Plan;           Adequacy of the outcomes, indicators, targets, outputs and time frames.           Adequacy of Reporting Requirements and adherence;           Completeness and validity of reported performance information. | Completed – Report issued. |
| 2 | Risk Implementation Audit | Cape Town |          Effective implementation of the Risk Management Plan by Management.           Effectiveness of controls activities implemented.           Review the adequacy and monitoring of implementation of the risk management plan | Completed – Report issued. |
| 3 | Projects: OSHA | Kimberley | Evaluate adequacy and effectiveness of processes designed to ensure provision of health and safety at working environment, and in the use of machinery. | Completed – Report issued. |
| 4 | Property Management | Nelspruit | Management of Leases | Completed – Report issued. |
| 5 | IT Audits – IE Works preliminary survey |  | Approval for development of the IE Works system; project implementation and system functions | Completed – Report issued. |
| 6 | Legal Services | Johannesburg |          Contracts management           Management of cases against DPW | Completed – Report issued. |
| 7 | Follow up on previous audits: Internal Audit & AG findings | AG follow up:  [Executed at HO]           Movable assets           Immovable assets           PMTE  Regions: Internal Audit Report Findings for 2010/11 | AG Report [Implementation of Management Action Plans 2009/2010] &  Internal audit report [Findings reported for 01/04/2010 – 30/09/2010] | Completed – Report issued. |
| 8 | Irregular expenditure | Head Office & Regions |          Adequacy review of policy and business processes for treatment of irregular expenditure in line with legislation.           Status of implementation of Policy           Compliance to Procedures, i.e. reporting of irregular expenditure internally and to National Treasury           Accuracy and completeness of disclosure of irregular expenditure and adequacy of supporting documentation.           Implementation of appropriate actions for irregular expenditure incurred. | Completed – Report not yet tabled at Audit Committee |
| 9 | Day to day maintenance | Regions |          Compliance to business processes.           Management of Emergency services.           Payment within 30 days, VAT and tariffs           Duplicate complaints. | 79% complete |
| 10 | Expanded Public Works Programme | Public Bodies (5 Provincial Department & 20 Municipalities) |          Adequacy of EPWP incentive business processes & compliance with DoRA requirements;           Review the Public Body’s adherence to the DoRA requirements in particular.           Review effectiveness of support offered to Public Bodies by DPW. | 80% complete |
| 11 | IE Works SDLC (Phase 1) |  |          Project Budget           Project Governance Processes           Contract with the Service Provider | Completed – Report issued. |
| **2ND & 3RD QUARTER** | | | | |
| 12 | IS Risk assessment | Head Office | Identification of Departmental IT risks | Completed – Risk Register Report Issued to Strategic Management Unit |
| 13 | PMTE | Head Office |          Accounting Policy           Customer Billing | 50% complete |
| 14 | Property Management – lease acquisition and management [regions] | Regions |          Acquisition and Leasing           New/Renewal of Leases           Signing of Contracts           Accuracy of leasing information on System           Termination of Leases           BEE/PIP           Leases payments | 18% complete |
| 15 | IE Works Application Controls Review (Phase 2) | Head Office |          Input Controls           Processing controls           Output controls           Data Integrity and Migration verification (CAATs) | 65% complete |
| 16 | Audit of Performance Information | Head Office & Regions |          Alignment of Programme & Branch Objectives to the Department’s Strategic Plan           Adequacy of the outcomes, indicators, targets, outputs and time frames.           Completeness and validity of reported performance information           Effectiveness of Monitoring & Evaluation of Performance Information. | 42% complete |
| 17 | SAS Application Controls Review |  |          Input Controls           Processing controls           Output controls           Data analysis using CAATs | 50% complete |
| **4TH QUARTER** | | | | |
| 18 | Follow up on previous audits: internal audit and AG findings | Head Office & Regions |          All completed I/A assignments           AG – Significant findings [Management Action Plan for 2010/11 & SCOPA resolutions] | Not yet started (audit only planned for 4th quarter which did not yet commence at the time of preparing this report). |
| 19 | Bids/Procurement above 10 million (From second quarter) | Head Office & Regions [Reported bids only] |          To verify compliance to DPW SCM policies and procurement procedures           Compliance to National Treasury requirements in respect of bids/procurement of capital projects, goods & services in excess of R10 million within the Department. | Audit was 65% complete and then suspended as a result of the withdrawal of this requirement by National Treasury until further notice. |
| 20 | Division of Revenue | Head Office |          Availability and adequacy of guidelines/ business processes for maintaining transfers and subsidies to entities           Assurance that transfers/subsidies are applied for their intended purposes           Review reporting and monitoring procedures           Review validity of reported performance where relevant | Not yet started (audit only planned for 4th quarter which did not yet commence at the time of preparing this report). |

Actual and potential non-compliance identified:

1. The Department has not concluded its risk management strategy to date (matter separately reported) and as a result this cannot be utilised to direct internal audit effort and priority as required by Treasury Regulation 3.2.1.
2. Treasury Regulation 3.2.8 requires the internal audit function to assess the operational procedure and monitoring mechanisms over all transfers made and received.  Two audits have been planned for the year under review which incorporate DoRA compliance (see numbers 10 (Expanded Public Works Programme) and 20 (Division of Revenue) in table above).  The EPWP audit is 80% complete where as the DoRA audit did not yet commence at the date of progress above having been reported.  It is important to note two matters:

(i)    The Treasury Regulation specifically refers to all transfers, therefore not only transfers made in terms of the Division of Revenue Act.  As a result, internal audit must include an assessment on transfers made in terms of the ENE in order to comply with the regulation.

(ii)   The DoRA audit is only scheduled for the fourth quarter of the financial year.  Internal audit has already fallen behind on complying with the deadlines initially set out in their annual plan.  Should the DoRA audit not be completed and reported on before the end of the financial year it will result in non-compliance with TR 3.2.8.

(c)    Treasury Regulations 3.2.11 and 3.2.12 requires the internal audit function to assist the accounting officer in maintaining efficient and effective controls and achieving the objectives of the institution.  Although we take note of the fact that internal audit has completed some of the audits as indicated in the table above and developed recommendations based on the findings, the following critical matters have been identified that gives rise to internal audit not complying with the requirements as set out in the respective Treasury Regulations:

(i)      Although an annual plan has been prepared and approved, this was not informed by a properly conducted and formalised risk assessment of the department, as a result key risk areas where the control environment is lacking is not prioritised for example supply chain management, which is a key risk area for both the Department and PMTE.  Although consideration has been given to certain elements the only audit completed up until 31 December 2012 was an audit on management of leases in Nelspruit (see number 4 above).  Furthermore it is noted that the audit on irregular expenditure was completed by 31 December 2011 although not tabled.  It is however imperative to note that this audit focuses on situations where irregular expenditure has occurred already and not on the controls that should be preventing it in the first place.  This is further supported by the fact that the department does not have an updated supply chain management policy.

ii)     In addition to the aforementioned, internal audit is only planning to follow up on the AGSA’s 2010/11 report in the fourth quarter, this does not allow management sufficient time to effect corrective action where matters have not yet been resolved (it is evident from the findings reported at an interim reporting stage by external audit that none of the qualification matters in the 2010/11 audit reports have been resolved at this point in time).

(iii)    Although an IT risk assessment has been conducted there is no indication that internal audit has specifically evaluated the general and application controls of information systems being used on a daily basis such as WCS and PMIS.

(iv)   It is evident from the interim financial statements that have been submitted to the auditors for reviewing purposes that internal audit is not evaluating the effectiveness and efficiency of controls surrounding the reliability and integrity of financial information being reported.

(v)    The lack of controls surrounding the safeguarding of assets is evident from the state of the movable asset warehouses.  It is not evident that internal audit has made recommendations to promote the safeguarding of movable assets in these warehouses.

(vi)   Compliance with laws and regulations are not treated in isolation by internal audit however it is incorporated as an element of all audits that are planned.  However please refer to point a above, as a result of internal audit not prioritising the audit of critical areas such as a comprehensive supply chain audit, it will result in internal audit not evaluating the controls surrounding compliance to related laws and regulations.

(vii)  It was noted as part of the planning of the regularity audit that not all officials were familiar with the code of conduct which is the primary means of communicating the objectives and values of the department and ensuring that the values of the department are preserved.  Internal audit did not include any work relating to the code of conduct/fraud prevention plan etc. in their annual plan.  Furthermore internal audit is responsible for internal investigations, there are matters which were reported as far back as 2008/09 for which investigations have not yet commenced (matter has been separately reported).

(viii) The lack of accountability in the department is evident from the fact that the same matters are continuously being reported by external audit without consistent corrective/disciplinary action being taken against transgressing officials from the department’s side.  It is not evident that internal audit has performed an evaluation of the process through with accountability is ensured.

In line with what has been reported at the audit committee meeting that took place on 27 January 2012 the finding is being attributed to a lack of capacity in the internal audit unit.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over compliance with laws and regulations and internal control.

**Governance**

There is not an adequately resourced and functioning internal audit unit that identifies internal control deficiencies and recommends corrective action effectively.

**Recommendation**

1. The risk assessment of the department must be concluded as a matter of urgency and should be updated on a regular basis to ensure that it is always relevant in terms of the key risks facing the department and the PMTE.  The results of this risk assessment must inform the scope of internal audit’s work going forward (annual plan for financial year ending 31 March 2013 as well as three year rolling plan).
2. Internal audit must ensure that they assess the operational procedures and monitoring mechanisms over all transfers made by the department.
3. The requirements of Treasury Regulations 3.2.11 and 3.2.12 must be analysed and internal audit should demonstrate compliance with both of these regulations.
4. If capacity is indeed the root cause of findings such as these occurring the filling of posts in the internal audit unit must be prioritised and treated as a matter of urgency.  Until such time that these positions are filled strong consideration must be given to optimally contracting in capacity in line with Treasury Regulation 3.2.4 which allows the internal audit function to be partly or wholly contracted to an external organisation with specialist audit expertise, provided that its selection is in accordance with the relevant government’s competitive tendering procedures.
5. Given the recent negative audit outcomes the capacitating and effective functioning of the internal audit unit must be seen as a key priority by leadership within the department.

**Management response**

The Unit does not agree with some of the issues raised as “Actual/Potential non-compliance”, raised.  Response is as follows:

***(a)    The Department has not concluded its risk management strategy to date and as a result this cannot be utilized to direct Internal Audit effort and priority as required by TR 3.2.1.***

Although the risk management strategy of the Department has not been concluded, Internal Audit ensured that it prioritizes its efforts by utilizing the strategic risks adopted by Executive Management, previous AGSA reports, Internal Audit knowledge of the environment; emerging risks and inputs from both Executive Management and the Audit and Risk Management Committee (Audit Committee). This matter was communicated to both DPW Management and the Audit Committee. Internal Audit also revised its plan during the year in order to take into account other emerging risks as per the revised/ updated risk register (strategic).

Chief Directorate: Strategic Management Unit/Dir Business Analysis & Risk Management will respond on the unavailability of a risk management strategy.

***(b)   TR 3.2.8 (Auditing of All Transfers)***

Internal Audit prioritized the DoRA Audit only in the 2011/12 financial year due to limited capacity. The DoRA audit is performed by only two in-house resources available to the unit, whilst the EPWP audit is done by a service provider.

We would like to bring it forward to AGSA that the Unit only has 5 audit staff members responsible for conducting all head office audits. This team is currently running with 3 audits, i.e. DoRA, Audit of Performance Information, and PMTE (Recons & completeness: Debtors).

The DoRA audit was placed in the last quarter of the year due to prioritizing other significant audits in consideration of the strategic risks. Deputy Director positions have been advertised with interviews scheduled for mid-March 2012 to improve reporting time frames, and these will assist in ensuring increased coverage.

***(c)    TR 3.2.11 & 3.2.12***

***a. Annual plan not informed by a “Properly Conducted Risk Assessment”***

IIA Standard 2010 – Planning states that: “The Chief Audit Executive must establish risk based plans to determine the priorities of the internal audit activities, consistent with the organization’s goals. The Chief Audit Executive is responsible for documenting a risk based plan. The Chief Audit Executive takes into account the organization’s risk management framework, including using risk appetite levels set by Management for the different activities or parts of the organization. **If a framework does not exist, the CAE uses his/her own judgment of risks after consultation with Senior Management and the Board”.**

The Unit’s methodology for audit planning is in line with the IIA Standards as required by TR 3.2.6. In determining the activities of the unit for 2011/12 due consideration was made of individual business units/branches and Regions risk registers, strategic risks at organization level as well as EXCO’s input and the Audit Committee’s input .

Previous unit reports, AGSA and other external but relevant reports were also considered. The unit’s plan is therefore Risk Based. The audit of SCM was in the plan, however reprioritized due to the Treasury Instruction note audit requirement which was later withdrawn. The reprioritization done in this instance was to review SCM within the Leasing environment, i.e. lease acquisition in line with the approved plan (revised). This is in line with the Standards, i.e. prioritizing audits based on risk results and emerging risks.

The audit of Irregular Expenditure was completed between September and November 2011, and it was already tabled in respective Regions and Head Office. What was finalised only in December 2011 was the consolidated report, which is affected by actual tabling of individual reports of the same audit. The updated Supply Chain Management Policy is the responsibility of Management.

Internal Audit is an assurance activity which focuses on reviewing controls and assisting management to correct and improve by giving recommendations. Our audit focused on reviewing controls in place, testing them for adequacy & effectiveness and recommending improvements.

Management is responsible and has a fiduciary duty to ensure that controls are detective & preventative of irregularities. One such control is the Compliance/ Inspectorate directorate.

***b. Follow up on AGSA 2010/2011 Report Management Action Plan***

The final report of AGSA 2010/11 was finally tabled on 31 August 2011 and an action plan tabled in November 2011, (work in progress). Therefore internal audit would not have been able to follow up then earlier in the year. Management should be provided reasonable time to implement the recommendations before a follow-up can be conducted.

**c. IT Audits**

Computer Audit started to be fully operational in the unit at the beginning of 2011/12 financial year. Five (5) IT audits were in the approved Internal Audit plan and three ( 3) have been completed and reports issued. It is anticipated that the remaining will be completed by the end of financial year.

In terms of PMIS&WCS the Department is currently in a process to convert both systems into IeWorks, so it is impossible to conduct an audit on outgoing systems, instead we have conducted three IT audits on IeWorks project to date, namely (Preliminary survey, IeWorks System Development Life Cycle (Phase1), IeWorks Application Controls Reviews (Phase2). The final reports were issued and presented to EXCO for all projects.

The progress report for Application Controls Reviews was presented to EXCO meeting held on 1 March 2012 but we could not completely conduct the audit as planned due to the Governance issues that impacted the completion of our audit as raised in the progress report issued.

In terms of IT General Controls Review, Computer Audit Manager had a[[SK1]](about:blank" \l "_msocom_1)  meeting with the Information System Manager allocated for the Department from Auditor General in January 2012 to discuss the scope. It was agreed in the meeting that AGSA will conduct the General Controls Review as per their annual plan and defined scope and Internal Computer Audit team will conduct aspects that AG will not cover as discussed and agreed in that meeting. The audit is planned to commence in March 2012.

**g. Fraud Prevention Plan**

A communication on 1 April 2011 was issued by the Chief Directorate Communications and Marketing on behalf of the Chief Directorate Internal Audit and Investigations Services to ALL DPW staff members that the “Department has an updated and approved Fraud Prevention Plan that can be accessed via DPW Intranet and/or by requesting a copy from the Fraud Awareness and Investigations Unit at Head Office or the Internal Audit Sections in Regional Offices” (See Attached document), the communiqué went as far as giving a step by step guide as to how to access the Fraud Prevention Plan on the intranet. Amongst other matters addressed by the Fraud Prevention Plan is to emphasize and encourage staff to familiriase themselves with Code of Conduct.

It is also worth noting that since February 2011 the Directorate Fraud Awareness Unit has conducted up to 25 Fraud Awareness Workshops (which are actually a presentation of the DPW Fraud Prevention Plan) at 9 Regional Offices across the country, highlighted in such presentations is emphasis to staff to familiriase themselves with the Public Services Code of Conduct.

With regards to Investigations not yet completed, three (3) and eleven (11) cases reported during 20009/10 and 2010/11 financial years respectively, have not yet commenced as a result of capacity challenges within the Unit. The Unit has since appointed Service Providers to capacitate the unit and address the backlog of cases to be investigated as well as new cases as they are being received.

***d.; e. f; Compliance with Laws & Regulations; Controls around safeguarding of assets, etc.***

Internal Audit will not be able to evaluate all operational controls in the organization, hence the requirement by IIA Standards to prioritize, to focus on activities which have the greatest risk exposure.

TR 3.2.11 which refers to the controls subject to evaluation should encompass the following:

a)      The information systems environment

b)      The reliability and integrity of financial and operational information

c)      The effectiveness of operations

d)      Safeguards of assets and

e)      Compliance with laws, regulations and controls.

It should be noted that the controls tested during all the audit projects encompass the above elements and not necessarily all elements in one project e.g reliability and integrity of financial and operational information does not mean financial statements must be audited, but in any audit e.g. irregular expenditure which we did, the financial information of a specific sample selected and tested should be correct. Another example is the one on compliance with laws and regulations and controls; every audit basically has this element which has to be tested. Audits are therefore risk based and the elements of TR3.2.11 are tested during the execution of different projects. These are reflected in our findings and recommendations.

Contracting in capacity is being done, i.e. EPWP audit, however there is a limit on this since it is also dependent on financial resources, and the management there of – project management. Recruitment for the additional positions requested for and approved is at an advance stage.

Name: T Tukisi

Position: CAE

Date: 2/3/2012

**Auditor’s conclusion**

The response of the Head of Internal audit is noted. Internal audit is indeed allowed to perform their own risk assessment in line with the Internal Auditing Standards. This risk assessment must be provided to external audit in order to determine compliance with the applicable standards as there is not necessarily agreement with the audits that were prioritised.

Capacity in terms of human and financial resources remains a significant concern and the resolution thereof must receive urgent attention as internal audit forms an integral part of ensuring good governance in the department.

Based on the matters reported in this report it is clear that recommendations by internal audit are not having the desired effect in terms of improving the internal control environment. Non implementation of aforementioned recommendations must be addressed by leadership in the department.

It is of concern that no further work is being performed on PMIS and WCS given the delay in implementation of IE Works and the critical importance of these systems in the department.  Internal audit should ensure that all further decisions in this respect are clearly documented in their annual plan for 2012-13.

Compliance with Treasury Regulation 3.2 was re-evaluated during the finalisation stage of the 2011/12 regularity audit, as the deficiencies noted above are still prevalent, this non-compliance will be reported in the audit report.

1. **Potential irregularities not being timeously investigated**

**Audit finding**

Laws, rules and legislation:

(a)   Public Finance Management Act

(i)    Section 38(1)(h) states:

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

*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 - Investigation of alleged financial misconduct

*“4.1.1      If an official is alleged to have committed financial misconduct, the accounting officer of the institution must ensure that an investigation is conducted into the matter and if confirmed, must ensure that a disciplinary hearing is held in accordance with the relevant prescripts and agreements applicable in the public service.*

*4.1.2       The accounting officer must ensure that such an investigation is instituted within 30 days from the date of discovery of the alleged financial misconduct.*

*4.1.3       If an accounting officer is alleged to have committed financial misconduct, the relevant treasury, as soon as it becomes aware of the alleged misconduct, must ensure that the relevant executive authority initiates an investigation into the matter and if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts applicable and agreements applicable in the public service”*

The following non-compliance was identified:

The department has not in all instances instituted investigations within 30 days from the date of discovery of the alleged financial misconduct. Please refer to the tables in paragraphs (a) to (c) below indicating the number of investigations that have not yet been instituted, for each of the financial years listed. This information was extracted from the allegation register compiled by internal audit in a response on request for information number 33.

It is acknowledged that some of the instances for the 2011-2012 financial year may still be within the 30 days from discovery. It is however noted that numerous of them are already outside the 30 days. As indicated in the table in paragraph (d) the values for the cases not started yet, for which amounts were indicated in the allegation register, amounts to R201 830 863,12

(a)        2009 - 10 financial year allegations

|  |  |
| --- | --- |
| **Stage** | **Number of instances** |
| Matter referred to Security Services/SAPS/CIDB/SIU/ North West Provincial Government & Kwa-Zulu Natal Provincial Government | 11 |
| Internal Reporting Stage | 9 |
| Final Report issued to Management | 5 |
| Not started | 5 |
| Field Work/ Outsourced | 5 |
| **Total** | **35** |

(b)        2010 - 11 financial year allegations

|  |  |
| --- | --- |
| **Stage** | **Number of instances** |
| Final /Memo/Preliminary Reports' Issued to Management | 8 |
| Not started | 11 |
| Matter referred Labour Relations Unit/ SIU | 4 |
| Field Work/ Outsourced | 5 |
| Internal Reporting Stage | 0 |
| **Total** | **28** |

(c)        2011 - 12 financial year allegations

|  |  |
| --- | --- |
| **Stage** | **Number of instances** |
| Matter referred to Security Services/Labour Relations Unit/ SIU | 4 |
| Not started | 37 |
| Final Report/Preliminary Memo issued to Management | 4 |
| Field Work/ Outsourced | 11 |
| Internal Reporting Stage | 3 |
| **Total** | **59** |

(d)        Value of cases not started yet:

For the tables listed in paragraphs (a) to (c) the values of some of the instances which have not yet started were indicated. The values and number of instances per financial year is indicated in the table below:

|  |  |  |
| --- | --- | --- |
| **Financial year** | **Number of instances with a value indicated** | **R** |
| 2009-10 | 5 | 188 051 866,00 |
| 2010-11 | 4 | 12 634 910,00 |
| 2011-12 | 20 | 1 144 087,12 |
| **Total** |  | **201 830 863,12** |

Potential impact of the findings raised above:

(a)    Non-compliance with the Treasury Regulations and Public Finance Management Act.

(b)    Investigations that are not timeously instituted and concluded enhance the risk that, should the allegation proof to be true, irregular practices and misuse of the scarce resources of the Department of Public Works might continue in the intervening period.

(c)    Funds may not be recoverable from officials if timeous actions are not taken.

(d)    The extent to which irregular expenditure may be understated cannot be determined.

Reason for the deviation:

It was indicated that the aforementioned is due to a lack of capacity and a key official being on extended sick leave.

A similar finding was also issued in the prior financial year.

**Internal control deficiency**

**Leadership**

1. The department did not implement effective leadership based on a culture of honesty, ethical business practices and good governance, protecting and enhancing the best interests of the entity.
2. The department did not exercise their oversight responsibility regarding financial and performance reporting and compliance and related internal controls.

**Recommendation**

1. Management should ensure that all outstanding matters are investigated as a matter of urgency and going forward it must be ensured that investigations are instituted within the legislative deadline of 30 days from discovery.
2. Monthly reports need to be submitted to the Minister pertaining to the progress on all allegations.
3. The outcomes clearly need to be indicated in the report to the Minister. Thus indicating if for example the matter was referred to SAPS, disciplinary actions instigated against officials and money recovered etc.
4. The shortcomings in the internal control system, which resulted in the matters not having been prevented, must be identified. Then the policies and internal control procedures needs to be adjusted to avoid similar instances from reoccurring.
5. Changes in policies need to be timeously approved by the appropriate relevant officials to give effect to the required changes in internal control.
6. A specific monitoring mechanism needs then to be implemented whereby it can be ensured that the shortcomings were sufficiently addressed.
7. Strict actions need to be taken against officials who then do not adhere to the implemented controls.
8. The audit committee should also be informed pertaining to the status of investigations.

**Management response**

The Directorate Fraud Awareness and Investigations appointed the services of three (3) Service Providers during August 2011 to capacitate the Unit. It should be noted that due to the Unit having been faced with a challenge of addressing a huge backlog going as far back as the 2009/10 financial year, this had an impact on its ability to address current issues. Furthermore, the recruitment process to fill vacancies for the two Assistant Directors Investigations that were vacated during 2010 has since been concluded and the incumbents assumed duty on 01 July 2011 and 01 August 2011 respectively. There is also a gap left by the Director: Fraud Awareness and Investigations who is still on leave sick since December 2010 to date. This position has now been advertised in December; the recruitment process has therefore commenced. The Internal Audit and Investigations Chief Directorate submission for proposed structure is en route to Senior Management for consideration, which aims at capacitating the Unit to enable it to deal with reported matters timeously.

It should also be noted that the Unit is experiencing a high staff turn-over; currently the Deputy-Director and the Assistant Director Investigations have tendered their resignation; this will and has an adverse impact on the Units performance.

It is also our view that the impact amounts captured on the Register are not a true reflection of the monetary effect of matters reported as in many instances after the investigation has been conducted and concluded, the impact amount tends to vary from those reported.

Furthermore the total amount of R201, 830,863.12 as monetary figure for cases not yet started is largely influenced by one case reported from Cape Town Regional Office, whereby it was that reported that a tender was “awarded fraudulently” to a certain construction company.  The impact amount is captured in the Register as R182, 133,065.33. Our review of the allegations report indicated that the matter was actually an alleged misrepresentation by the successful bidder. The award of the tender was challenged in court by one of the unsuccessful bidders. Based on the above statement, the Unit’s view was to allow for the court process to run its course prior to us commencing with an internal enquiry.  Our Legal Services Unit will be approached to assist in obtaining progress on this matter and should it be deemed necessary this matter will be out-sourced as a matter of urgency to one of our current service providers on board.

Progress report on investigations is submitted ExCo and Audit and Risk Management Committee (ARMC) meetings.  The ARMC file is also submitted to Executive Authority for information.  The frequency of submission can however, be increased.

The investigation reports which recommend any disciplinary action are further submitted to Labour Relations and/or Legal Services for further action.  The Register is updated regularly with progress.  Engagements with Labour Relations Unit will be increased to ensure more frequent update of the Register and thereby enhancing monitoring.

Name:   Tebogo Tukisi

Position:  Chief Audit Executive

Date: 6/12/2011

**Auditor’s conclusion**

Although management did not specifically indicate if they agree or not with the finding, management’s response is perceived as being in agreement with the finding. Although cognisance is taken of managements comment the department must ensure that they comply with all relevant laws, rules and regulations. The non compliance will be reported in the audit report. The extent to which irregular expenditure may be understated cannot be determined until the investigations are completed.

1. **High Level review of AFS**

**Audit Finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During a high level review of the annual financial statements, the following was noted:

*DG representation letter*

Paragraph *a* of this letter states the following: "the financial statements have been prepared in accordance with the South African Generally Accepted Accounting Principles (GAAP) as prescribed by the National Treasury determined framework as prescribed in the national departments and relevant guidelines specified / issued by the National Treasury". This is not an accurate statements as the accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with South African Statements of Generally Accepted Accounting Practice (SA Statements of GAAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA). It should therefore be clarified that the Departmental Financial Reporting Framework Guide issued annually by the National Treasury is not applicable to the PMTE.

*Financial statements header*

Throughout the financial statements the heading includes the following: "ANNUAL FINANCIAL STATEMENT..." It should read "ANNUAL FINANCIAL STATEMENT**S**"

*Index page*

1. Header contains "STATEMENT OF FINANCIAL POSITION"; this should be removed from the Index page.
2. It is indicated that the Accounting Policies appear on pages 6-7, it in fact continues into page 8. It must be ensured that all page numbers are accurate before financial statements are printed in annual report.
3. Notes to the Annual Financial Statements appear on page 9-25 and not 7-24 as indicated currently. It must be ensured that all page numbers are accurate before financial statements are printed in annual report.
4. This page contains a space for the Director-General to sign, however this has not been done.

*Statement of Financial Position*

1. R''000 should be amended to show R'000 in heading.
2. The line item "Debt account and claims" did not appear in the prior year, the 2010 restated figure of (24) should be reclassified as a creditor.
3. Accumulated funds and liabilities: The line item should read "Retained Income (Accumulated loss)" to cater for the accumulated losses in prior years.

*Statement of Comprehensive Income*

1. Headings:
   1. There is only one note reference in the statement of comprehensive income, therefore the (s) after Note(s) can be removed.
   2. R''000 should be amended to show R'000 in heading for 2012.
2. The line items "Debtors impairment" and "Impairment reversal" relates to one type of accounting entry namely the movement in the provision for impairment. Consider consolidating into one line item with a suitable description or alternatively consider moving the "Impairment reversal" up to the income section of the statement of comprehensive income as it represents a gain and not a loss.
3. Casting/rounding errors as indicated below:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| Total for operating expenses | (6,853,500) | (6,853,490) |
| Profit (loss) for the year | 337,855 | 337,865 |
| Total comprehensive income (loss) | 337,855 | 337,865 |

1. It is unclear what the purpose is of the line below "Other income" as there is no sub-total.
2. The utilisation of CAPS for the lines "OTHER INCOME" and "OPERATING EXPENSES" is not consistent. It should not be different from the presentation of the line items such as "Revenue" and "Profit (loss) for the year.

*Statement of Changes in Equity*

1. Headings:
   1. The entity is presenting a retained income at the end of the 2012 financial year; therefore the column heading should read "Retained income (loss)" instead of just "Retained loss".
   2. R''000 should be amended to show R'000 in heading mentioned above.
2. Line item "Changes in equ**ality**" should read "Changes in equ**ity**".
3. Last line item "Balance at 31 March 2011" should be "Balance at 31 March 2012".
4. It is noted that restatements as a result of prior period errors are included in note 9, however it should be indicated on the face of the statement of changes in equity that the balances presented have been restated for example "Balance at 01 April 2010 as restated".
5. Refer to rounding errors highlighted in point (c) under heading statement of comprehensive income. The statement of changes in equity contains the incorrect figure of R337,855 instead of R337,865. Should this be corrected it will affect the retained income at 31 March 2012 in both the statement of changes in equity as well as the statement of financial position.

*Statement of Cash Flows*

1. R''000 should be amended to show R'000 in heading for 2012.
2. 2011 figure for "Cash at the beginning of the year" differs from what was presented in the prior year financial statements as follows: (R1,675,445) currently presented vs. (R1,666,448) presented in the prior year annual report. The is as a result of cash on hand of R8,997 million (refer to note 4) not having been taken into account. It is clear that one or more of the following figures for 2011, "cash receipts and government grants"; "cash paid to suppliers" and/or "debt account and claims" have to be incorrect in order for the cash flow statement to be balancing.
3. The line item "CASH FLOWS FROM FINANCIAL ACTIVITIES" does not seem to serve a purpose as there is no sub-total indicated.
4. Casting/rounding errors as indicated below:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| Cash generated from operations | 151,513 | 152,513 |
| Net cash from operating activities | 151,513 | 152,513 |
| Total cash movement for the year | 151,513 | 152,513 |
| Total cash at end of the year | (1,101,092) | (1,100,092) |

As a result of abovementioned, the figures are not agreeing to note 10 and note 4/ Statement of Financial Position.

*Accounting policies*

An in-depth review of accounting policies presented has not yet taken place, however a few general comments have been noted:

1. In several instances it appears that accounting policies have been selected/presented without considering the applicability of statements contained therein, a few examples are listed below:
   1. Note 1.1: The following statement is made: "The provision for impairment on receivables is calculated based on available information which indicate that the amount receivable are impaired, **e.g.** **liquidation of the debtor**." (*own emphasis added*). This does not seem like a likely scenario in PMTE's case and one would have expected a more reasonable example of when a receivable is considered to be impaired.
   2. Note 1.10: "Comparatives were also adjusted as a result of the change from modified cash basis of accounting to use the South African Statements of Generally Accepted Accounting Practice." The PMTE had to prepare SA GAAP statements since the financial year ended 31 March 2009. Thus this is not a valid statement.
   3. Note 1.11: Extensive reference to foreign currency transactions, hedge accounting etc.?
   4. Note 1.12: Not clear on "borrowings" that are being referred to and reference to borrowing costs being capitalised?
2. Accounting policy contravenes the requirements of SA GAAP for example the statement in note 1.1: "In addition, the amounts outstanding for longer than 3 years and longer are considered to be impaired and the whole amount greater than 3 years is considered as the provision."
3. Generally this section does not seem comprehensive enough, for example no accounting policy on related party transactions.

*Notes to the Annual Financial Statements*

Note 3: Trade and other receivables

1. The following rounding errors were identified in the Receivables ageing 31 March 2012:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| *1 to 3 years column:* |  |  |
| Total (casting) | 229,479 | 229,481 |
| *Total column:* |  |  |
| Disallowances (cross casting) | 222,544 | 222,543 |
| Debtors - Municipal services (cross casting) | 574,396 | 574,395 |
| Municipal deposits (cross casting) | 6,811 | 6,812 |
| Provision for impairment (cross casting) | (415,455) | (415,453) |
| Total (casting/cross casting) | 3,704,557 | 3,704,558 |

These are immaterial rounding errors, however it should be addressed to ensure that casting and cross casting are accurate and that correct totals tie up with main note.

1. The following casting/rounding errors were identified in the Receivables ageing 31 March 2012:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| *1 to 3 years column:* |  |  |
| Total (casting) | 645,614 | 645,619 |
| *Total column:* |  |  |
| Disallowances (cross casting) | 199,890 | 199,895 |
| Debtors operating lease (cross casting) | 921,813 | 119,224 |
| Total (casting/cross casting) | 3,040,634 | 2,238,050 |

There is a cumulative difference of R802,584k between R3,040,634k currently being reported and tying up to the main note vs. the correct total of R2,238,050k. This error must be corrected.

1. The "Provision for impairment" main heading is missing from the last part of the note which reconciles the opening and closing balance of the provision.
2. The main headings indicating the respective financial years and functional currency are missing from this page. It is applicable from the last section of note 3 and should be inserted.

Note 4: Cash and cash equivalents

See point (d) under heading statement of cash flows.

Note 5: Trade payables

1. Rounding error for 2012 - When casted the total comes to R2,444,699k instead of R2,444,698k being reported in note as well as statement of financial position.

Note 6: Financial assets by category

1. Formatting in this note is inconsistent. It is suggested that the presentation for 2012 and 2011 be aligned to presentation for 2010. There is no need for all the columns that do not contain any figures.
2. For purposes of this note the two line items "Trade and other receivables" and "Debt account and claims" as per the statement of financial position have been consolidated into one figure under the heading "Trade and other receivables". It is suggested that the two line items are presented separately to avoid the line item "Trade and other receivables" in this note not tying up with the "Trade and other receivables" balance in the statement of financial position and note 3.
3. Cash and cash equivalents were designated as "Available for sale" financial assets in the previous year. This year the designation has been changed to "Loans and receivables". There is no indication in the financial statements of a change in accounting policy relating to the designation of these financial assets. Furthermore, accounting policy note 1.3 (Cash and Cash Equivalents) states that "cash and cash equivalents are carried at fair value" - this contravenes acceptable accounting treatment for financial assets which have been designated as "Loans and Receivables". The latter should initially be measured at its fair value, plus transaction costs that are directly attributable to the acquisition or issue of the financial asset and subsequently at amortised cost.

Note 7: Financial liabilities by category

1. As the 2010 figure for trade and other payables has also been restated it is unclear why 2010 figures have not been included in this note.

Note 9: Prior period errors

*General:*

1. International Accounting Standard 8, Accounting Policies, Changes in Accounting Estimates and Errors, states the following in paragraph 49(a): "In applying paragraph 42, an entity shall disclose the following: the nature of the prior period error;". The disclosure of the nature of the error is critical to the understanding of the financial statements by the users thereof, especially given the magnitude of corrections/adjustments made and the materiality thereof. This deficiency was explicitly highlighted at the audit committee, yet there was no attempt afterwards to include this disclosure before submission.
2. The utilisation of brackets throughout the note is completely inconsistent. In certain instances it indicates an amount being added to the prior year figure and in other instances it indicates a deduction. There also doesn't seem to be a rationale behind it for example using no brackets for debits and brackets for credits. The note must be revisited to ensure that there is consistent and logical utilisation of brackets.
3. Inconsistent utilisation of bold text. For example "Trade and other receivables" and "Cash and cash equivalents" are both main line items on the statement of financial position yet one is bolded and the other not. The note should be revisited to ensure proper utilisation (or not) of bold text.
4. In certain instances sub-totals are included for example for "Trade and other receivables" and "Trade and other payables", yet there is no indication of which figures comprise the total amount being presented. This is effectively achieved by boxing the figures that comprise the sub-total. This must be amended to ensure that the user has a proper understanding of the different items adding up to the total.
5. The descriptions and corresponding amounts on page 14 are completely misaligned, thus the user is not able to ascertain which figures match which description.

*2011 disclosure:*

1. "Trade and other receivables": The 3 in R**3**,527,861 (restated amount) is missing from the disclosure.
2. "Trade and other payables":
   1. Restated amount of R2,375,539 does not agree to figure per statement of financial position of R2,393,427.
   2. Restated amount for "Trade creditors" does not agree to amount per note 5. R2,096,465 in note 9 vs. R2,096,626 in note 5.
   3. Rounding errors as indicated below:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| Trade creditors (cross casting) | 2,096,465 | 2,096,468 |
| Total comprehensive income (loss) | 572,487 | 572,490 |

1. The statement of financial position as well as the statement of changes in equity reflects an accumulated loss amounting to R118,151k. Yet the restated figure in note 9 is indicated as being an accumulated loss of R100,261k.
2. Where the 2011 figures continue on page 14 there are no headings (financial year/currency etc.) - this must be inserted.
3. Deferred income, separately disclosed in note 9 is included in accommodation charges - state owned in note 8. Unfortunately it is not clear where the "deferred income" emanates from. This is however most likely revenue received in advance by a client department. If the latter is true this amount should be reflected as a liability and not revenue.

*2010 disclosure:*

1. R'000 heading missing.
2. 2010 previously reported:
   1. Rounding error on trade and other payables - should be R934,936k instead of R934,934k.
   2. There has been a re-allocation of amounts between "Claims recoverable" and "Debtor Municipal services", instead of this being included in the restatement column it has been erroneously effected in the 2010 previously reported column.
3. "Other asset", based on a process of elimination this appears to have to be the line item "Debt account and claims" in the statement of financial position. Should this be correct the figure presented should be R24k, not R4k.
4. Restated figures for trade and other payables (R1,626,963k vs. R1,644,831k) and trade creditors (R1,274,495k vs. R1,274,470k) do not agree to balances per statement of financial position/note 5.
5. Casting/Rounding errors as indicated below:

|  |  |  |
| --- | --- | --- |
|  | Currently | Correct Figure |
| Trade and other payables (cross casting) | 1,626,963 | 1,626,965 |
| Trade creditors (cross casting) | 1,274,495 | 1,274,497 |
| Advance account (cross casting) | 374,769 | 334,769 |
| Other payables (cross casting) | 17,913 | 17,915 |

1. Restated accumulated loss being reported as R252,781k, in the statement of financial position as well as the statement of changes in equity this is reflected as R270,669k.
2. It is noted that the bank overdraft is not indicated. Although this is strictly not necessary as there was no correction of a prior period error, consistency should be ensured in the approach. This was disclosed for 2011 figures.

Note 10: Cash generated from operations

1. No taxation applicable therefore remove "before taxation" from "Profit before taxation".
2. Take into account point (b) reported under statement of cash flows. Need to double check to ensure figures being reported are indeed correct.

Note 11: Losses through criminal conduct or unauthorised, irregular or fruitless and wasteful expenditure

1. Fruitless and wasteful expenditure: Opening balance for 2011 is zero, this must be amended to ensure correct casting. The amount in question is in fact R6,7**22**k and not R6,7**72**k.
2. Opening balance for 2011 restated from R264,180k to R267,163k. Although cognisance is taken of the fact that this is only a disclosure note an explanation should be provided in the financial statements. Similarly it is unclear what constitutes the "Other irregular expenditure" amount that has been added in the current year. Disclosure is not sufficient for the user to understand the current situation. Furthermore, the only disclosure guidance available in this regard is the annual preparation guide by National Treasury which prescribes that prior year(s) irregular expenditure identified in the current year should be disclosed in the current year, separately from irregular expenditure identified in the current year relating to the current year.
3. Note is taken that TR 9.1.5 requires that the amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution. It is however advisable to include narrative information concerning the period of time over which the expenditure occurred and what gave rise to it along with the investigation process and progress in resolving the irregular expenditure. This greatly assists in enhancing the users understanding of the AFS.

Note 13: Contingent liabilities and assets

1. Contingent liabilities for prior periods have been restated, therefore the nature and effect of the prior period errors should be disclosed.
2. Narrative under contingent liabilities refers specifically to claims arising from capital projects. Are there no contingent liabilities for example in relation to leasing?
3. No contingent assets disclosed in prior periods, need to include narrative on why prior period amounts are now included.

Note 14: Related parties

1. 14.1 - "Works" missing after "National Department of Public". Disclosure is not sufficient, there is no indication of what constitutes the expenditure incurred on behalf of PMTE. Furthermore, there is no indication on what methodology was applied to arrive at the amounts disclosed.
2. Amounts disclosed (totals) for balances/transactions relating to client departments/debtors can not be tied back to totals disclosed in the receivables note. Discussions have revealed that this is because discounting/present valuing has been applied in the receivables note whereas it has been left out from the related party disclosure note. The reasoning behind this can be understood but in this event PMTE should then disclose both discounted and actual values in the related party disclosure note.
3. The entity should revisit minimum disclosure requirements per IAS 24 as based on the high level overview this does not appear to have been met.

Note 15: Risk management

To be reviewed in detail in conjunction with final audit work.

*AFS Supporting Schedules*

Upon comparison of the annual financial statements and supporting schedules, the following unreconciled differences were identified:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Amount per AFS Caseware | Amount per supporting schedule | Difference |
| *Trade and other Receivables* |  |  |  |
| Accommodation Debtors: State Owned | 828,378,736 | 860,070,613 | (31,691,877) |
| Municipal Services | 574,395,766 | 559,729,347 | 14,666,419 |
| *Trade and other Payables* |  |  |  |
| Trade Creditors – Advances | 381,621,029 | 427,813,507 | (46,192,478) |
| *Statement of Comprehensive Income* |  |  |  |
| Accommodation Charges: State Owned | 2,598,758,900 | 2,561,442,186 | 37,316,714 |

In addition, the following schedules were requested, but not provided for audit purposes:

2012 schedules

1. Other payables – Fruitless expenditure
2. EBT Rejection Account

2011 schedules (restatements)

1. Claims Recoverable

2010 schedules (restatements)

1. Debtor / Creditor Operating Lease
2. Accruals
3. Payables: Advances

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

The entity 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**

1. Management should ensure that all figures as recorded in the financial statements are supported by schedules.
2. Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
3. A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.
4. The information requested should be submitted without further delay.

**Management response**

*DG representation letter*

Agree, however, we do not mean that National Treasury is the custodian of GAAP, but rather prescribes how entities are to report on their financial statements( either GRAP, GAAP, etc.)

*Index page*

1. Agree.
2. Agree.
3. Agree.
4. Agree, subsequently signed by the DG.

*Statement of Financial Position*

1. Corrected.
2. Agree, will be corrected on the final draft.
3. Corrected.

*Statement of Comprehensive Income*

1. Headings:
   1. Corrected.
   2. Corrected.
2. Agree
3. Disagree, “other operating expenses” was understated by R 10.
4. Corrected
5. Corrected.

*Statement of Changes in Equity*

1. Headings:
   1. Corrected.
   2. Corrected
2. Corrected.
3. Corrected.
4. Corrected.
5. Disagree, “other operating expenses” was understated by R 10.

*Statement of Cash Flows*

1. Corrected.
2. Corrected.
3. Removed.
4. Disagree, the incorrect amount for cash paid to suppliers has been corrected.

*Accounting policies*

1. 1. Agree, will rework the final draft accordingly.
   2. Agree, will rework the final draft accordingly.
   3. Agree, will rework the final draft accordingly.
   4. Agree, will rework final draft accordingly.
2. Agree will rework the final draft accordingly.
3. Agree will include in the final draft.

*Notes to the Annual Financial Statements*

Note 3: Trade and other receivables

1. Agree, the amounts on note. 3 should be same with those on the face of the statement of financial position, in order to avoid confusion.

1. This is typing error and the correct amount is R 921 813, and the total less than 1 year column is corrected accordingly.
2. Corrected.
3. Notes 4 and 5 are corrected accordingly.

Note 4: Cash and cash equivalents

Disagree, the incorrect amount for cash paid to suppliers has been corrected.

Note 5: Trade payables

1. Corrected.

Note 6: Financial assets by category

1. Done.
2. Corrected.
3. Corrected.

Note 7: Financial liabilities by category

1. Corrected.

Note 9: Prior period errors

*General:*

1. Agree, schedules and narrative were supplied which will be used as addendum on the final draft.
2. Corrected.
3. Corrected.
4. Corrected.
5. Corrected.

*2011 disclosure:*

1. Corrected.
2. 1. To be corrected on the final draft.
   2. To be corrected on the final draft.
   3. Agree.

1. To be corrected on the final draft.
2. Corrected
3. This amount is revenue, previously disclosed as a liability in respect of fines and penalties which were presumably to be surrendered to the National Treasury.

*2010 disclosure:*

1. Corrected.
2. 1. To be corrected on the final draft.
   2. Corrected.
3. Corrected.
4. Corrected.
5. Corrected

1. Corrected.
2. Corrected.

Note 10: Cash generated from operations

1. Corrected.
2. Corrected.

Note 11: Losses through criminal conduct or unauthorised, irregular or fruitless and wasteful expenditure

1. Corrected
2. This is the amount of irregular expenditure identified by AGSA in the 2011 financial year.
3. Agree; however, the incidents are too many to be able to be listed on the financial statements and will be summarized on the final draft.

Note 13: Contingent liabilities and assets

1. Agree, a note will be made to that effect on the final draft.
2. The majority of cases related to arrear rentals, with a few that has been settled or re-allocated to the NDPW.
3. The list was compiled in the current year.

Note 14: Related parties

1. Corrected.
2. Agree, we do not impair nor discount individual debtors hence the variance.
3. Agree, will amend and disclose the expenditure items in the final draft.

Note 15: Risk management

Noted.

*AFS Supporting Schedules*

discounting and re-alloaction.

In addition, the following schedules were requested, but not provided for audit purposes:

2012 schedules

1. Done.
2. Done.

2010 schedules (restatements)

1. Done.
2. Done.
3. Done.

**Auditor’s conclusion**

Management comment received. Cognisance is taken of the fact that management agrees with most of the findings. A new set of financial statements was submitted at close of business 31 August 2012 which addressed the items included in this audit finding. An assessment of these financial statements revealed the following items which have not been addressed:

*Index page*

The Director General’s signature does not appear on this page

*Note 7: Financial assets by category*

For purposes of this note the two line items "Trade and other receivables" and "Debt account and claims" as per the statement of financial position have been shown separately, however in Note 3 the line item "Debt account and claims" has been included in Trade and other receivables

*Note 10: Prior period errors*

* Cognisance is taken of the fact that descriptions have been included for each correction made. However, the nature of the items do not contain sufficient detail with regards to the reasons for the corrections made.
* Where the figures continue over more than one page there are no headings (financial year/currency etc.)

*Note 15: Losses through criminal conduct or unauthorised, irregular or fruitless and wasteful expenditure*

* On page 32 the heading appears as “Directors Emoluments” instead of “Losses through criminal conduct or unauthorised, irregular or fruitless and wasteful expenditure”
* No comparative information is displayed. If disclosing comparative information is not practicable, this fact, along with reasons should be disclosed.

*Note 13: Contingent liabilities and assets*

* The nature and effect of the prior period errors has not been disclosed
* No narrative was included on why prior period amounts are now included for contingent assets.

With regards to schedules requested, all schedules were provided, except for Claims recoverable. This limitation will therefore remain unresolved.

1. **Fruitless and wasteful expenditure**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 38(1)(a) states that t*he accounting officer for a department must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control;*

Treasury Regulation 9.1 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, that official must immediately report such expenditure to the accounting officer.*

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

During the performance of sector audit procedures, we assessed whether all fruitless and wasteful expenditure which was incurred during the 2011-12 financial period was included in the disclosure note for fruitless and wasteful expenditure. The following deviations were noted:

1. 1.1  Certain items of fruitless and wasteful expenditure were either not included or understated in the register for fruitless and wasteful expenditure.  As a result, these items were also understated in the Fruitless and wasteful expenditure disclosure note to the AFS.  Please refer to Annexure A attached

**ANNEXURE A:**

| **Client department** | **Description of Building** | **Region** | **Details of incidents** | **The period to which the incident relates to** | **The actual costs incurred** | **Amount of expenditure which relates to the 2011/2012 financial period** | **Amount as disclosed in the Register for Fruitless and wasteful expenditure & Disclosure note 11 to the AFS** | **Difference (Overstated +) or (Understated -)** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Statistics | max city | Pretoria | Already occupied and accepted the premises without the COC. | 01-Sep-11 | R325 808,00 | R325 808,00 | R0,00 | (R325 808,00) |
| Department of Justice | Cnr Church and Queen Street, Sanlam/Masters Forum | Pretoria | The client department initially requested that the lease for Master's unit be renewed for a period of three years (commencing on 01 November 2007); however the Department renewed the lease for a period of 9 year and 11 months with an exit clause after 5 years. The right to terminate the lease based on the above is effective from 01 November 2012. Subsequently the client requested the Department to procure Salu as their alternative accommodation which would house the Masters unit amongst others. The unit then vacated the building around late November or early December 2011. The client officially handed back the building to the Department with effect from 01 March 2012. The fruitless expenditure that the Department will incur in terms of the lease commitment is from 01 March until 01 November 2012. | 7 months commencing on 1 March 2012 to 31 October 2012 | R4 082 599,64 | R340 216,64 | R0,00 | (R340 216,64) |
| Department of Justice | Cnr Andries and Schoeman Streets, Salu building | Pretoria | DPW paid the rental amount in respect of the leased buildings before the client department occupied the building | 22 months commencing from 01 January 2010 to 18 November 2011 | R87 274 749,99 | R50 910 270,83 | R6 474 033,53 | (R44 436 237,30) |
| SAPS | Forum Building, 151 Struben Street, Pretoria CBD | Pretoria | Department of Transport renewed its lease agreement at Forum Building in 2010, and DPW went out on tender to procure alternative accommodation for the various SAPS units. Procurement of alternative accommodation has not yet been finalised, and SAPS has in the interim relocated some of its units accommodated at Forum Building to other SAPS-occupied premises. The handback of areas previously occupied by SAPS has not yet been finalised, due to challenges created by SAPS in providing the keys: therefore rental i.r.o Forum Building is still being paid according to the previous GLA split. | Jan 2012 - March 2012 | R772 384.60; R1 601 487.95; R1 601 487.95 | R3 975 360,50 | R11 605,24 | (R3 963 755,26) |
| **TOTAL** |  |  |  |  |  | **R55 551 655,97** | **R6 485 638,77** | **(R49 066 017,20)** |

The relevant responsible managers for owned and leased buildings do not always report all identified incidents of fruitless and wasteful expenditure for inclusion in the register.

Therefore the completeness of fruitless and wasteful expenditure as included in the Disclosure note to the Annual Financial Statements cannot be confirmed

The aforementioned finding will result in

1. Non compliance with section 9.1.1, 9.1.2 and  9.1.5 of the Treasury Regulations as well as with Section 38 (1) (i) of the PFMA
2. The disclosure note for fruitless and wasteful expenditure in the AFS is understated by a total amount of R66 549 718,64
3. A qualification for the fruitless and wasteful expenditure will be raised in the audit report

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal controls

**Recommendation**

Monitoring control processes should be in place to ensure that the relevant responsible managers for leased buildings have reported all identified instances of fruitless and wasteful expenditure to Head office for inclusion in the register for fruitless and wasteful expenditure

These control processes may include the following:

(i)            There should be a register of submission in place which serves as proof that the relevant responsible managers have submitted all incidents of fruitless and wasteful expenditure to Head office for inclusion in the register.

(ii)           The responsibility for the safekeeping of the register should be delegated to a specific person who shall also be responsible for ensuring that the register is kept up to date on a monthly basis and make follow ups where necessary

(iii)          All incidents of identified fruitless and wasteful expenditure should then be included in the register for fruitless and wasteful expenditure

(iv)         At year end, all instances of fruitless and wasteful expenditure which are included in the register for fruitless and wasteful expenditure from various regions should be consolidated and included as part of the Disclosure note for fruitless and wasteful expenditure in the AFS

**Management response**

Managment comments not received.

**Auditor’s conclusion**

No response was received from management. Therefore this matter will be reported as non-compliance in the audit report. In addition it will result in a modification of the audit opinion, due to the understatement of irregular expenditure.

1. **COAF 240 - Deviations with GIAMA (Maintenance backlog)**

**Audit finding**

Laws, rules and regulations

GIAMA (Act No 19 of 2007), section 13(1) (d) regarding **Functions of custodian and accounting officer of custodian** states that: “*The accounting officer of a custodian must, for all immovable assets for which that custodian is responsible—*

*(d)  Ensure that all activities that are associated with common law ownership are executed, including –*

*(i)            managing an immovable asset throughout its life cycle;*

*(ii)           assessing the performance of the immovable asset;*

***(iii)         assessing the condition of the immovable asset at least every fifth year;***

*(iv)         identifying the effect of the condition of an immovable asset on service delivery ability*

*(v)          determining the maintenance required to return the immovable asset to the state in which it would provide the most effective service;*

***(vi)         estimating the cost of the maintenance activities identified”***

During the review of the Sector reporting procedures, the following deviations were noted;

**PART A:**

(a)  The department did not execute a conditional assessment of the buildings on which the maintenance budget was based.   The department indicated that the process followed in managing the leased buildings is by obtaining inspection reports from various client departments.  As per discussion with management, the details of the process are as follows:

(i)            Inspection is conducted when a building is being handed over to the client.

(ii)           When the client has complained on a persisting problem and the landlord has not attended to the on-going problem.

(iii)          Inspection is also done when there is a compliance issue in respect of OHSA and building regulations.

However, the process followed above is not adequate as there could potentially be a number of other incidents of damaged/deteriorating conditions at buildings caused by the effects of maintenance backlog which were not reported

(b)  The DPW does not have a strategy or adequate funds to address the maintenance backlogs which might result in a negative impact on service delivery.

(c)  The DPW is not able to provide information pertaining to the actual expenditure incurred for maintenance pertaining to the backlog. They can therefore not differentiate between normal day to day maintenance and backlog maintenance.  It could therefore not be confirmed that the maintenance backlog is effectively being addressed.  As a result this indicates non compliance to section 13(1)(d)(vi) of the Government Immovable Asset Management Act

**PART B:**

It came to our attention that utilisation inspections for leased buildings were not carried out by DPW during the term of the lease.  The purpose of these inspections is to verify that accommodation is still occupied by the client department in order to prevent ineffective/underutilisation/non-utilisation of office/other accommodation which could result in fruitless and wasteful expenditure.

Non compliance to the GIAMA requirements was due to the fact that there was no budget allocation available for conducting conditional assessments in respect of all state owned buildings

The DPW does not have procedures in place to identify unused owned and leased buildings to prevent ineffective/underutilisation/non-utilisation of office/other accommodation and resultant fruitless and wasteful expenditure.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of unauthorised expenditure due to overspending of the budget allocation for normal maintenance, resulting from the effects of backlog maintenance. Furthermore, fruitless and wasteful expenditure may be incurred due to unnecessary spending on damaged/deteriorating condition of the buildings caused by the effects of maintenance backlog as well as by ineffective/under utilisation/non-utilisation of office accommodation

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Governance**

The entity does not assess the likelihood and impact of risks identified.

The entity does not respond to the assessed risks by determining a risk strategy / action plan to manage identified risks.

**Recommendation**

PART A:

(a)  The Department of Public Works, should include, as part of their action plan, an indication that they plan to initiate the process of conducting conditional assessments for prioritized buildings on an annual basis.

(b)  The Department of Public Works should apply to National Treasury for assistance with a budget allocation to initiate the process of conducting conditional assessments of all State owned buildings which will assist in determining the true cost of the maintenance backlog figure.

PART B:

(a)  Management should ensure that utilization inspections are carried out for leased buildings during the term of the lease

(b)  After utilisation inspections are carried out, management should ensure that there are signed utilisation inspection reports in place which include the results of the utilisation inspections conducted and which would serve as evidence that this exercise was carried out.  These inspections reports should be filed.

(c)  The utilisation inspection reports should, amongst other information, include details such as:

(i)            Square meters occupied

(ii)           Square meters not occupied

(iii)          Number of people occupying the building

(iv)         Number of people not occupying the building

(d)  The signed inspection reports should be shared with KAM and Asset management sections.

**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 correct to say that DPW does not receive a budget allocation from National Treasury to conduct conditional assessment on State owned immovable assets.

         It is correct to say that DPW currently does not have true cost pertaining to maintenance backlog as a result of condition assessments not being done on State owned buildings

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | In the current financial year 2012/13 an amount of R 150 million has been reserved from the Planned Maintenance budget allocation to conduct condition assessments on prioritize buildings. This will be done annually. | | |
| 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 | Director :PPM | | |
| Estimated completion date of corrective action: | 31 March 2013 | | |
| 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:   Magdeline Tshabalala

Position:  Acting CD: PPM

Date:15/8/2012

**Auditor’s conclusion**

Management comment noted and cognisance is taken of the fact that management agrees with the finding. This constitutes non compliance with GIAMA and will be reported as a non compliance in the sector report**.**

1. **COAF 241 - Non compliance with SACPCMP Act**

**Audit finding**

Laws, rules and regulations

Project and Construction Management Profession (Act No 48 of 2000), section 18(1) states that: “*The categories in which a person may register in the project and construction management professions are —*

*(a)  professional, which is divided into –*

*(i)            Professional Construction Manager; or*

*(ii)           Professional Construction Project Manager; or*

*(b)  candidate, which is divided into –*

*(i)            Candidate Construction Manager; or*

*(ii)           Candidate Construction Project Manager; or*

*(c)  specified categories prescribed by the council”*

Furthermore, PCMP (Act No 48 of 2000), section 18(2) states that: “*A person may not practice in any of the categories contemplated in subsection (1), unless he or she is registered in that category”*

During the review of the Sector reporting procedures, it came to our attention that there are no adequate monitoring processes in place to ensure that only those candidates who are registered members with SACPCMP (The South African Council for the Project and Construction Management Professions) are appointed as project managers.  The following deviations were noted;

1. The following persons were appointed at head office during the 2011/2012 financial year as project managers. No evidence was included in their employee files that they were registered with SACPCMP, i.e. (South African Council for Project and Construction Management Profession) either as a Professional Construction Manager/Project Manager or as a Candidate Construction Manager/Project Manager.   As an alternative procedure, the list of all members registered with the SACPCMP was downloaded from the website.  However, the following project managers’ details could not be identified on the list downloaded from the website:

| **Full names** | **Surname** | **Date of appointment within project management** | **Component description** | **Post job title description** | **Post salary level** |
| --- | --- | --- | --- | --- | --- |
| Adriaan Diederichs | Perold | 20111116 | Ho sub dir:civil engineering:human capital investm | Construction project manager chief grade a | 12 |
| Izak Petrus | De villiers | 20111115 | Ho sub dir:civil engineering:human capital investm | Construction project manager chief grade a | 12 |
| Metlholo Hellon | Malebye | 20111205 | Ho dir: projects management support | Project manager candidate | 8 |

1. Although the following newly appointed project manager applied for registration with the SACPCMP, the employee could still not be traced on the SACPCMP list of registered members.  The approval status of her application must have expired as it was stated in the application letter that the approval status is valid for only six months from the date of this letter, i.e. 29 June 2011.  No evidence could be obtained on file which proves her registration with the SACPCMP.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Full names** | **Surname** | **Date of appointment within project management** | **Component description** | **Post job title description** | **post salary level** |
| Yandiswa | Mqhakaza | 20111005 | Ho dir: projects management support | Project manager candidate | 11 |

1. For the following newly appointed project managers, the advertisements for the appointments were not included in their employee files:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Full names** | **Surname** | **Date of appointment within project management** | **Component description** | **Post job title description** | **post salary level** |
| Adriaan Diederichs | Perold | 20111116 | Ho sub dir:civil engineering:human capital investm | Construction project manager chief grade a | 12 |
| Frederik Johannes Marthinus | Van tonder | 20120301 | Ho structural engineering human capital investment | Construction project manager chief grade a | 12 |
| Izak Petrus | De villiers | 20111115 | Ho sub dir:civil engineering:human capital investm | Construction project manager chief grade a | 12 |
| Metlholo Hellon | Malebye | 20111205 | Ho dir: projects management support | Project manager candidate | 8 |
| Yandiswa | Mqhakaza | 20111005 | Ho dir: projects management support | Project manager candidate | 11 |

Therefore we could not confirm whether the advert for the post included the requirement that the applicant must be registered with the SACPCMP as required by section 18(2) of the PCMP Act.

1. The wrong advertisement for the post was included in the employee file of this official.  The advertisement that was included was in respect of an internship post at Head Office (Pretoria)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Full names** | **Surname** | **Date of appointment within project management** | **Component description** | **Post job title description** | **post salary level** |
| Nonela | Pingo | 20111005 | Ho dir: special and major projects | Project manager candidate | 11 |

There are no adequate monitoring processes in place within the HR department to facilitate a compliant recruitment process relating to new project managers

Project managers who do not have sufficient skills and knowledge regarding the management of infrastructure projects may be appointed, which may result in significant negative impacts on service delivery

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  When placing advertisements to fill existing vacancies relating to project managers, management in the Human Resources department should ensure that the advertisements for the posts have explicitly included, as one of the requirements, the registration of the candidate in terms of section 18(2) of the PCMP (Project and Construction Management Profession) Act

(b)  Management in the Human Resources department should ensure that the advertisements for the posts are included in the employee files of every appointed project manager

(c)  Management should ensure that only those candidates who are registered members with the SACPCM are appointed as project managers.  Evidence which serves as proof of this registration should be included in the employee file of the successful candidate.  Proof may include, but is not limited to the following:

(i)             the certificate of registration of the candidate from the SACPCM which certifies that the candidate is registered as either a Candidate Construction Project Manager or a Professional Construction Project Manager

(ii)           The SACPCM list of registered members and an indication that the name of the related successful candidate actually appears on this list.

**Management response**

Management comment not received.

**Auditor’s conclusion**

No management response was received. This matter will therefore be reported in the management report, as well as in the audit report as non-compliance.

1. **COAF 242 - Building evaluation checklist**

**Audit finding**

In terms of Chapter 5 of the Public Finance Management Act (PFMA) section 38, the following is stated; *(1)* *The accounting officer for a department (a) must ensure that the department has and maintains –*

*(i)            effective, efficient and transparent systems of financial and risk management and internal control;*

During the performance of Sector procedures, in assessing whether there is an utilisation inspection plan in place for both state owned as well as leased buildings (i.e. plans to identify unused buildings to ensure effective utilisation of office accommodation), we noted the following:

The Building Evaluation checklist, i.e. the operating tool which is currently used as an inspection plan, has shortcomings as it does not indicate the following details:

(i)            list of all buildings indicating when and how often the buildings will be inspected

(ii)           what procedures will be performed during such an inspection

(iii)          how and where such information of the inspections conducted will be recorded

(iv)         where corrective actions to be taken are recorded; as well as

(v)          how such matters are to be escalated to senior management

Management do not regularly evaluate internal control activities in place to ensure that they are still appropriate and working as intended

Inspections might not have taken place for all those buildings which were due for inspections.  As a result, unused leased buildings might not be identified and fruitless and wasteful expenditure might be incurred due to ineffective/under utilisation/non-utilisation of office accommodation

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

Management should ensure that there is an effective and efficient utilisation inspection plan in place and that this plan is appropriately implemented.

**Management response**

Managment comment not received.

**Auditor’s conclusion**

No management response was received. This matter will therefore be reported in the management report, as well as in the audit report as non-compliance.

1. **COAF 238 - Prior period errors**

**Audit finding**

IAS 8: 42 states that, “*a prior period error shall be corrected by retrospective restatement except to the extent that it is impracticable to determine either the period-specific effects or the cumulative effect of the error.”*

In applying paragraph 42, “...*an entity shall disclose the following:*

*a)    the nature of the prior period error;*

*b)    for each prior period presented, to the extent practicable, the amount of the correction for each financial statement line item affected; and*

*c)    the amount of the correction at the beginning of the earliest prior period presented;”*

IAS 18:7 states that *revenue is the gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants.*

During the performance of the audit the following were noted:

1. Narrative disclosures explaining the nature of the prior period errors disclosed in Note 9 to the financial statements were not adequately disclosed as required by IAS 8: 42(a)
2. Included in the note 9 the following was noted for the account balances and class of transactions restated:

***Trade and other receivables***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Description** | **Amount as per prior period AFS**  **(R)** | **Restated balance per current period AFS**  **(R)** | **Restatement**  **(R)** | **Notes** |
| Claims recoverable | 113 515 000,00 | 269 103 000,00 | -155 588 000,00 | (i) |
| Claims recoverable - PACE | 216 595 000,00 | 418 449 000,00 | -201 854 000,00 | (ii) |
| **Total** | **330 110 000,00** | **687 552 000,00** | **-357 442 000,00** |  |

1. As per discussion with management, the Claims recoverable balance of R269 103 000 is reconciling balance between payments made for Municipal services as per BAS and the Municipal services debtors listing balance (R539 070 000,00) as disclosed in the financial statements. The amount disclosed in the prior period was disclaimed. No detailed listing of the restated balance was provided, thus we were unable to confirm the existence, completeness and valuation of the balance.
2. This balance was disclaimed for the year ended 31 March 2011, as PMTE did not perform reconciliations and therefore we were unable to confirm the rights, completeness, existence and valuation. In the current year, detailed debtors listing schedules were not provided for audit purposes; therefore the restatement could not be verified.

***Revenue***

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Amount as per prior period AFS** | **Restated balance per current period AFS** | **Restatement** |
| Deferred income | R 0,00 | R 572 000,00 | -R 572 000,00 |

Deferred income, which was made up of interest charged on overdue accounts, was recognised as current liability in the prior period. As per discussion with management, this was classified as a current liability as they believed that the money would have to be surrendered to National Treasury. However, since they are not required to surrender this money, the amount has been reclassified as income in the current period. It was noted that this amount has been included as revenue in the current period instead of disclosing as other income, however it does not meet the definition of revenue terms of IAS 18:7

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

This has resulted in disclosure in the financial statements not being accurate.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

The entity 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.

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

1. The nature for prior period error should be disclosed in terms of IAS 8
2. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.
3. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.

**Management response**

Management response not received.

**Auditor’s conclusion**

No management response was received. This matter will therefore be reported in the management report.

Commitments

1. **COAF 119 - Other commitments – sub-schedule amounts do not agree to the summarised schedule amounts for Port Elizabeth and Polokwane**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for a trading entity must keep full and proper records of the financial affairs of the trading entity in accordance with the prescribed norms and standards.

Request for information (RFI) number 157 was issued on 29 May 2012 and subsequently a Communication of Audit Finding (COAF) was issued on 1 June 2012 indicating that all schedules submitted need to balance with the information disclosed in the financial statements.  In addition to the formal information request, it was also requested verbally in several meetings as well as a formal letter to the acting DG of the department that the financial statements that are submitted on 31 May 2012 must be supported by comprehensive schedules indicating the composition of the balances/transactions and disclosures contained therein.

During the review of other commitment’s schedules and sub-schedules the following was noted:

1. The total as per the current commitments sub-schedule for Port Elizabeth did not agree to the amount for Port Elizabeth as per the summarized schedule.  The following difference was noted:

|  |  |  |
| --- | --- | --- |
| **Approved and Contracted amount as per summarised schedule**  **R** | **Amounts as per sub schedule**  **R** | **Difference between the amount on the sub-schedule and the amount in the consolidated schedule**  **R** |
| 535 295 088,80 | 537 008 310,61 | (1 713 221,81) |

1. The capital commitments sub-schedule for Polokwane was recalculated and it was noted that the total as per the sub-schedule did not agree to the total amount for capital commitments as per the summarized schedule.  The following total difference was noted:

|  |  |  |
| --- | --- | --- |
| **Approved and Contracted amount as per summarised scheule**  **R** | **Amounts as per sub schedule**  **R** | **Difference between the amount on the sub-schedule and the amount in the consolidated schedule**  **R** |
| 584 905 093,10 | 411 672 363,32 | 173 232 729,78 |

The finding results from management痴 lack of adequate review of the financial statements and supporting schedules before being submitted for audit purposes.

Based on the above inconsistencies between the sub-schedules and the summarized schedule, the financial statements commitments disclosure note could possibly be understated/overstated.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Financial and performance management:**

The entity 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**

1. Supply Chain Management officials should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
2. A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.
3. The information requested should be submitted without further delay.

**Management response**

I am in agreement with the finding and the respective regions are working on correcting these differences as reported:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | Grand totals of the disclosure notes and the schedules will be corrected accordingly. | | |
| 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 | Head of Finance at the respective region(s) and the Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 6 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 |  | | |
|  |  |  |  |

Name:   J Prinsloo

Position:  Chief Director: Planning and Reporting

Date: 3/7/2012

**Auditor’s conclusion**

Management comment noted.  Schedules have not been provided by management and thus this will result in a material limitation of scope.

1. **COAF 151 - Operating Lease Commitments: misstatements identified in the calculation of operating lease commitments and PMIS data used for the calculation**

**Audit finding**

Laws, rules and regulations

In terms of the IAS 17 *Leases* paragraph 35 the following is stated with regards to disclosure in the books of the lessee:

*“Lessees shall, in addition to meeting the requirements of IFRS 7, make the following disclosures for operating leases:*

*(a)   the total of future minimum lease payments under non-cancellable operating leases for each of the following periods:*

*(i) not later than one year;*

*(ii) later than one year and not later than five years;*

*(iii) later than five years.*

*(b)   the total of future minimum sublease payments expected to be received under non-cancellable subleases at the end of the reporting period.*

*(c)   lease and sublease payments recognised as an expense in the period, with separate amounts for minimum lease payments, contingent rents, and sublease payments.*

*(d)   a general description of the lessee’s significant leasing arrangements including, but not limited to, the following:*

*(i) the basis on which contingent rent payable is determined;*

*(ii) the existence and terms of renewal or purchase options and escalation clauses; and*

*(iii) restrictions imposed by lease arrangements, such as those concerning dividends, additional debt and further leasing.”*

In terms of IAS 17 Leases paragraph 56*,* the following is stated relating to disclosure in the book of the lessor:

*“Lessors shall, in addition to meeting the requirements of IFRS 7, disclose the following for operating leases:*

*(a) the future minimum lease payments under non-cancellable operating leases in the aggregate and for each of the following periods:*

*(i) not later than one year;*

*(ii) later than one year and not later than five years;*

*(iii) later than five years.*

*(b) total contingent rents recognised as income in the period.*

*(c) a general description of the lessor’s leasing arrangements.”*

During the review of the operating lease commitments, the following was noted:

1. Per the lease commitments schedule provided with the annual financial statements for audit purposes, the calculation performed was based on the rand values as per the PMIS “start rental” + “service charges” to determine the value of the contract and payments that had been made up until year end, in order to determine the portion of the lease still payable as per the lease contract as at year end. “Service charges” are not applicable for the calculation of the commitments and therefore should not have been included in the calculation. The “start rental” amounts were also not accurate to reflect the commencement rental as per the lease agreements. Refer below for further detail.
2. 355 leases had a “start rental” of zero, however an amount for “rental” was captured, thus resulting in the calculation not being performed on a complete amount as no rental was captured in the “first rental” field.
3. Furthermore, the calculation was not performed based on the minimum lease payments i.e. once the remaining portion payable in terms of the lease data as per PMIS was determined, this amount was equalized over the remaining period of the lease and the equalized payments for the remainder period was used to populate the categories of within one year, between one and five years and more than five years. Thus the amounts as per the categories were incorrectly calculated (i.e. not in terms of IAS 17).
4. Expired leases totaling R65 215 480,08 were included in the lease commitments disclosure note. The expired leases consisted of leases expiring within the financial year and therefore did not represent a commitment as at year end. Thus lease commitments disclosure note is overstated with this amount.
5. The following differences were noted between the smoothing schedule data i.e. square meters, parking bays, commencement rental (start rental), escalation and start and end dates and the information as per the valid signed lease agreement:

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Name of the supplier** | **Building/address** | **Prop code** | **Differences (lease agreement - lease commitment schedule)** | | | | | | |
| **Square meters** | **Parking bays** | **commencement monthly rental**  **R** | **Escalation %** | **Lease start date** | **Lease end date** | **Lease term** |
|
| **1** | Majestic silver trading 275 (p | 114 vermulen street | 314683 | 0 | 0 | 729,280.75 | 0 | 4months | 1year 4 months | 0 |
| **Note:** lease term indicated as 9 years and 11 months as per the contract; however this does not coincide with the start and termination date of the lease, which is actually 8 years and 11 months | | | | | | | | | |
| **2** | Phomella property pty ltd | Salu building | 316698 | 30157 | 368 | 1,512,521.60 | 0 | No difference | No difference | -0.01 |
| **Note:** lease term indicated as 9 years and 11 months as per the contract; however this does not coincide with the start and termination date of the lease which is for a full 10 years. | | | | | | | | | |
| **3** | Encha properties pty ltd trust | Thibault navarre complex | 5 | 1.40 | 17.00 | 837,807.83 | - | - | 1year | - |
| **4** | Four rivers trading 422 (pty) | Tulbagh park building | 315986 | 0 | 0 | 717,256.13 | 0 | No difference | No difference | 0 |
| **5** | Leopont 444 properties (pyt) l | Weavind park broadcasting cent | 300231 | -24720 | -850 | 205,264.20 | 0 | No difference | No difference | 0 |
| **6** | Phomella property pty ltd | Liberty life building | 301745 | 0 | 0 | 947,466.61 | -1 | No difference | 1month | 0 |
| Note: term indicated as 9 years and 11 months however dates indicate 10 years | | | | | | | | | |
| **7** | Dreamfair properties 26 (pty) | Waterbron building | 301659 | 340.5 | 100 | 425,579.55 | 0 | No difference | 1month | -0.89 |
| **8** | New heights 326 pty ltd | General piet joubert | 302700 | 0 | -3 | (1,754,710.09) | 0 | No difference | 10years | -10 |
| **9** | Manaka property investments (p | Hallmark | 44 | 9225.5 | 220 | 474,507.69 | 0 | No difference | No difference | 0 |
| **10** | Zambli 216 (pty) ltd | Sterkolite factory | 100 | -1 | 32 | 805,848.80 | 0 | No difference | No difference | 0 |
| **11** | Khulumani masingita holdings ( | Boulevard academy building | 297962 | 929 | 0 | 313,815.05 | -0.5 | No difference | No difference | -0.89 |
| Note: term indicated as 9 years and 11 months however dates indicate 10 years | | | | | | | | | |
| **12** | Tuffsan 89 investment holdings | Forum building | 301675 | 26,862.70 | 117 | 3,282,847.82 | 0 | No difference | No difference | 0 |
| **13** | Manaka property investments (p | Old mutual centre | 306320 | 15621 | 72 | 756,510.60 | 0 | No difference | No difference | 0 |
| **14** | Phomella property pty ltd | Bank of lisbon | 301670 | 13948 | 33 | 394,149.37 | 0 | No difference | 1month | 0 |
| Note: term indicated as 9 years and 11 months however dates indicate 10 years | | | | | | | | | |
| **15** | Fountainhead property trust | Walkerstr 240 | 96 | 5279 | 0 | 979,834.62 | 0 | No difference | No difference | 1 |
| **16** | Moongate 125 (pty) ltd | 240 vermuelen str | 36 | -500 | 152 | - | 0 | No difference | No difference | 0 |
| **17** | Folang holdings (pty) ltd | Kolot | 121 | 0 | -70 | 112,432.48 | 0 | No difference | 1month | 0 |
| Note: term indicated as 9 years and 11 months however dates indicate 10 years | | | | | | | | | |
| **18** | Sechaba property investments p | Straktura building | 316687 | 0 | -27 | 51,592.40 | 0 | No difference | 1year | -1 |
| **19** | New heights 326 pty ltd | Sanlam forum | 71 | -637.44 | 0 | 57,857.73 | 0 | No difference | 1month | 0 |
| Note: term indicated as 9 years and 11 months however dates indicate 10 years | | | | | | | | | |
| **20** | Encha properties pty ltd trust | Momentum building | 302895 | 23866.43 | 0 | 157,852.40 | 0 | No difference | No difference | 0 |
| **21** | Entitype (pty) ltd | Veritas | 139 | -0.57 | 5 | 523,669.76 | 0 | 3years 1 month | 3years 1 month | 0 |
| **22** | Epipax (pty) ltd | 110 hamilton | 316851 | 4511 | 119 | 712,398.54 | 0 | No difference | No difference | 0 |
| **23** | Encha properties pty ltd trust | De bruyn park | 301684 | 700 | 70 | 510,866.79 | -9 | No difference | 3years | -3 |
| **24** | Ovland real estate trust | Hillcrest office park | 304406 | -4236 | -34 | (65,444.11) | 0 | No difference | No difference | 0 |
| **25** | Basenzi properties and develop | Schweickerdt building | 159 | -7 | 15 | 112,303.85 | 0 | No difference | No difference | 0 |
| **26** | Manaka property investments (p | Old mutual centre | 303226 | 0 | 167 | 1,311,638.74 | 0 | No difference | No difference | 0 |
| **27** | Eris property group (pty) ltd | Pretoriusstr 540 | 123 | 0.26 | 105 | 424,573.10 | 9 | 2months | 2months | 0 |
| **28** | Redefine properties limited | Fedsure forum building | 276676 | 531.21 | 36 | - | 0 | No difference | No difference | 0 |
| **29** | Cbs prop mngt-trust | Kasteelpark leerdam | 317238 | -1125.3 | 0 | 45,825.27 | 0 | No difference | No difference | 0.53 |
| Note: lease term indicated as 6 years and 6 monhts, however it should be seven months | | | | | | | | | |
| **30** | Zambli 216 (pty) ltd | Destinatum building | 301698 | 1691.53 | 0 | 289,012.45 | 0 | No difference | No difference | -0.91 |
| Note: lease term indicated as 9year and 11 months however contract is for 10 years and 2 months | | | | | | | | | |
| **31** | Zambli 216 (pty) ltd | Spooral park building | 317236 | 0 | 0 | 89,080.36 | 0 | No difference | No difference | 0 |
| **32** | Human science research council | Hsrc building | 299491 | 619 | 0 | 378,999.00 | 0 | No difference | No difference | 0 |
| **33** | Faerie glen waterpark (pty) lt | Cooperate 66 office park | 314765 | 0 | -32 | 20,991.75 | 0 | No difference | 1month | -0.89 |
| **34** | Tacora investments pty ltd | Merino - rentmeester building | 305423 | 0 | 35 | 282,344.41 | 0 | No difference | 3years | 3 |
| **35** | New heights 326 pty ltd | Alben | 127 | 0 | -13 | 19,315.19 | 0 | 1year | 1year | 0 |
| **36** | New heights 326 pty ltd | Sinodale centre | 301664 | 0 | 9 | 18,322.06 | 0 | No difference | 1month | 0 |
| **37** | Old mutual properties | Prodinsa building | 304367 | 2898 | -230 | 2,436,293.12 | 0 | No difference | No difference | 0 |

1. Due to the above differences being noted between the PMIS data (data as per the commitments schedule) and the data as per the lease agreement, as well as due to the other discrepancies as noted per the points above, the following differences were noted with the recalculation of the lease commitments resulting in a material misstatement of the lease commitments disclosure note:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier** | **Property description** | **Difference (amount per commitment schedule - audited results(based on lease contract))** | | | |
| **Less that 1 year** | **More than 2 year and less than 5 years** | **More than 5 years** | **Commitment amount (+overstatement/-understatement)** |
| **1** | Majestic silver trading 275 (p | 114 vermulen street | 332,344,061.33 | 1,316,398,471.50 | 730,992,298.54 | 2,379,734,831.37 |
| **2** | Phomella property pty ltd | Salu building | 23,336,919.27 | 45,114,193.07 | (23,868,481.84) | 44,582,630.49 |
| **3** | Encha properties pty ltd trust | Thibault navarre complex | 31,936,229.55 | 99,651,310.86 | 87,677,463.58 | 219,265,003.99 |
| **4** | Four rivers trading 422 (pty) | Tulbagh park building | 12,242,496.10 | 21,400,865.40 | (16,156,047.52) | 17,487,313.98 |
| **5** | Leopont 444 properties (pyt) l | Weavind park broadcasting cent | 31,920,045.35 | 103,358,328.09 | 10,436,314.65 | 145,714,688.09 |
| **6** | Phomella property pty ltd | Liberty life building | 21,690,958.53 | 54,525,946.58 | (1,168,517.25) | 75,048,387.86 |
| **7** | Dreamfair properties 26 (pty) | Waterbron building | 21,367,046.07 | 68,270,797.68 | 28,989,673.76 | 118,627,517.51 |
| **8** | New heights 326 pty ltd | General piet joubert | 49,069,666.89 | 196,278,667.55 | 28,904,050.36 | 274,252,384.79 |
| **9** | Manaka property investments (p | Hallmark | 10,024,573.48 | 5,562,464.97 | (3,871,916.61) | 11,715,121.85 |
| **10** | Tuffsan 89 investment holdings | Forum building | (11,122,061.05) | (94,828,841.00) | (166,665,045.41) | (272,615,947.46) |
| **11** | Zambli 216 (pty) ltd | Sterkolite factory | 4,161,596.53 | 6,573,156.38 | (12,033,950.55) | (1,299,197.64) |
| **12** | Khulumani masingita holdings ( | Boulevard academy building | 3,841,945.82 | 5,009,095.93 | (20,225,534.27) | (11,374,492.51) |
| **13** | Manaka property investments (p | Old mutual centre | (1,198,251.46) | (27,743,522.68) | (7,864,478.36) | (36,806,252.49) |
| **14** | Phomella property pty ltd | Bank of lisbon | 5,065,859.09 | 7,112,726.33 | (2,383,450.41) | 9,795,135.01 |
| **15** | Fountainhead property trust | Walkerstr 240 | (5,076,895.46) | (37,391,549.02) | (26,263,641.49) | (68,732,085.97) |
| **16** | Moongate 125 (pty) ltd | 240 vermuelen str | 13,920,652.10 | 10,932,672.62 | - | 24,853,324.72 |
| **17** | Folang holdings (pty) ltd | Kolot | 3,470,948.35 | 4,985,597.72 | (4,147,737.57) | 4,308,808.50 |
| **18** | Sechaba property investments p | Straktura building | 3,100,703.51 | 7,889,834.65 | 8,355,538.81 | 19,346,076.98 |
| **19** | New heights 326 pty ltd | Sanlam forum | 2,150,577.63 | 545,737.48 | (1,815,802.15) | 880,512.96 |
| **20** | Encha properties pty ltd trust | Momentum building | 10,748,851.86 | 5,720,124.56 | - | 16,468,976.41 |
| **21** | Entitype (pty) ltd | Veritas | (3,095,847.70) | (21,055,823.29) | (66,110,736.67) | (90,262,407.66) |
| **22** | Epipax (pty) ltd | 110 hamilton | (4,911,331.94) | (29,096,302.61) | (42,406,920.51) | (76,414,555.06) |
| **23** | Encha properties pty ltd trust | De bruyn park | 32,627,652.33 | 5,452,840.53 | - | 38,080,492.86 |
| **24** | Ovland real estate trust | Hillcrest office park | 6,017,818.50 | 8,939,789.17 | - | 14,957,607.68 |
| **25** | Basenzi properties and develop | Schweickerdt building | 1,590,673.82 | 3,404,785.44 | (329,701.56) | 4,665,757.71 |
| **26** | Manaka property investments (p | Old mutual centre | (17,155,365.90) | (90,618,437.25) | (9,156,156.16) | (116,929,959.30) |
| **27** | Eris property group (pty) ltd | Pretoriusstr 540 | (2,916,688.23) | (12,373,318.88) | - | (15,290,007.11) |
| **28** | Redefine properties limited | Fedsure forum building | 4,797,754.10 | - | - | 4,797,754.10 |
| **29** | Cbs prop mngt-trust | Kasteelpark leerdam | 874,924.97 | (222,398.68) | - | 652,526.28 |
| **30** | Zambli 216 (pty) ltd | Destinatum building | (1,889,298.92) | (11,670,187.67) | (19,015,217.22) | (32,574,703.81) |
| **31** | Zambli 216 (pty) ltd | Spooral park building | 727,819.53 | (513,173.56) | - | 214,645.97 |
| **32** | Human science research council | Hsrc building | 1,070,798.26 | 58,901.68 | - | 1,129,699.94 |
| **33** | Faerie glen waterpark (pty) lt | Cooperate 66 office park | 657,498.70 | 911,432.22 | (556,244.98) | 1,012,685.94 |
| **34** | Tacora investments pty ltd | Merino - rentmeester building | (15,082,900.10) | (86,680,208.17) | - | (101,763,108.27) |
| **35** | New heights 326 pty ltd | Alben | 746,549.46 | 1,092,367.21 | (3,080,978.49) | (1,242,061.83) |
| **36** | New heights 326 pty ltd | Sinodale centre | 640,585.29 | 605,793.49 | (381,325.77) | 865,053.02 |
| **37** | K carrim commercial properties (pty) ltd | Ex mercedes building | (343,985.46) | (3,079,797.41) | - | (3,423,782.87) |
| **38** | Kuplegh property management (pty) ltd | Midtown building | (558,757.95) | - | - | (558,757.95) |
| **39** | Faerie glen waterpark (pty) ltd | Orasecom office, corporate 66,centurion | 142,385.63 | (469,711.81) | - | (327,326.18) |
| **40** | Zambli 216 (pty) ltd | Byrone's place | (2,044,436.13) | (10,425,044.77) | (20,204,073.36) | (32,673,554.26) |
| **41** | Erf 1214 arcadia cc | 535 proes street | 526,579.36 | 197,619.05 | - | 724,198.41 |
| **42** | Old mutual properties | Prodinsa building | (18,782,114.86) | - | - | (18,782,114.86) |
| **Total** | | | **546,636,236.23** | **1,553,825,203.36** | **447,649,381.58** | **2,548,110,821.17** |

1. The following lease agreements as per RFI 218 and 235 and COAF 27 and 212 dated 11 July and 2 August 2012 respectively were not provided for audit purposes and therefore the occurrence and rights and obligations, accuracy and valuation and classification of lease commitments could not be verified:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Name Of The Supplier** | **Building/Address** | **Prop Code** | **Information As Per The Lease Commitment Schedule** | | | |
| **Due With 1 Year**  **R** | **2 To 5 Years**  **R** | **More Than 5 Years**  **R** | **Commitment**  **R** |
|
| **1** | Roux Property Fund (Pty) Ltd | Sanlam Middestad | 317890 | 20,724,416.71 | 82,897,666.84 | 72,677,406.55 | 176,299,490.10 |
| **2** | Encha Properties Pty Ltd Trust | Koedoe Building | 300612 | 16,968,818.68 | 67,875,274.72 | 32,542,939.93 | 117,387,033.33 |
| **3** | Midcity Property Service Pty | Maupa Naga Building | 305491 | 17,800,571.76 | 38,576,033.59 | - | 56,376,605.35 |
| **4** | Redefine Properties Limited | Batho Pele | 306108 | 16,138,759.87 | 24,230,247.69 | - | 40,369,007.56 |
| **5** | Midcity Property Service Pty | Ijs Building | 306054 | 9,113,714.28 | 22,047,697.83 | - | 31,161,412.11 |
| **6** | Redefine Properties Limited | Poyntons (1) | 39 | 28,255,360.20 | - | - | 28,255,360.20 |
| **7** | Sugar Creek Trading 278 (Pty) | Best Med Building | 317964 | 2,954,937.42 | 11,819,749.67 | 12,078,812.68 | 26,853,499.77 |
| **8** | Manaka Property Investments (P | Continental Building | 311221 | 6,325,527.16 | 16,879,625.91 | - | 23,205,153.08 |
| **9** | Redefine Properties Limited | Erf 86 | 302683 | 13,242,406.16 | 7,764,040.87 | - | 21,006,447.03 |
| **10** | Atterbury Parkdev Consortium ( | Harlequins Office Park | 313273 | 7,631,529.16 | 9,534,184.37 | - | 17,165,713.53 |
| **11** | Sinovich Group | Daspoort Farm | 103 | 494,560.73 | - | - | 494,560.73 |
| **12** | New Heights 326 Pty Ltd | General Piet Joubert Building | 301668 | 153,661.22 | - | - | 153,661.22 |
| **13** | City Property Administration | Absa Building | 311719 | 227,716.17 | - | - | 227,716.17 |
| **14** | Eris Property Group (Pty) Ltd | Trevenna Development Company | 312653 | 10,243,406.29 | - | - | 10,243,406.29 |
| **15** | Redefine Properties Limited | Opera Plaza | 138382 | 8,233,157.50 | - | - | 8,233,157.50 |
| **16** | Redefine Properties Limited | Delpen | 94 | 6,812,860.70 | - | - | 6,812,860.70 |
| **17** | Broll Property Group (Pty) Ltd | Sanlam Meerzicht | 300502 | 665,579.34 | - | - | 665,579.34 |
| **18** | South Point Management Service | Southern Life Building | 301657 | 1,224,529.56 | - | - | 1,224,529.56 |
| **19** | Eris Property Group (Pty) Ltd | Tuinhof | 304140 | 256,083.00 | - | - | 256,083.00 |
|  | **Total** | | | **167,467,595.92** | **281,624,521.51** | **117,299,159.16** | **566,391,276.59** |

1. Furthermore, in addition to the above, it was noted that the following leases as per the PMIS download obtained by the AGSA was not included in the lease commitment schedule supporting the financial statements for the 2012 financial year end, thus resulting in lease commitments being understated by an indeterminable amount. The data as per the PMIS system is not reliable to base the calculation of the incomplete amount on, due to the discrepancies as noted above between the data as captured on PMIS and the actual lease agreement. Refer below for list of leases not included in lease commitments schedule supporting the financial statements.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Region** | **Propcode** | **Lease\_Start** | **Lease\_End** | **Lease\_Term** | **Landlord\_Name** |
| 1 | Pretoria | 131 | 2007/04/01 | 2012/12/31 | 5 | Crimp Fabriek Properties |
| 2 | Polokwane | 220 | 2012/02/01 | 2013/01/31 | 1 | Anver Family Prop-Hold Trust |
| 3 | Polokwane | 258 | 2011/12/01 | 2012/11/30 | 1 | Pretorius H.J |
| 4 | Kimberley | 51133 | 2012/03/01 | 2013/02/28 | 1 | Brand Djv Mr |
| 5 | Kimberley | 51144 | 2012/02/01 | 2014/01/31 | 2 | Brink & Genote |
| 6 | Cape Town | 59044 | 2012/03/01 | 2013/02/28 | 1 | Wiljac Investments Cc (50) |
| 7 | Cape Town | 59120 | 2012/03/01 | 2013/02/28 | 1 | Suider Paarl Property (50) |
| 8 | Cape Town | 59151 | 2012/01/01 | 2012/12/31 | 1 | M Van Der Berg |
| 9 | Bloemfontein | 113115 | 2011/01/01 | 2014/12/31 | 4 | Matjhabeng Municipality |
| 10 | Bloemfontein | 113170 | 2011/10/01 | 2015/09/30 | 4 | Barbour & Thorne Pty Ltd |
| 11 | Bloemfontein | 113212 | 2011/02/01 | 2015/01/31 | 4 | Setsoto Municipality |
| 12 | Bloemfontein | 113273 | 2011/01/01 | 2014/12/31 | 4 | Benphil Offices Ltd |
| 13 | Bloemfontein | 115801 | 2011/02/01 | 2015/01/31 | 4 | Visser |
| 14 | Bloemfontein | 137329 | 2011/04/01 | 2015/03/31 | 4 | Edric Trust Pty Ltd |
| 15 | Bloemfontein | 137375 | 2011/02/01 | 2015/01/31 | 4 | Le Roux |
| 16 | Bloemfontein | 137475 | 2011/04/01 | 2015/03/31 | 4 | Leanri Investments |
| 17 | Pretoria | 138611 | 2011/03/01 | 2012/12/31 | 1 | Margot Edwards Trust |
| 18 | Bloemfontein | 140110 | 2011/04/01 | 2015/03/31 | 4 | Metropolitan Properties |
| 19 | Bloemfontein | 140509 | 2010/03/01 | 2014/02/28 | 4 | Rmb Properties |
| 20 | Pretoria | 154713 | 2008/12/01 | 2012/11/22 | 3 | Metropolitan Life Properties |
| 21 | Bloemfontein | 155842 | 2011/01/01 | 2014/12/31 | 4 | Rmb Properties |
| 22 | Polokwane | 155854 | 2011/11/01 | 2012/04/30 | 0.06 | Limpala (Pty) Ltd |
| 23 | Cape Town | 155860 | 2012/03/01 | 2013/02/28 | 1 | Wiljac Investments Cc (50) |
| 24 | Polokwane | 155864 | 2012/03/01 | 2012/05/31 | 0.03 | Crucial Trade 90 (Pty) Ltd |
| 25 | Polokwane | 155945 | 2011/08/01 | 2013/01/31 | 1.06 | Town City Property Holdings |
| 26 | Polokwane | 156472 | 2012/02/01 | 2013/01/31 | 1 | Lugkoring (Edms) Bpk |
| 27 | Polokwane | 159605 | 2011/12/01 | 2012/11/30 | 1 | Voertuie Vir Boere (Pty) Ltd |
| 28 | Bloemfontein | 160368 | 2011/01/01 | 2014/12/31 | 4 | Louw Eh |
| 29 | Bloemfontein | 160651 | 2011/01/01 | 2014/12/31 | 4 | Holtzhausen Jp |
| 30 | Polokwane | 162528 | 2011/11/01 | 2012/05/31 | 0.07 | Anver Family Prop-Hold Trust |
| 31 | Kimberley | 162965 | 2011/02/01 | 2013/01/31 | 2 | Van Niekerk Family Trust |
| 32 | Bloemfontein | 163969 | 2011/02/01 | 2015/01/31 | 4 | Free Gold Properties |
| 33 | Pretoria | 164637 | 2010/03/01 | 2012/12/31 | 2 | Cbs Prop Mngt-Trust |
| 34 | Bloemfontein | 166953 | 2010/11/01 | 2014/10/31 | 4 | Nafi Edms Bpk |
| 35 | Cape Town | 174053 | 2011/11/01 | 2012/10/31 | 1 | Jhi Properties Pty Ltd |
| 36 | Kimberley | 174060 | 2012/03/01 | 2014/02/28 | 2 | Ancorley Gebou Edms Bpk |
| 37 | Bloemfontein | 174480 | 2011/04/01 | 2015/03/31 | 4 | Kwikspace Modular Buildings (P |
| 38 | Kimberley | 174657 | 2012/02/01 | 2014/01/31 | 2 | Panino Properties Cc |
| 39 | Bloemfontein | 221779 | 2011/01/01 | 2014/12/31 | 4 | Bekker Hn |
| 40 | Bloemfontein | 253949 | 2006/10/01 | 2012/09/30 | 6 | Mohokare Local Municipality |
| 41 | Bloemfontein | 254953 | 2011/04/01 | 2015/03/31 | 4 | Sardonyx Trust |
| 42 | Bloemfontein | 256676 | 2010/01/01 | 2013/12/31 | 4 | Free State Development Corpor |
| 43 | Cape Town | 260952 | 2012/01/01 | 2012/12/31 | 1 | Nms Multi Eiedomme & Versekeri |
| 44 | Bloemfontein | 266152 | 2011/01/01 | 2014/12/31 | 4 | Molo Investment Trust |
| 45 | Polokwane | 275401 | 2012/02/01 | 2012/06/30 | 0.05 | Lennox Dekenah Trust |
| 46 | Bloemfontein | 293150 | 2011/04/01 | 2015/03/31 | 4 | Zelpy 2095 Pty Ltd |
| 47 | Bloemfontein | 296242 | 2011/04/01 | 2015/03/31 | 4 | F X B Sharedealers Pty Ltd |
| 48 | Bloemfontein | 296480 | 2010/12/01 | 2014/11/30 | 4 | Die Casabel 10 Trust |
| 49 | Bloemfontein | 296895 | 2011/04/01 | 2015/03/31 | 4 | The Gng Family Trust |
| 50 | Bloemfontein | 297079 | 2011/02/01 | 2015/01/31 | 4 | Joroy 0060 |
| 51 | Pretoria | 297136 | 2008/03/01 | 2012/12/31 | 4 | Sentech (Pty) Ltd |
| 52 | Bloemfontein | 297171 | 2010/12/01 | 2014/11/30 | 4 | Barnard Johan G. Mr. |
| 53 | Bloemfontein | 297202 | 2011/02/01 | 2015/01/31 | 4 | Letsemeng Local Municipality |
| 54 | Kimberley | 297449 | 2012/03/01 | 2014/02/28 | 2 | Botken (Pty) Ltd |
| 55 | Bloemfontein | 297499 | 2007/04/01 | 2013/03/31 | 6 | Vukile Property Fund |
| 56 | Bloemfontein | 297607 | 2011/04/01 | 2015/03/31 | 4 | Ismar Investments |
| 57 | Bloemfontein | 297701 | 2011/01/01 | 2014/12/31 | 4 | Cim Theron |
| 58 | Bloemfontein | 298551 | 2007/04/01 | 2013/03/31 | 6 | Fidelity Security Services (Pt |
| 59 | Pretoria | 298907 | 2010/03/01 | 2012/12/31 | 2 | Krygkor |
| 60 | Bloemfontein | 299389 | 2007/01/01 | 2012/12/31 | 6 | Encha Property Services (Pty) |
| 61 | Bloemfontein | 299545 | 2011/09/01 | 2015/08/31 | 4 | Stienie Serfontein Eiendomme |
| 62 | Kimberley | 299664 | 2012/02/01 | 2014/01/31 | 2 | Syfert Corrugated Northern Cap |
| 63 | Cape Town | 299708 | 2012/02/01 | 2013/01/31 | 1 | Permanent Trust |
| 64 | Kimberley | 300030 | 2012/03/01 | 2014/02/28 | 2 | Van Niekerk Family Trust |
| 65 | Polokwane | 300379 | 2012/03/01 | 2012/05/31 | 0.03 | Petro Van Der Berg |
| 66 | Pretoria | 300495 | 2011/04/01 | 2012/12/31 | 1 | Opheem Property Investment Cc |
| 67 | Bloemfontein | 300531 | 2011/01/01 | 2014/12/31 | 4 | Barbour & Thorne Pty Ltd |
| 68 | Pretoria | 300548 | 2009/04/01 | 2012/09/30 | 3.06 | Denel Industrial Properties |
| 69 | Bloemfontein | 301206 | 2011/01/01 | 2014/12/31 | 4 | Parys Aan Vaal Woonstelle |
| 70 | Pretoria | 301672 | 2009/10/01 | 2012/12/31 | 2.06 | Redefine Properties Limited |
| 71 | Bloemfontein | 301695 | 2011/04/01 | 2015/03/31 | 4 | Blue Cloud Investment |
| 72 | Bloemfontein | 301752 | 2011/01/01 | 2014/12/31 | 4 | The Michael Family Trust |
| 73 | Polokwane | 302047 | 2011/04/01 | 2016/03/31 | 5 | Sentech Ltd |
| 74 | Polokwane | 302053 | 2011/04/01 | 2016/03/31 | 5 | Sentech Ltd |
| 75 | Polokwane | 302059 | 2011/04/01 | 2016/03/31 | 5 | Sentech Ltd |
| 76 | Polokwane | 302061 | 2011/04/01 | 2016/03/31 | 5 | Sentech Ltd |
| 77 | Polokwane | 302064 | 2011/04/01 | 2016/03/31 | 5 | Sentech Ltd |
| 78 | Bloemfontein | 302432 | 2010/12/01 | 2014/11/30 | 4 | Adven Trust |
| 79 | Bloemfontein | 302451 | 2011/03/01 | 2015/02/28 | 4 | The N Georgiou Trust |
| 80 | Bloemfontein | 302583 | 2011/01/01 | 2012/12/31 | 2 | Florence |
| 81 | Kimberley | 302715 | 2012/02/01 | 2014/01/31 | 2 | Sapos Properties Pty Ltd |
| 82 | Polokwane | 302745 | 2012/03/01 | 2013/02/28 | 1 | Erf 863 Marble Hall (Eiendoms) |
| 83 | Port Elizabeth | 303086 | 2011/04/01 | 2012/06/30 | 1.03 | Nkomo C.B. |
| 84 | Bloemfontein | 303387 | 2011/01/01 | 2014/12/31 | 4 | Phindana Properties 190 |
| 85 | Pretoria | 303431 | 2011/03/01 | 2012/12/31 | 1 | The State Theatre |
| 86 | Bloemfontein | 303595 | 2010/12/01 | 2014/11/30 | 4 | Pioneer Foods (Pty) Ltd |
| 87 | Kimberley | 303618 | 2012/03/01 | 2014/02/28 | 2 | Femark Property Dev & Investm |
| 88 | Bloemfontein | 303726 | 2011/01/01 | 2014/12/31 | 4 | Free State Development Corpor |
| 89 | Kimberley | 303757 | 2011/02/01 | 2013/01/31 | 2 | J H Potgieter |
| 90 | Cape Town | 303814 | 2011/11/01 | 2012/10/31 | 1 | Jr Trust |
| 91 | Bloemfontein | 303915 | 2011/04/01 | 2015/03/31 | 4 | The Michael Family Trust |
| 92 | Polokwane | 304186 | 2011/11/01 | 2012/05/31 | 0.07 | Riverport Trading 170 Pty Ltd |
| 93 | Bloemfontein | 304368 | 2011/01/01 | 2014/12/31 | 4 | Van Raalte Brothers |
| 94 | Kimberley | 304391 | 2012/02/01 | 2013/01/31 | 1 | Oss |
| 95 | Durban | 304414 | 2011/06/01 | 2012/05/31 | 0.12 | Broll Property Management |
| 96 | Kimberley | 304871 | 2012/02/01 | 2014/01/31 | 2 | V2 Properties (Pty) Ltd |
| 97 | Kimberley | 305377 | 2012/03/01 | 2014/02/28 | 2 | Rhitima Eighteen |
| 98 | Kimberley | 305546 | 2012/03/01 | 2014/02/28 | 2 | Vlok |
| 99 | Polokwane | 305937 | 2012/03/01 | 2013/02/28 | 1 | Sentech Ltd |
| 100 | Bloemfontein | 306087 | 2011/01/01 | 2014/12/31 | 4 | Sasolburg Muslum Jamaat |
| 101 | Bloemfontein | 306456 | 2011/02/01 | 2015/01/31 | 4 | Aqua Lux Edms Bpk T/A |
| 102 | Pretoria | 306609 | 2007/04/01 | 2012/11/30 | 5 | Total Facilities Management Co |
| 103 | Bloemfontein | 306794 | 2011/02/01 | 2015/01/31 | 4 | Nic Alberts Properties |
| 104 | Bloemfontein | 307107 | 2011/02/01 | 2015/01/31 | 4 | Aqua Lux Edms Bpk T/A |
| 105 | Pretoria | 307296 | 2011/02/01 | 2012/12/31 | 1 | Rmb Properties/Mifa Portfolio |
| 106 | Bloemfontein | 308137 | 2007/01/01 | 2012/12/31 | 6 | National Real Estate |
| 107 | Bloemfontein | 308657 | 2010/01/01 | 2015/12/31 | 6 | Gensec Property Services |
| 108 | Kimberley | 308671 | 2012/02/01 | 2014/01/31 | 2 | Zycadek Eiendomme Edms Bpk |
| 109 | Kimberley | 308748 | 2012/03/01 | 2014/02/28 | 2 | Eris Property Group (Pty) Ltd |
| 110 | Bloemfontein | 308831 | 2007/03/01 | 2013/02/28 | 6 | National Real Estate |
| 111 | Kimberley | 308896 | 2012/03/01 | 2014/02/28 | 2 | Ancorley Gebou Edms Bpk |
| 112 | Bloemfontein | 308986 | 2010/01/01 | 2013/12/31 | 4 | Vizirama 199 Pty Ltd |
| 113 | Bloemfontein | 309219 | 2007/04/01 | 2013/03/31 | 6 | Dovestone Investment Cc |
| 114 | Cape Town | 310372 | 2012/01/01 | 2012/12/31 | 1 | Provincial Government Of The W |
| 115 | Bloemfontein | 310382 | 2011/01/01 | 2014/12/31 | 4 | Silver Falls Trading Cc |
| 116 | Bloemfontein | 310756 | 2009/12/01 | 2013/11/30 | 4 | Mare |
| 117 | Pretoria | 310903 | 2012/02/01 | 2013/01/31 | 1 | Kanivest 3146 Cc |
| 118 | Polokwane | 311056 | 2012/01/01 | 2012/12/31 | 1 | Mogalakwena Municipality |
| 119 | Polokwane | 311057 | 2012/01/01 | 2012/12/31 | 1 | Mogalakwena Municipality |
| 120 | Bloemfontein | 311078 | 2010/01/01 | 2013/12/31 | 4 | Die Skougronde Ontwikkelings T |
| 121 | Kimberley | 311243 | 2012/03/01 | 2014/02/28 | 2 | Upington Umbra Gebou (Edms) Bp |
| 122 | Bloemfontein | 312914 | 2011/04/01 | 2015/03/31 | 4 | National Real Estate |
| 123 | Bloemfontein | 313190 | 2011/04/01 | 2015/03/31 | 4 | Premier Foods Limited |
| 124 | Bloemfontein | 313492 | 2011/04/01 | 2015/03/31 | 4 | Breeze Court Investments (Pty) |
| 125 | Bloemfontein | 315122 | 2011/04/01 | 2015/03/31 | 4 | Tbz Management And Investment |
| 126 | Kimberley | 315787 | 2012/03/01 | 2014/02/28 | 2 | Joseph Rp |
| 127 | Pretoria | 315980 | 2010/01/01 | 2012/12/31 | 2 | City Property Administration |
| 128 | Mmabatho | 315985 | 2012/02/01 | 2013/01/31 | 1 | Coligny Saamwerk Vereeniging |
| 129 | Polokwane | 315987 | 2012/03/01 | 2013/02/28 | 1 | Trillium Investment (Pty) Ltd |
| 130 | Bloemfontein | 316571 | 2010/04/01 | 2014/03/31 | 4 | Berjan Properties Bk |
| 131 | Bloemfontein | 316798 | 2011/01/01 | 2014/12/31 | 4 | Van Den Berg |
| 132 | Port Elizabeth | 318757 | 2011/12/01 | 2013/11/30 | 2 | Kayula Trust |
| 133 | Port Elizabeth | 318774 | 2012/02/01 | 2017/01/31 | 5 | Harbour Point Trust |
| 134 | Polokwane | 318794 | 2011/10/01 | 2014/09/30 | 3 | Smme Northern Province Support |

1. As per the requirements of IAS 17, the entity did not disclose a general description of the leasing arrangements for the lessor and lessee in the lease commitments disclosure note in the annual financial statements.

The above is mainly a result of the following:

1. PMTE not having an appropriate accounting system, policies and procedures in place as well as sufficient GAAP experienced staff members to ensure compliance with IAS 17.
2. The financial statements not being adequately reviewed before being submitted for audit purposes.
3. The data as per PMIS not being accurate i.e. not agreeing to the actual valid signed lease agreements
4. Lack of monitoring, supervision and review with regards to the capturing of data on PMIS.

The above results in the integrity of the PMIS data being placed into question.  The lack of integrity of the PMIS data furthermore impacts on all other items in the financial statements based on the PMIS data i.e. straight-lining (operating lease debtor/creditor), operating lease expense  etc.  Based on the above, lease commitments will overall be understated/overstated depending whether the amount of understatement exceeds the overstatement as indicated above.  The classification of lease commitments in the different categories of less than one year, more than one year less than five years and more than five years being misstated.  Due to the fact that certain lease agreements could not be obtained for audit purposes, this results in a limitation of scope and thus we are unable to determine the occurrence and rights and obligations , accuracy and valuation of these lease commitments.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

1. Management should adequately review the financial statements before being submitted for audit purposes to ensure that matters as listed above are identified and corrected before submission thereof.
2. Management should put plans in place to ensure that the data as per PMIS is reviewed and corrected, so that the data will be a true and accurate reflection of the leases in place.  Management should furthermore put processes in place regarding the capturing and reviewing of data captured on PMIS going forward.  Officials should be held responsible should management identify matters where data as per PMIS was negligently or purposely incorrectly captured or omitted.
3. All data capturers should be sent on training to ensure that their responsibilities are clearly understood to enable them to fulfill their duties adequately as required.
4. Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.
5. Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.
6. Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**Management response**

Management does not fully agree with the audit finding and where we do not fully agree as set out below. From the outset, management would like to acknowledge that an error occurred when downloading the information from PMIS to prepare the lease commitments calculation.

We are in the process of rectifying this erroneous download and then reperforming the lease commitment and operating lease smoothing calculations. We are therefore of the opinion that any errors on the PMIS download cannot be used to infer that the entire PMIS system is incorrect.

Management is therefore of the opinion that the lease schedule provided should not be used as a benchmark for stating that the data as loaded onto PMIS is incorrect. We would therefore like to propose that the AG compares the information as per the lease agreements to the live PMIS system.

a)    Management agrees that the “service charges” do not form part of the strict definition of a “Lease asset”. We would like to advise that our rationale behind it’s inclusion in all lease expenditure is due to the fact that our mandate is to procure habitable accommodation for our client departments. Our rationale further informed us that a building which is not clean is not habitable for office accommodation and we would therefore have failed in the execution of our duties. With reference to our opening statement above, this separation will be taken into account in the recalculation of lease commitments and lease straight lining once the correct data download has occurred.

b)    Management agrees with the finding, please refer to the opening statement above.

c)    Management agrees with the finding, please refer to the opening statement above.

d)    Management agrees with the finding, please refer to the opening statement above.

e)    With reference to our opening statement above, management does not fully agree with the finding due to the fact that:

i)      The information per the lease agreement was not compared to the information per PMIS system but only to the lease schedule.

ii)   Management is of the opinion that the square meterage and number of parking bays does impact on the lease commitment rand value disclosed on the AFS.

f)     With reference to our opening statement above, management agrees that the rand value of the commitments might not be correctly disclosed and we are in the process of recalculating these values.

g)    The regions are the custodians of the lease contracts, therefore Pretoria should assist.

h)    With reference to our opening statement above, management agrees with finding to the extent that the schedule used in the calculations is erroneous, however, management does not agree that the data as per PMIS is unreliable and we are of the opinion that the AG did dot demonstrate such a conclusion by reference to the work performed above.

i)      Management agrees with the audit finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | Please see above. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | Please see above, management will rectify the lease commitment and other commitment (service charges) on completion of the reperformed calculations. | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 31 August 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 | Management  agrees with the root cause, except  c) With reference to our opening statement above, management does not agree with the finding as the AG compared the lease agreements with the Lease schedule rather than with the PMIS system and we are of the opinion that the discrepancies observed in the AG comparison cannot be used to infer that the live PMIS data is inaccurate.  d) Management does not agree with this audit finding due to our opening statement and the i.c) above. | | |
|  |  |  |  |

Name:   J Prinsloo

Position:  Chief Director – Planning and Reporting

Date: 17/8/2012

**Auditor’s conclusion**

Management comment noted. Although management indicated that an error occurred during the download of the PMIS data, the finding remains valid as the no subsequent information or downloads were provided to support the statement made by management. Furthermore, comparison of the data to the live PMIS system for purposes of audit of the lease commitment not be of value as the lease commitment note is based on the download. In addition it is of concern that information in errenously downloaded from the system as management did not note such until the above mentioned matters were brought to the attention of management.

With regards to management comment number (h) above, discreptancies were noted during the performance of the lease audit between the actual lease agreement and PMIS, thus not all data as captured on PMIS is accurate and up to date, thus resulting in the integrity of the data being placed in question as we are unable to determine what data is reliable and what is not.

Thus, the finding remains and willl be reported in the audit report due to the disagreement misstatement of R2,5 billion as well as the limitation misstatement of R566 million which will form part of the basis of the audit opinion

1. **COAF 211 - Other Commitments limitation**

**Audit finding**

Laws and Regulations

(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”*

(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-*

*a)    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*

*b)    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 issues have been identified during the audit of other commitments:

The following commitments selected for testing includes an amount for CPAP, re-measurements, approved variation orders and consultants (where applicable). The CPAP is calculated by a quantity surveyor due to its complexity. The CPAP is updated on a regular basis as and when payments are made against the contract. The department uses a number of different quantity surveyors to calculate the CPAP. No supporting schedules or any calculations to support these amounts could be obtained.  As a result, the audit team is unable to confirm the CPAP amount. As these amounts form part of the contracted amount on the commitment schedule and can only be identified when the detail supporting documentation is requested, the total amount pertaining to CPAP included in the commitments could not be determined.  Furthermore, no supporting documentation was received for the commitments relating to consultants, neither was the supporting documentation received for the variation orders.  In other instances no documentation was received for the construction contract amount.  Refer to tables below indicating amount of limitation due to CPAP, consultants, contractors and variation order information not received for audit purposes:

Table 1: Current commitment – Pretoria region – information not submitted for audit purposes

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Service Provider** | **Description of service(select from dropdown list)** | **Reference to supporting documents** | **Batch, Order,Payment number** | **Amount**  **R** |  |
|  |
| **1** | At My Best Trading | P/P:Safeguard&Security | PTQ11/087 | AF225556 | 86,100.00 |  |

Table 2: Capital commitments – Pretoria region

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **Amounts as per commitments schedule** | | | | | |  |  |
| **No.** | **Service no** | **Tender no** | **Contractor Authorization**  **R** | **Consultant Authorization**  **R** | **Suspense Account Authorization**  **R** | **Contractor Expenditure**  **R** | **Consultant Expenditure**  **R** | **Total Commitments**  **R** | **Contractor Authorisation documentation received**  **R** | **Limitation**  **R** |
| 1 | 040404 | PT07/076 | 94,426,871.72 | - | - | 46,129,768.17 | - | 48,297,103.55 |  | 48,297,103.55 |
| 2 | 044271 | PT09/026 | 39,821,575.59 | 13,257,985.79 | - | 12,963,968.41 | 10,865,829.03 | 29,249,763.94 |  | 29,249,763.94 |
| 3 | 045862 | PT11/002 | 26,827,342.73 | 5,626,688.21 | - | 6,524,231.60 | 3,638,850.50 | 22,290,948.84 |  | 22,290,948.84 |
| 4 | 047106 | PT10/027 | 24,158,562.20 | 3,885,000.00 | - | 6,106,564.30 | 2,839,098.97 | 19,097,898.93 |  | 19,097,898.93 |
| 5 | 048853 | PT11/020 | 24,153,112.13 | - | - | 5,083,949.75 | - | 19,069,162.38 |  | 19,069,162.38 |
| 6 | 046918 | PT10/065 | 27,373,635.19 | 3,318,532.00 | - | 12,376,981.17 | 3,166,730.20 | 15,148,455.82 |  | 15,148,455.82 |
| 7 | 048495 | PT11/058 | - | 18,208,582.19 | - | - | 3,724,841.45 | 14,483,740.74 |  | 14,483,740.74 |
| 8 | 043904 | PT10/076 | 24,458,265.35 | 2,599,705.65 | - | 13,459,503.34 | 2,310,398.75 | 11,288,068.91 |  | 11,288,068.91 |
| 9 | 046919 | PT10/063 | 20,085,909.78 | 2,805,508.00 | - | 10,396,315.51 | 2,415,525.85 | 10,079,576.42 |  | 10,079,576.42 |
| 10 | 040404 | PT07/076 | 3,141,914.10 | 73,567,003.61 | - | 3,141,914.10 | 64,180,270.19 | 9,386,733.42 |  | 9,386,733.42 |
| 11 | 041384 | PT05/002 | 48,171,421.80 | 8,710,238.52 | - | 41,303,197.73 | 8,710,208.69 | 6,868,253.90 |  | 6,868,253.90 |
| 12 | 044193 | PT09/039 | 163,688,000.00 | 35,900,000.00 | - | 159,772,714.86 | 33,674,065.24 | 6,141,219.90 |  | 6,141,219.90 |
| 13 | 045278 | PT09/027 | 18,533,379.65 | 48,336,399.18 | - | 18,467,901.69 | 42,613,014.39 | 5,788,862.75 |  | 5,788,862.75 |
| 14 | 047043 | PT11/023 | - | 10,000,000.00 | - | - | 4,299,125.96 | 5,700,874.04 |  | 5,700,874.04 |
| 15 | 043918 | PT08/038 | 267,117,669.66 | 68,059,530.73 | - | 266,616,749.54 | 64,462,592.11 | 4,097,858.74 |  | 4,097,858.74 |
| 16 | 045801 | PT07/075 | 16,177,801.95 | - | - | 12,902,602.61 | - | 3,275,199.34 |  | 3,275,199.34 |
| 17 | 037548 | H03/049 | 6,778,624.70 | - | 2,838,366.61 | 6,778,624.70 | - | 2,838,366.61 |  | 2,838,366.61 |
| 18 | 048332 | PT12/017 | - | 6,346,630.60 | - | - | 3,600,532.31 | 2,746,098.29 |  | 2,746,098.29 |
| 19 | 047072 | PT11/060 | 6,389,189.28 | 1,236,150.20 | - | 4,037,115.06 | 951,877.98 | 2,636,346.44 |  | 2,636,346.44 |
| 20 | 042189 | PT07/079 | 65,856,842.40 | 17,151,590.48 | - | 65,856,842.40 | 14,573,757.94 | 2,577,832.54 |  | 2,577,832.54 |
| 21 | 044028 | PT09/003 | 5,206,558.00 | 11,893,394.73 | - | 4,451,847.39 | 10,243,995.74 | 2,404,109.60 |  | 2,404,109.60 |
| 22 | 039074 | PT11/077 | - | 4,327,500.00 | - | - | 2,045,473.43 | 2,282,026.57 | - | 2,282,026.57 |
| 23 | 043905 | PT11/021 | - | 2,565,986.00 | - | - | 444,709.70 | 2,121,276.30 | - | 2,121,276.30 |
| 24 | 047842 |  | - | 4,000,000.00 | - | - | 1,993,206.05 | 2,006,793.95 | - | 2,006,793.95 |
| 25 | 045802 | PT11/015 | 123,421,388.39 | - | - | 17,930,012.38 | - | 105,491,376.01 | 113,043,953.00 | 10,377,435.39 |
| 26 | 046424 | PT10/079 | 116,907,874.43 | 30,462,931.19 | - | 31,788,155.35 | 21,637,178.71 | 93,945,471.56 | 107,173,185.10 | 40,197,620.52 |
| 27 | 045517 | PT10/047 | 89,642,504.99 | 13,000,000.00 | - | 31,549,058.71 | 12,354,313.13 | 58,739,133.15 | 75,737,162.04 | 26,905,342.95 |
| 28 | 045520 | PT10/045 | 46,678,063.84 | - | - | - | - | 46,678,063.84 | 41,859,303.61 | 4,818,760.23 |
| 29 | 045515 | PT10/046 | 72,871,086.96 | 9,800,000.00 | - | 42,542,976.51 | 8,712,319.01 | 31,415,791.44 | 68,952,976.95 | 13,718,110.01 |
| 30 | 044735 | PT11/022 | - | 10,907,806.31 | - | - | 7,705,855.03 | 3,201,951.28 | - | 10,907,806.31 |
| 31 | 033323 | PT11/039 | 26,156,654.67 | 5,631,418.00 | - | 1,942,361.21 | 2,279,253.15 | 27,566,458.31 | 24,445,471.66 | 7,342,601.01 |
| 32 | 033753 | PT10/074 | 21,799,531.12 | 5,514,466.00 | - | 2,013,622.70 | 1,769,748.13 | 23,530,626.29 | 20,712,143.58 | 6,601,853.54 |
| 33 | 047442 | PT10/060 | 17,902,728.18 | 6,000,000.00 | - | 8,675,515.61 | 1,958,651.52 | 13,268,561.05 | 13,503,708.60 | 10,399,019.58 |
| 34 | 048509 | EMERGENC | 15,276,455.19 | 5,748,749.44 | - | 4,311,392.77 | 4,806,920.14 | 11,906,891.72 | 15,276,455.19 | 5,748,749.44 |
| 35 | 043422 | PT09/023 | 23,709,479.13 | 3,276,900.00 | - | 17,134,108.26 | 2,939,678.67 | 6,912,592.20 | 22,526,821.03 | 4,459,558.10 |
| 36 | 047441 | PT11/036 | 11,497,297.90 | 2,070,000.00 | - | 4,604,453.65 | 2,066,037.93 | 6,896,806.32 | 9,630,853.00 | 3,936,444.90 |
| 37 | 046458 | PT11/078 | - | 11,689,475.58 | - | - | 5,051,768.11 | 6,637,707.47 | - | 11,689,475.58 |
|  | **Total** | | | | | | | | | **406,979,349.48** |

Table 3:  Capital Commitments - HO

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | Amounts as per commitment schedule | | | | |  |  |
| **No.** | **Service no** | **Tender no** | **Contractor Authorization**  **R** | **Consultant Authorization**  **R** | **Contractor Expenditure**  **R** | **Consultant Expenditure**  **R** | **Total Commitments**  **R** | **Contractor Authorization Documentation received**  **R** | **Limitation**  **R** |
| 1 | 045931 | H11043 | 503,801,002.28 | 89,000,000.00 | - | 49,153,575.49 | 543,647,426.79 | 458,323,821.13 | 134,477,181.15 |
| 2 | 046023 | H08/007 | 419,319,739.57 | - | 68,818,207.56 | - | 350,501,532.01 | 374,392,624.62 | 44,927,114.95 |
| 3 | 047079 | H10005 | 144,560,978.07 | 12,000,000.00 | 15,340,809.42 | 6,780,218.53 | 134,439,950.12 | 135,407,771.40 | 21,153,206.67 |
| 4 | 046009 | H10004 | 308,162,400.07 | 13,173,150.00 | 177,485,827.19 | 12,265,718.44 | 131,584,004.44 | 155,647,747.82 | 131,584,004.44 |
| 5 | 036133 | H10013 | 181,620,166.55 | 16,556,364.46 | 65,516,262.31 | 14,190,884.64 | 118,469,384.06 | 172,562,524.04 | 25,614,006.97 |
| 6 | 033642 | H10006 | 175,284,277.89 | 31,778,649.43 | 75,505,420.85 | 17,259,357.39 | 114,298,149.08 | None received | 114,298,149.08 |
| 7 | 047078 | H10007 | 163,819,254.58 | 3,000,000.00 | 65,470,131.84 | 2,458,812.21 | 98,890,310.53 | 155,647,747.82 | 11,171,506.76 |
| 8 | 041821 | H09/020 | 207,952,347.81 | 34,997,492.00 | 118,453,208.54 | 26,371,872.69 | 98,124,758.58 | 155,647,747.82 | 87,302,091.99 |
| 9 | 047080 | H10014 | 113,057,693.51 | 165,885.41 | 38,215,280.30 | - | 75,008,298.62 | 107,418,236.12 | 5,805,342.80 |
| 10 | 046024 | H08/008 | 284,564,524.48 | - | 226,335,759.48 | - | 58,228,765.00 | 244,312,354.62 | 40,252,169.86 |
| 11 | 044275 | PT10/022 | 42,203,980.00 | 6,000,000.00 | 5,029,012.35 | 4,937,121.31 | 38,237,846.34 | 4,979,981.70 | 38,237,846.34 |
| 12 | 045183 | H10008 | 55,595,614.31 | 241,000.00 | 19,206,592.50 | 46,747.86 | 36,583,273.95 | 46,852,218.03 | 8,984,396.28 |
| 13 | 046573 | MTHNMU11 | 33,965,215.96 | 7,537,456.59 | - | 5,067,939.53 | 36,434,733.02 | 32,347,824.72 | 9,154,847.83 |
| 14 | 045600 | H09/061 | 31,134,327.37 | 2,195,469.00 | - | 1,575,846.73 | 31,753,949.64 | None received | 31,753,949.64 |
| 15 | 044115 | H11015 | 27,110,230.86 | 2,000,000.00 | - | 1,072,150.70 | 28,038,080.16 | 25,010,230.86 | 4,100,000.00 |
| 16 | 044254 | H09/052 | 30,125,580.36 | 2,746,685.79 | 5,047,189.33 | 1,739,676.40 | 26,085,400.42 | 25,703,367.16 | 7,168,898.99 |
| 17 | 045875 | PT07/031 | 24,307,668.00 | 3.00 | 2,534,182.55 | - | 21,773,488.45 | None received | 21,773,488.45 |
| 18 | 045639 | H11/052 | 18,566,932.25 | 5,700,000.00 | - | 3,188,376.13 | 21,078,556.12 | 18,566,932.25 | 5,700,000.00 |
| 19 | 046025 | H08/009 | 63,533,299.36 | - | 43,413,374.03 | - | 20,119,925.33 | 56,726,160.14 | 6,807,139.22 |
| 20 | 048182 | H10027 | 20,584,066.14 | 3,063,354.75 | 5,052,975.69 | 1,674,128.93 | 16,920,316.27 | 17,411,120.42 | 6,236,300.47 |
| 21 | 049255 | H11/055 | 17,392,576.42 | - | 555,448.68 | - | 16,837,127.74 | 15,612,816.42 | 1,779,760.00 |
| 22 | 044121 | H09/057 | 21,676,632.58 | 3,884,925.91 | 7,345,841.85 | 2,579,095.46 | 15,636,621.18 | 17,108,803.65 | 8,452,754.84 |
| 23 | 048193 | H10024 | 18,131,285.16 | 4,758,021.77 | 7,355,852.08 | 1,483,952.82 | 14,049,502.03 | 16,709,325.89 | 6,179,981.04 |
| 24 | 047036 | H09/058 | 20,062,509.09 | 2,353,796.24 | 6,909,305.09 | 1,474,259.75 | 14,032,740.49 | 16,523,982.59 | 5,892,322.74 |
| 25 | 048338 | H11/047 | 488,809.20 | 33,409,158.48 | 488,809.20 | 19,386,585.01 | 14,022,573.47 | 488,809.20 | 14,022,573.47 |
| 27 | 049253 | H11/051 | 14,768,287.77 | - | 863,115.08 | - | 13,905,172.69 | 13,768,287.77 | 1,000,000.00 |
| 28 | 044116 | H09/062 | 50,142,904.27 | 6,543,831.36 | 36,738,495.58 | 6,075,911.94 | 13,872,328.11 | 44,328,872.10 | 12,357,863.53 |
| 29 | 049254 | H11/057 | 12,748,484.38 | - | - | - | 12,748,484.38 | 11,898,484.38 | 850,000.00 |
| 30 | 048175 | H10029 | 18,983,515.40 | 2,255,000.00 | 6,649,678.62 | 2,029,665.24 | 12,559,171.54 | 16,983,876.75 | 4,254,638.65 |
| 31 | 038486 | PT06/038 | 15,361,753.08 | 14,011,139.24 | 12,825,691.06 | 4,582,205.06 | 11,964,996.20 | 13,400,662.38 | 11,964,996.20 |
| 32 | 048176 | H10025 | 16,643,617.45 | 2,305,000.00 | 6,143,070.42 | 1,217,206.99 | 11,588,340.04 | 15,062,097.24 | 3,886,520.21 |
| 33 | 047578 | H1126 | 31,330,293.75 | 7,470,000.00 | 24,000,000.00 | 4,640,373.26 | 10,159,920.49 | 31,330,293.75 | 7,470,000.00 |
| 34 | 048189 | H10023 | 9,292,170.51 | 3,631,328.82 | 2,424,880.34 | 994,220.85 | 9,504,398.14 | 8,603,861.58 | 4,319,637.75 |
| 35 | 045954 | MTH10111 | - | 14,958,253.97 | - | 5,931,921.90 | 9,026,332.07 | None received | 9,026,332.07 |
| 36 | 048865 | H1109 | 13,213,383.54 | 14,000,000.00 | 12,452,041.18 | 5,836,152.01 | 8,925,190.35 | 12,584,174.80 | 8,925,190.35 |
| 37 | 040041 | H05/051 | 714,400,674.85 | 119,517,381.15 | 706,838,043.25 | 118,232,941.49 | 8,847,071.26 | 8,652,878.68 | 8,847,071.26 |
| 38 | 042452 | H06/027 | 200,402,997.67 | - | 191,739,689.12 | - | 8,663,308.55 | 108,889,292.22 | 8,663,308.55 |
| 39 | 047931 | H10018 | 8,973,606.63 | 3,117,540.99 | 2,851,478.78 | 963,472.42 | 8,276,196.42 | 8,232,666.64 | 3,858,480.98 |
| 40 | 045604 | H10/001 | 8,960,446.95 | 2,874,893.05 | 2,927,389.55 | 730,658.79 | 8,177,291.66 | 7,986,888.56 | 3,848,451.44 |
| 41 | 044117 | H08/019 | 52,789,039.43 | 7,938,644.12 | 46,959,295.48 | 6,062,784.86 | 7,705,603.21 | 40,389,887.18 | 7,705,603.21 |
| 42 | 049393 | H11/056 | 7,647,331.74 | - | - | - | 7,647,331.74 | 6,897,331.74 | 750,000.00 |
| 43 | 033655 |  | - | 10,815,197.25 | - | 3,202,955.17 | 7,612,242.08 | None received | 7,612,242.08 |
| 44 | 039191 | H05/119 | 44,331,961.94 | 9,681,971.88 | 38,125,842.88 | 8,664,080.62 | 7,224,010.32 | 40,896,643.86 | 7,224,010.32 |
| 45 | 036117 |  | - | 10,897,430.23 | - | 3,800,691.14 | 7,096,739.09 | None received | 7,096,739.09 |
| 46 | 046111 | H08/051 | 31,544,084.31 | 5,089,951.77 | 25,204,463.63 | 4,473,778.16 | 6,955,794.29 | 27,059,578.07 | 6,955,794.29 |
| 47 | 044080 | PT06/037 | 25,609,102.15 | 5,449,086.00 | 20,155,150.95 | 3,960,233.83 | 6,942,803.37 | 17,937,372.12 | 6,942,803.37 |
| 48 | 048186 | H10021 | 9,368,393.44 | 1,761,744.13 | 3,482,430.15 | 946,993.81 | 6,700,713.61 | 8,368,393.44 | 2,761,744.13 |
| 49 | 049252 | H11/054 | 6,485,126.32 | - | - | - | 6,485,126.32 | 6,174,613.92 | 310,512.40 |
| 50 | 045688 | H10017 | 9,016,602.75 | 1,400,000.00 | 3,031,420.60 | 973,514.78 | 6,411,667.37 | 8,609,901.78 | 1,806,700.97 |
| 51 | 048216 | H11002 | 9,724,761.74 | 580,000.00 | 3,483,238.30 | 520,127.48 | 6,301,395.96 | 9,449,456.59 | 855,305.15 |
| 52 | 048866 | H1128 | - | 9,250,000.00 | - | 3,054,056.64 | 6,195,943.36 | None received | 6,195,943.36 |
| 53 | 045905 | H11/006 | 8,127,873.30 | 918,591.92 | 2,370,702.45 | 861,732.85 | 5,814,029.92 | 8,127,873.30 | 918,591.92 |
|  |  |  |  |  |  |  | **2,312,108,316.38** |  | **939,237,515.26** |

The above is a result of management not being able to provide the information supporting the amounts disclosed in the commitments schedule as per RFI 192 (COAF 116), 193 (COAF 115), 226 (COAF 162) and 227 (COAF 163).

1. Non compliance with Section 40 and 41 of the Public Finance Management Act.
2. Non compliance with Treasury Regulations 17.2.1.
3. The accuracy and valuation, occurrence and rights and obligations, classification as well as the completeness relating to other commitments could not be verified. It should be noted that the limitation relating to the CPAP represents the total population, thus if extrapolated it means that this limitation is applicable to the total CPAP included in commitments.
4. Material limitation that will impact on the audit opinion.

**Internal control deficiency**

**Financial and performance management:**

The department has not implemented 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**

Management should put processes in place to ensure that all amounts disclosed as other commitments are supported by appropriate evidence.

**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** |
| X |  |
| If yes, what corrections will be made to the population: **When the files were audited, no request was done to the PM to provide the auditors with these documents. (\*See comments per project as listed below)** |  | |
| 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. |  | |

**\* Comments per project:**045875:    I am not in agreement, no CPAP was applicable, No Variation Orders, No re-measurements. Done by another PM now.

045639:    No CPAP was applicable, No Variation Orders, or re-measurements had been done because this is a consultant appointment. Contractor had not been paid yet.

038486:    Will request the CPAP from the QS and place on the file. This will be on file by 15 September 2012.  The approved Variation Orders are on file and were done by the previous PM.

044080:    Will request the CPAP from the QS and place on the file. This will be on file by 15 September 2012.  The approved Variation Orders are on file and were done by the previous PM.

Name: S. O’Neil

Position: SPM

Date: 16/8/2012

**Auditor’s conclusion**

Management comments are noted for the projects as listed above. No response was received from management for the commitments relating to the Pretoria region, nor were comments received for the commitments other than those listed above relating to Head Office. No supporting documentation was provided by management to support their response provided. Note should be taken that the finding does not only relate to a limitation on the CPAP, but also due to the fact that certain contracts and consultant information to support the amount approved for such was not received. Therefore, due to the material misstatement arising, the matter will be reported on in the audit and management report.

Supply chain management

1. **COAF 16 - Deviations with the SCM Prescripts: Johannesburg Scaffolding (Tender HP11/047: Scaffolding hire)**

**Audit finding**

Laws, rules and regulations

(a)     Practice note 8 of 2007/2008, paragraph 3.4.1 states that: *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(b)     Practice note 8 of 2007/2008, paragraph 3.4.1 states that: *“Should it be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole provider, the accounting officer may procure the required goods and services by other means, such as price quotations or negotiations in accordance with TR16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate”*

(c)     Practice note 8 of 2007/2008, paragraph 3.5 states that: *“Goods, works or services may not deliberately be split into parts or items of lesser value merely for the sake of procuring the goods, works or services otherwise than through the prescribed procurement process. When determining transaction values, a requirement for goods, works or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction."*

(d)     Practice note 8 of 2007/2008, paragraph 3.3.1 and 3.3.2 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. Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers".*

During the review of the appointment of Johannesburg Scaffolding, the following was noted:

(a)     In an internal memorandum, reference no 24/5/048338 dated 24 May 2011 from the DD: ICR Projects to the NBAC, it was stated that during the month of March / April 2011 quotations were invited from 10 companies to supply scaffolding for a 12 month hire period and only one compliant bidder tendered was received from Makutupu Construction & Projects CC for R2 329 883,21 (incl. VAT). A second quotation process was initiated, requesting 10 companies to quote on the same service but at a reduced hire period of 6 months. Only one price quotation in the price range of R826 055,00 was received from SGB Cape Scaffolding.

It was further stated that a company, Johannesburg Scaffolding quoted on the original hire period of 12 months at a price of R650 524,00 (excl. VAT) and not 6 months, this lead DPW to belief that if they had requested them to quote for 6 months, that they would have quoted below R500 000.

In the above memo approval was sought from the NBAC to negotiate a formal quotation from Johannesburg Scaffolding in order to achieve the best price for the service. The request was supported by 3 of the NBAC members and approved by the vice chairperson on 25 May 2011.

.        In a follow-up internal memorandum, reference no 24/5/048338 dated 21 June 2011 from the DD: ICR Projects to the NBAC, approval was sought from the NBAC to accept the quotation of Johannesburg Scaffolding CC dated 8 June 2011 for an amount of R488 809,20 for a 6 months hire period. The NBAC approved the appointment on 5 July 2011.

(b)     The SCM process followed in the appointment of Johannesburg Scaffolding was in contravention of the prevailing prescripts in view of the following:

(i)      No evidence could be found in the tender file to support the statement that 10 quotations were requested and received in two distinct quotations processes which in both process only yielded one compliant tenderer. Furthermore, it could not be confirmed if the quotations were requested from the list of prospective suppliers as required in terms of Practice note no. 8 of 2007/2008, paragraph 3.3.1. This constitutes a limitation of scope on our audit procedures.

(ii)     The first quotation process indicated that the estimated value of the service was above R500 000. Therefore, the department should have followed a competitive bidding process. Instead of inviting a competitive bid, the department changed the period for the service from 12 to 6 months to lesser the value for the sake of procuring the service through a quotations process instead of a competitive bid process in contravention of Practice note no. 8 of 2007/2008, paragraph 3.5.

(iii)       The deviation from the SCM prescripts to follow a negotiation process instead of a competitive bid process was in contravention of Practice note no. 8 of 2007/2008, paragraph  3.4.3, as the appointment of a service provider for provision of scaffolding was not an urgent or emergency case. Furthermore, the deviation was approved by the NBAC instead of the accounting officer.

The above matters are a result of lack of measures in place to comply with the relevant SCM prescripts

Therefore constitute non-compliance which may result in the incurrence of irregular expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

1. Management must ensure that the department abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.
2. Management must before the commencement of a SCM process, analyse the need for the goods and/or services to ensure that the correct procurement system e.g. quotations or competitive bids are selected based on the threshold values set by the National Treasury.
3. The relevant SCM documentation supporting the decisions to select a supplier must be kept on file or attached to the contract.
4. In approving deviations from the normal SCM process, management should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers.

**Management response**

I.          The documentation for the two quotation procedures as explained above are hereto attached, it was not attached in the tender file because these are two different procedures and they are not related.

II.          According to our records, the first request was received on the 24th March 2011 and the requests for quotation was send out on the 30th March 2011.  The service providers were sourced through Pro-quote.  See attached faxes for reference.  On the closing date one supplier responded (Makutupu Construction Project CC) but the response was received late, after 11h00 on the 1st April 2011.

       Second attempt was issued on the 14th April 2011 and closing on the 21st April 2011.  The service providers were sourced outside Pro-quote as it became evident that the Pro-quote system does not have service providers that specialises in the required field.  See attached system report and NBAC approval for deviation and names of services providers that were sourced outside Proquote.

       On the closing date SGB Scaffolding responded and provided a quotation amounting to R826 055.00 (received late)

       Third attempt was issued on the 19th July and closed on the 25th July 2011.  See attached request for quotation as proof.  On the closing date three suppliers were responsive.  Namely (i) Viva Access, (ii) Johannesburg Scaffolding and (iii) PRS Scaffolding.  Please bear in mind that when the 3rd attempt was done, the requester had change period of engagement, from 12 to 6 months.  Quotation unit had not control as the user informed the unit that project is still being on the pilot phase hence the reduced period.

       During evaluation it was very important that the prospective bidder should meet OHS requirements, the fact you cannot ignore when dealing with installation of scaffolding.

       PRS requested upfront payment and failed to submit OHS certificate.  See attached quotation.

       The appointment of Johannesburg Scaffolding being the second highest scorer was based on them meeting OHS requirement as well as standard terms and conditions of the Department.  It is worth nothing that when procurement decisions are made value for money issues are considered in addition to other compliance issues.

III.          The matter became urgent as the project timelines were compromised by the delays precipitated by the re-issuing of quotations.  The NBAC is delegated to approve deviations by the Accounting Officer in terms of the Acquisition Directives Part 4 item 10 paragraph 47 and item 20 paragraph 104,  In addition to that as confirmation of delegation to approve deviations from normal procurement procedures the Accounting Officer issued an Internal Memorandum: SCM Circular 11 of 2009/2010 paragraph 2.6 delegating approval of all procurement strategies to the relevant Bid Adjudication Committee.

Name: Salome Malebye

Position: Director: Demand and Acquisitions

Date: 27/2/2012

**Auditor’s conclusion**

The AGSA is not in agreement with the management comments received in view of the following:

(a)   The documentation for the two quotation processes that were initiated in March 2011 and in April 2011 was submitted for review. However, documentation submitted is incomplete or inaccurate to support the comments stated by management and is not in support of the facts that were stated in the internal memorandums dated 24 May 2011 and 21 June 2011 respectively.

(b)   It was indicated in management comments that the first quotation process commenced on 24 March 2011 and the requests for quotations were send out on 30 March 2011. This comment is supported by the evidence. However, the management comment that the response of Makutupu Construction was received late is not supported due to the following:

(i)    The request for quotation faxed to the prospective service providers indicated that the closing date for the submission of responses was 11:00 on 1 April 2011 and delivery was required by 4 April 2011.

(ii)   Makutupu Construction’s response was dated 31 March 2011 and was stamped as received by the DPW on 1 April 2011. It was however noted from the quotation submitted by Makutupu Construction’s and an email that Makutupu quoted initially per month and not for 12 months and that the DPW bought it under their attention where after they faxed a revised quotation on 1 April 2011 at 14.43 to the DPW.  Therefore, the original quote was received in time but the revised quote was received late. The second quote was accepted as compliant as indicated in internal memorandum reference no 24/5/048338 dated 24 May 2011 to the NBAC.

(c)   It was confirmed from the evidence the NBAC did approve on 8 April 2011 that quotes may be sourced outside the Proquote from external sources for the project and that the second request for quotation process was initiated on 14 April 2011. It is however still not clear from the response where the DPW obtained the names of the 10 external service providers that they approached.

(d)   It was confirmed that a quote was received from SGB Scaffolding for an amount of R826 055. However, the management comment that the quote was received late is not supported by evidence as the closing date and time for the submission of quotes as per request for quotes faxed on 14 April 2011 to the respective service providers was 21 April 2011 at 11:00. The response of SGB Scaffolding was dated 19 April 2011 and was stamped as received by the DPW on 21 April 2011.

(e)   It was stated in the management comments above that there was a third quotation process. There is evidence that a 3rd process was initiated where bidders were requested to quote for six months instead of 12 months. However, it is not clear from the response where the DPW obtained the names of the seven external service providers that they approached for the 3rd process as these names differed from the service providers approached in the 2nd process. It was confirmed that three bids were responsive and were evaluated in the 3rd quotation process.

(f)   The AGSA however noted the following in regard to the documents that were received with the management response and the documents that was filed on the tender file:

(i)    In the internal memorandums dated 24 May 2011 it was indicated that during the 2nd quotation process, service providers were required to quote for 6 months which is incorrect as the request for quotation for the 2nd process required service providers to quote for 12 months.

       Furthermore, in the above memorandum it was indicated that Johannesburg Scaffolding quoted in the 2nd phase which is incorrect as the Johannesburg Scaffolding was not requested to quote in the 1st or 2nd phase. It was also noted that in the memorandum, approval was requested to negotiate with Johannesburg Scaffolding for a quotation for 6 months as they apparently quoted for 12 months. No quotation from Johannesburg Scaffolding for the 2nd phase was submitted for audit purposes.

(ii)   The first time Johannesburg Scaffolding was requested to quote was on 19 July 2011 during the 3rd quotation process. However, quotations were noted from Johannesburg Scaffolding on the tender file as follows:

 4 May 2011: R741 597.36 (incl. VAT)(for 12 months)

 8 June 2011: R488 809.20 (incl. VAT) (for 6 months)

 28 June 2011: R488 809.20 (incl. VAT) (for 6 months)

       It was further noted that a tender document was issued by the DPW in regard to the scaffolding project. In the tender document it was indicated that it was a negotiated procedure. The tender document was completed by Johannesburg Scaffolding and submitted to the DPW on 28 June 2011. It is clear from above that the DPW negotiated with Johannesburg Scaffolding outside of the formal quotation process that was initiated.

  (iii) The 3rd quotation process was initiated on 19 July 2011. It was however noted from the internal memorandum dated 21 June 2011 that the DD: ICR projects recommended to the NABC in the memorandum that the quotation of Johannesburg Scaffolding dated 8 June 2011 be accepted. The NABC approved the recommendation on 5 July 2011 and Johannesburg Scaffolding was informed accordingly on 7 July 2011 that there quotation in the amount of R488 809.20 for the hiring of scaffolding for a period of six months was accepted. It is therefore unclear how the DPW could initiate the 3rd quotation process on 19 July 2011 if a service provider was already appointed on 7 July 2011.

(g)   In the management comment it was stated that the matter became urgent as the project timelines were compromised by the delays in the process of requesting quotations. It is however unclear how this management comment support the rest of the management comment provided as this finding in regard to the urgency was raised in view of the DPW following a negotiation process with Johannesburg Scaffolding instead of a competitive quotations process.

       Furthermore, in terms of section 19 of the “Directive: Acquisition and disposal management” signed by Mr T Tabane on 19 February 2010, the NBAC may only approve a negotiated procedures as a last resort if the service must be acquired as a matter of urgency provided that the circumstances giving rise to the urgency was not foreseeable nor result of dilatory conduct. In this case, the deadlines were compromised due to delays on the part of the DPW and there was not urgency involved.

Based on the above and the contradicting and misleading evidence received from the PMTE, the findings remain unresolved and will be reported in the interim and final management report.  Thus the expenditure on the contract to date which totals R606 841,38 should be disclosed as irregular expenditure.

1. **COAF 19 - Deviations with the Supply Chain Management Prescripts: Kwagga Holdings (Pty) Ltd (Kwagga) Tender HP11/09: Repairs to various potholes: Tshwane, North West region**

**Audit finding**

Laws, rules and regulations

(a)     Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(b)     Treasury Regulation 16A6.4 states that, “*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.”*

(c)      Instruction note 32 paragraph 3.7.3 states that “*For bids relating to the construction industry, the prescripts of the Construction Industry Development Board (CIDB) requires that:*

*(a)  Bids be advertised in the CIDB iTender System; and*

*(b) Bids be registered on the CIDB Register of Projects (RoP) on award and progressively updated until project completion for the promotion, assessment and evaluation of best practices on construction projects.”*

(d)      National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that:“*Should it be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole provider, the accounting officer may procure the required goods and services by other means, such as price quotations or negotiations in accordance with TR16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate*”.

(e)      Practice note 6 of 2007/2008 paragraph 3.1 states that: *“With effect from the date on which this practice note takes effect, 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.”*

(f)     Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.9 issued 24 March 2006 states that “*The Bid Adjudication Committee may also, if and when required to so, consider for approval the recommendation of the Bid Specification Committee in order to ensure that strategic sourcing principles were applied and that the market was properly researched and analyzed.”*

(g)     Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.10 issued 24 March 2006 states that *“In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides, practices notes and circulars.”*

(h)     DPW-Directive: Acquisition and disposal management, paragraph 18 states that *“The negotiated procedure is the least desirable of all acquisition procedures and the BAC may approve this procedure as a last resort. The reason for using the negotiated procedure must be motivated in the sourcing strategy for approval by the BAC.”*

During the review of the appointment of Kwagga, the following was noted:

(a)  In a memo dated 1 February 2011 from Mr Molotsi (CD: Professional Services) approval was requested to embark on a project for the repair to various types of potholes on main roads, access roads and arterial roads in various provinces. The request was approved by Mr Mabuza, DDG: Projects on the same day. The request for approval of funding for the project was considered and approved by the Planned Maintenance Budget Committee (PMBC) on 3 February 2011 subject to the National Treasury being informed. The estimated costs for the project was R191 900 000 which was to be defrayed from the 2010/2011, 2011/12 and 2012/13 budgets. A procurement instruction to procure the services of professional civil engineering firms for road condition assessments on priority roads in identified areas was issued on 4 February 2011 to the D: Special & Major Project.

The PA-01: Request for approval of the procurement strategy for the project was compiled by the project manager, Ms Mohlopi on 21 February 2011 and supported by Mr Molotsi on the same day. In the strategy it was indicated that the procurement procedure proposed is the “Negotiated procedure”. The BAC approved the procurement strategy on 22 February 2011. The estimated value of the tender was R3 000 000.00.

In an undated letter faxed on 24 February 2011 to Kwagga, it was indicated that their company is one of the nominated companies to participate in the “Repair to various potholes: Tshwane-North Region”. It was indicated that a compulsory briefing session were to be held on 25 February 2011 and their bid proposal must be submitted before 28 February 2011 at 11:00. The bid proposal of Kwagga was submitted on 25 February 2011.

In a meeting held on 7 March 2011, the BEC recommended that Kwagga be appointed subject to the service provider signing the certificate of independent bid determination. Based on the recommendation from the BEC, the PA-21: Tender evaluation report to the NBAC was submitted by Ms C Mohlopi on 7 March 2011 to the NBAC recommending the award of the contract to Kwagga for an amount of R12 584 174.80. The NBAC approved the award on the same day subject to the confirmation of funds.

In a letter dated 10 March 2011, Kwagga was informed that they their bid dated 28 February 2011 for the repair to various potholes: Tshwane North West Region for an amount of R12 584 174.80 (incl. VAT) was accepted. The DPW-07 – Form of offer and acceptance was signed by Kwagga on 25 February 2011 on submission of their proposal and accepted by DPW on 10 March 2011.

(b)     The SCM process followed in the appointment of Kwagga was in contravention of the prevailing prescripts in view of the following:

(i)      The PA-01: Request for approval of the procurement strategy indicated that the estimated value of the bid was above R500 000 and therefore a competitive bidding process had to be followed. It was however noted that the DPW opted to follow the negotiated procedure. It is clearly stated in the PA-01 that if a negotiated procedure is to be followed, it must be fully motivated. Furthermore, TR16A6.4 and PN 8 of 2007/2008 states that if goods and services are procured through negotiations, the reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate.

         No motivation was found to the BAC on the tender file submitted to the AGSA for review, motivating the deviation from the normal SCM process in contravention of PN 8 of 2007/2008.

(ii)     In terms the DPW: Acquisition management directive, the negotiated procedures method must only be used as a last resort and the reason for selecting the negotiated procedure must be motivated and approved the BAC. The BAC approved the procurement strategy without a motivation being attached to explain why the negotiated procedure is being selected in contravention of the directive. The BAC also acted in contravention with their mandate, role and function as set out in the Code of Conduct for BACs as they approved the procurement strategy without ensuring that the sourcing strategy was justified and in line with the relevant SCM prescripts.

         Furthermore, as the value of the goods that were procured was above R1 million, the deviation had to be reported to the National Treasury and the AGSA within 10 working days after the procurement strategy was approved by the NBAC on 22 February 2011. The deviation was not reported to the National Treasury or the AGSA in contravention of PN 6 of 2007/2008, par 3.1.

(iii)    The PMBC approved the funding for the project on 3 February 2011 subject to the National Treasury being informed. No evidence could be found on the tender file submitted to the AGSA for review that the National Treasury was informed as instructed by the PMBC.

         (iv)    In a letter to Kwagga where they were invited to tender, it was indicated that they were one of the nominated companies that was selected to participate in the tender. No evidence could be found that an invitation was forwarded to other service providers to participate.

                  Furthermore, it was noted from PA-21: Tender evaluation report to the NBAC that the BEC indicated to the BAC that Kwagga was a sole provider. No evidence could be found that the market was tested for competition. Therefore, the AGSA is unable to conclude if a transparent and equitable pre-selection process was followed in nominating Kwagga to participate in the tender.

         (v)     The DPW-09: Particulars of tenderer’s projects submitted by Kwagga referred to an annexure that was attached which listed building contracts that Kwagga was involved in. However, the DPW-09 provides for specific information that needs to be provided by the service provider which is critical for the BEC to evaluate if the service provider will be able to execute the current service that are being tendering for. The information includes amongst others detail on current and previous contract with specific reference to contract amount, contract commence date, contract completion date, progress on projects, if current. The document provided by Kwagga listed the building contracts that they were involved in with an indication of the contract amount and if contract is current or completed. No information was included to indicate what the percentage progress with the current contracts was and in some cases only the project name was listed without an indication if the project was current or completed. Therefore, it is unclear how the BEC evaluated the ability of Kwagga to successfully execute the contract without having knowledge of Kwagga’s current obligations.

         (vi)    In the PA-01: Request for approval of procurement strategy and PA-21: Tender evaluation report to the NBAC, it was indicated that the pre-tender estimated was R3 000 000. However, the tender was awarded for R12 584 174.80 to Kwagga.

         (vii)   In a report issued by Aurecon on 7 March 2011, it was indicated that they scrutinised the bid document of Kwagga and identified various risks in appointing the bidder which amongst others included the following:

1.                **Compliance with the conditions of tender:** Most of the forms were submitted and signed, however, critical supporting documentation required to evaluate the prospective bidder’s ability to initiate and complete the contract successfully was not provided.
2.                **Infrastructure and resources:** The tenderer’s plant listed in the tender is sufficient to execute the contract, but the availability of plant due to current workload is questionable.
3.                **Size of enterprise and workload:** The tenderer’s turnover for the previous financial year is unknown and the tenderer did not provide any information regarding current projects and therefore a conclusion cannot be drawn regarding the proposed contractor’s current obligations.
4.                **Financial ability:** Due to time constrains the financial standing of the tender was not assessed and no rating code can be provided.
5.                **Quality of previous and current work:** The tender information provided by the tenderer is unsatisfactorily on the basis of their unknown financial status and experience.

In their recommendation, it was indicated that the appointment of Kwagga poses a risk to the DPW with regards to the potentially inability of Kwagga to successfully complete the project. The report was considered by the BEC on 7 March 2011, however, only a few risks were addressed and resolution taken on. Irrespective of the risks identified, which has a direct impact on the successful completion of the project, the BEC recommended the award of the contract to Kwagga.

(viii)  The AGSA confirmed from the CIDB website that the project is not registered as a current project which is in contravention with National Treasury Instruction note 32 paragraph 3.7.3.

(c)          The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and the BEC recommending the contract to be awarded to Kwagga without weighting-up the risks factors in appointing Kwagga. It is also a direct result of the BAC not acting in accordance with their mandate, role and functions to ensure that the SCM was fair and consistent and in line with the prevailing SCM prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      Management must ensure that the department abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(b)      The DPW should implement effective measures to ensure compliance with the requirement that bids maybe not be considered by the DPW, if all the required documentation has not been submitted by the bidders.

(c)      In approving deviations from the normal SCM process, management and BAC should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers.

(d)      The DPW should implement effective measures to ensure that the BEC satisfy themselves during the evaluation process and before recommending the preferred bidder to the BAC that the information provided in the bid documents are true and correct.

(e)      The Bid Adjudication Committee must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations.

(f)       Corrective action should be considered against the members of the BEC and BAC for their failure to fulfill their mandate, role and functions and to ensure that the supply chain management process was fair and consistent and in line with the prevailing SCM prescripts.

**Management response**

1. We concur with AG finding that negotiated procedure for the appointment of the contractor, Kwagga was used. The project directorate had advanced reasons to the bid evaluation committee that the appointment of contractors is linked to the planned launch of the program between the Minister of Public Works and Executive Mayor of City of Tshwane.

(b)     The project as conceived was a pilot bases following the announcement by the Minister of Public Works at the Minmec meeting whereby indication was made that Public Works would intervene to repair potholes in the municipal areas to be selected.

(c)     We proposed negotiated procedure as funds were available for the remainder of the financial year and must be committed or expanded before end of this financial year. City of Tshwane has identified five regions for execution of this program and we therefore propose to negotiate with one contractor per region mainly due to time constrains and manageable size of beneficiaries to be involved on the project.

(d)     The selection of Kwagga was the competency of Procurement Administration, as well the responsibility to inform the National Treasury about the deviation. The project directorate cannot confirm if the Procurement office had informed National Treasury.

(e)     At the time the project was planned, the Department of Public Works had based their estimate on the potential hours each beneficiary would work per month over the specific areas. However, when the engineers conducted the conditions survey based on the streets provided by City of Tshwane the quantities of the work increased. The pricing of the contractor was based on the quantities prepared by the engineers.

(f)     In accordance to the PA-13, the Procurement Administration had declared the bidder responsive in terms of administrative process to check the documents. The findings by the consulting engineers (risk assessment) was responded to by the evaluation committee amongst the reasons was that Kwagga’s CIDB grading was 6CE PE. In terms of the project plan, DPW together with CSIR and EPWP was to offer training to all beneficiaries (to be selected by DPW) on procedure to repair potholes.

(g)     In terms of management of quality of works the engineer’s responsibility was further to act as site engineer to monitor quality of work of the contractor to the satisfaction of the City of Thswane design standards of the roads.

(h)     The responsibility to register projects with CIDB is the competency of Procurement Administration.

(i)      It is the conclusion of the directorate that through quality controls employed by the project manager and engineers (recommended by engineer risk report) the required quality of work was achieved and the project was concluded as such.

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| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The project directorate will abide by the guideline of the Procurement Administration when effecting the procurement process. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| Uncertain | | Uncertain |
| If yes, what corrections will be made to the population? | The project management will be guided by compliance directorate. | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | Corrective measures will include continuous training and compliance to the updated procurement policies | | |
| Position of official responsible to take corrective action | Head of Projects | | |
| Estimated completion date of corrective action: | Ongoing, depended on the circumstances of the project and the needs of the client in particular when applying for negotiation procedure. | | |
| 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 | n/a | | |

Name: OL Molotsi

Position: CD - Projects

Date: 18/05/2012

**Auditor’s conclusion**

The DPW agree that a negotiated procedure was followed. In the response, the reasons were stated why they opted for the procedure which amongst others include that there were time constrains. Furthermore, they indicated that the budget was only on estimate. However, the AGSA is not satisfied with the reasons provided for the deviation and the fact that they committed the department to an amount which is approximately R9 million (319%) more than the estimate.

In terms of PN no. 6 of 2007/2008, paragraph 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.

No response was received from Procurement Administration on the deviation that was not reported and the process followed to select the contractor.

Therefore, findings (i), (ii), (iv) and (vi) remain unresolved and will be reported in the final management letter.

(b)     No response was received on findings (iii) and (v). The findings are unresolved and will be reported in the final management report.

(c)     It was indicated in response to finding (vii), that the bid evaluation committee based their decision to appoint the contractor, on the fact that the contractor had a CIDB rating of 6CE PE. The CIDB rating of contractor is only one aspect of the risk assessment and does not necessarily imply that the contractor will be able to successfully complete the project. In this case it was specifically stated in the risk assessment report that there is a risk that the contractor will not be able to successfully complete the contract.

Furthermore, reference is made in the response that according to the project plan, training was offered to the contractors selected for the repair of the potholes. No evidence was provided that this training took place. In addition, it was indicated that the contractor completed the project with the required quality. The AGSA is unable to conclude on this statement as the “Certificate of Practical Completion” as required by the GCC 2004, issued by the engineer after completion of the works was not provided to the AGSA for review.

The finding is unresolved and will be reported in the final management report.

(d)     No response was received from Procurement Administration on finding (viii) relating to the registration of the project at CIDB. The finding is unresolved and will be reported in the final management report.

1. **COAF 23 - Deviations with the Supply Chain Management Prescripts: BSE Distributors CC (Tender HP11/030: Construction of the Low Cost Bridges in the Rural Eastern Cape)**

**Audit finding**

Laws, rules and regulations

(a)    Treasury Regulation paragraph 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.”*

(b)     Practice note 8 of 2007/2008 paragraph 3.4.1 states that “*Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(c)      Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(d)     Practice note 6 of 2007/2008 paragraph 3.1 states that *“With effect from the date on which this practice note takes effect, 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.”*

(f)     Practice note 6 of 2007/2008, paragraph *2.*3 states that *“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 reason for such action must be recorded and approved by the accounting officer or accounting authority.”*

During the review of the appointment of BSE Distributors CC, the following was noted:

(a)     In an internal memo dated 14 February 2011 from Mr AN Mthombeni, CD: Intergovernmental relations and Parliamentary Services, the Dir: KAM, Ms Manini Dumane, was requested to urgently consider the registration of service for the construction of low cost bridges in the rural areas. It was indicated that the DPW in partnership with the Department of Defence (DoD) are in the process of constructing bridges in the Eastern Cape, Limpopo, North West, KZN and Gauteng and that 10 bridges need to be built before the end of the financial year as three bridges have already been built of redundant material donated by the DoD. Therefore, the DoD has submitted specifications and costing for 10 bridges to be procured by the DPW. The estimated amount of the construction of the 10 bridges amounted to R26 267 119,60 and it was indicated that there is sufficient budgeted funds available. The request was actioned by Ms Dumane on 17 February 2011.

In an internal memorandum (reference number: 048902) dated 21 February 2012 from Mr Obed Molotsi, CD: Professional Services to the chairperson of the NBAC approval was requested to negotiate with suppliers that supplied the DoD previously with the engineering supplies for the bridges. It was proposed that the DPW enter into negotiations with three suppliers for the supply of the required equipment for the construction of three bridges which would then result in sufficient stock being available for the DoD to start with the construction program. It was indicated that the DPW will procure all the materials required to assemble and construct the bridges as per the bid specifications provided by the DoD. The three nominated suppliers were as follows:

               Bridge for Africa

               Bosch Specialist Equipment (BSE Distributors)

               Miyane Engineering

It was further stated that at a later stage, an open tender process would be initiated to procure the remainder of the materials required to implement the entire program.

Attached to the memorandum was the PA-01: Request for approval of the procurement strategy for the project: Eastern Cape Province - Construction of low cost bridges, compiled by Mr Obed Molotsi (Project Manager) and supported by Mr T Phiri (Senior Project Leader) addressed to the NBAC for approval. In the strategy, it was indicated that the procurement strategy that was going to be followed was a “Negotiated procedure”. The estimated value of the tender was R7 620 368,10 (R2 540 122,70 per bridge) (inclusive of VAT).

A PA-25: Request for approval of the BSC and BEC members was compiled by Obed Molotsi: Project Manager on 21 February 2011 and approved by Mr Trevor Tabane on the same date. The BAC approved the procurement strategy on 22 February 2011.

According to the PA-13: Register for receiving bids, only one bidder responded namely BSE Distributors. The bid was considered by the BEC on 7 March 2011. On 8 March 2011, the BEC recommended to the BAC that the contract be awarded to BSE Distributors for an amount of R9 705 705,78. The BAC approved the award of the tender to BSE Distributors on 07 March 2011. In a letter dated 11 April 2011, BSE Distributors was informed that their bid dated 7 March 2011 for the repair and maintenance of low cost bridges in the Eastern Cape was accepted to the amount of R9 705 705.78 (incl. VAT).

A DPW-04.2 - Contract form: Rendering of services was signed between the DPW and BSE Distributors on 12 April 2011.

The SCM process followed in the appointment of BSE Distributors was in contravention of the prevailing prescripts in view of the following:

1. In the internal memorandum dated 21 February 2011, it was stated by Mr Molotsi to the NBAC that the DPW would like to negotiate with three suppliers for the construction of the bridges as they have supplied the DoD previously with equipment during constructions of low cost bridges. However, no recommendation or confirmation from the DoD was on file to support the statement that suppliers mentioned in the memorandum had been involved in previous projects initiated by the DoD.
2. It was indicated in the internal memorandum dated 21 February 2011, that the DPW has identified three suppliers with which they intend to negotiate. On 24 February 2011, BSE Distributors was informed that they were selected as one of the suppliers to supply the required components for the construction of the low cost bridges in Eastern Cape. There was no evidence that the other two suppliers identified were approached or requested to submit tenders.
3. In the internal memorandum dated 21 February 2011, it was indicated that the material required to assemble and construct the bridges will be procured by the DPW in accordance with the specifications provided by the DoD. It was however noted that the bid specifications provided by the DoD was not part of the bid document issued to BSE Distributors. Therefore, BSE Distributors did not quote according to the requirements set out in the bid specifications and per line item specified in the costing schedules of the DoD.
4. The PA-04: Notice and invitation to bid did not specify on which preferential procurement model the bid will be evaluated in contravention of the PPR, section 7.
5. The PA-04: Notice and invitation to bid was issued to BSE Distributors on 25 February 2011 during a tender briefing session. The tender invite indicated that the closing date for the bid was 1 March 2011 at 11:00 and that bid offers had to be received at the closing date and time to be considered for evaluation. It was noted that BSE Distributors only submitted their bid proposal on 7 March 2011. Therefore, the DPW should not have accepted BSE Distributors’ bid.
6. In the procurement of goods for the construction of low cost bridges in the Eastern Cape, the DPW followed a negotiate process instead of a competitive bid process which constitute a deviation from the normal procurement process. The deviation was approved by the NBAC in terms of the departmental delegation, however, the approval was in contravention of Practice note no. 8 of 2007/2008, paragraph 3.4.3, as the procurement of the goods for the construction of the low cost bridges was not an urgent or emergency case or a case of a sole provider.
7. The deviation was approved by the NBAC as required. However, the value of the goods that were procured was above R1 million and therefore the deviation had to be reported to the National Treasury and the AGSA within 10 working days after the procurement strategy was approved by the NBAC on 22 February 2011. The deviation was not reported to the National Treasury or the AGSA in contravention of PN 6 of 2007/2008, par 3.1.

The above deviations from the prescripts are as a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations. The NBAC approves deviations without ensuring that the deviation is justified in terms of the prevailing prescripts and approved recommendations from the BEC and without satisfying themselves that the evaluation process was fair, equitable, transparent, competitive and cost-effective.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      The DPW should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers. The reasons to deviate from the prescribed procurement process should be properly recorded and should be substantiated by evidence.

(b)     All deviations from the normal procurement process should be reported to the National Treasury and the AGSA within the prescribed ten (10) working days to ensure compliance.

(c)     The DPW should implement effective measures to ensure compliance with the requirement that bids maybe not be accepted by the DPW if the bid was received after the closing date and time, as non-compliance with this requirement may lead to litigation and lawsuits against the DPW by those service providers who feel they had been unfairly treated.

(d)     The DPW should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury, include detail bid specification and specify the preference point system that will be used during the evaluation process to ensure that prospective bidders are provided with a fair opportunity to offer their goods and/or services at a competitive price.

(e)     The SCM policy should be updated to provide for the different procurement procedures as set out on the procurement strategy to ensure that the DPW management, the officials and the BACs are informed when the different procedures maybe utilised, the process that should be followed when the specific procedure is selected and to define the roles and responsibilities of the different role-players in the process.

**Management response**

(a)     We confirm that DoD did not on the Department letter head provided the three companies. The DoD representative on the Project Col K Manser had provided the three names (companies) namely: Bridges for Africa, Bosch Systems Engineering Distributors and Miyane (Meano Engineering). We had no reason to doubt the authenticity of the companies recommended to us as the origin of the Program/Project was with DoD.

(b)     We do not agree with the finding. The three suppliers were invited to tender their prices for supply of material at different provinces of which each had one province to tender for. BSE tendered for HP11/030 (WCS 048902) which is Eastern Cape Province.

(c)     We do not agree with the finding. The Project Management received the spread sheet document from Col Manser indicated as Generic Bailey Class 30 (dated February 2011). The itemised components where copied and transferred to the DPW format of Bill of Quantity and multiplied by the number of bridges required per province to have the full quantities of material.

(d)     We do not agree to the finding. The approved strategy on Negotiated Procedures indicated that the evaluation will only be on financial offer. The Notice for tender therefore indicated to the bidder that all preference scores to be zero points.

Name: Mr O Molotsi

Position: Chief Director - PM

Date: 28/3/2012

**Auditor’s conclusion**

(a)     The AGSA noted the response. However, no supporting documentation or confirmation was provided to substantiate the response that the names were provided by DoD. The finding remains unresolved and will be reported.

(b)     The AGSA noted the response but disagree with response. In the internal memo (reference no: 048902) dated 21 February 2011 to the BAC and PA-25: Request for approval of the procurement strategy for the project: Eastern Cape Province it was indicated that three suppliers were identified for the project. No reference was made that the identified suppliers were going to be nominated per province or that for each province a separate process was going to be followed. Our understanding from the supporting documentation provided was that the constructions of the low cost bridges in the respective provinces were one project. The finding remains unresolved and will be reported.

(c)     The AGSA noted the response that the costing schedules was amended to provide for the construction of three bridges. However, we disagree with the response. During our review, we compared the specifications received from DoD with the specifications that were included in the bid document. The line items in the costing schedules differed and not the quantity of equipment required. The finding remains unresolved and will be reported.

(d)     No response was received on finding (v). The finding remains unresolved and will be reported.

(e)     No response was received on finding (vii). The finding remains unresolved and will be reported.

(f)     No response was received on finding (viii). The finding remains unresolved and will be reported.

1. **COAF 25 - Deviations with the Supply Chain Management Prescripts: Mamli Projects CC (Mamli)(Tender H10/029: Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations**

**Audit finding**

Laws, rules and regulations

(a)      TR16A.6.3(c) states that: *“The accounting officer or accounting authority must ensure that 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”.*

(b)      PN 8 of 2007/08, par. 3.4.3 states that: “*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.”*

(c)      PN 6 of 2007/08, par 2.5 states that: “*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 an 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 process*”.

(d)      Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009 - Annex G, table G2 defines classes of construction works as follows:

1. -       *“Civil engineering works (CE): Construction works that are primary concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration or dismantling of building and engineering infrastructure;*
2. -       *Electrical engineering (Infrastructure)(EP): Construction works that are primary concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure (a) relating to the generation, transmission and distribution of electricity, or (b) which cannot be classified as EB;*
3. -       *Electrical engineering (Buildings)(EB): Construction works that are primary concerned with the installation, extension, modifications or repair of electrical installation in or on any premises used for the transmission of electricity from a point of control to a point of consumption, including any article forming part of such an installation;*
4. -       *General building works (GB): Construction works that are (a) primarily concerned with the development, extension, installation, renewal, renovations, alteration or dismantling of a permanent shelter for its occupants or contents, or (b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works;*
5. -       *Mechanical engineering works (ME): Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and material handling.”*

During the review of the appointment of Mamli Projects, the following was noted:

1. In a procurement instruction dated 14 June 2010 (ref: WCS No 047481) issued by Key Accounts Management to Special and Major Projects, it was indicated that the Lebombo RAMP contract which started on 22 February 2007 has expired on 21 February 2010. The RAMP contract valued at R35 million had addressed the serious state of disrepair at the port of entry. It was requested that a contractor should be appointed to maintain the port of entry and to prevent deterioration of the facilities. The maintenance contract was estimated at R4.5 million which would be defrayed from the DPW Capital Budget for Land Ports of Entry.
2. The PA-01: Request for approval of the procurement strategy for the project - Lebombo port of entry: Maintenance and Servicing of buildings, civil, mechanical, electrical infrastructure and installations, was compiled by the project manager, Ms K Masilo on 12 November 2010 and supported by Mr T Phiri on the same day. In the strategy it was indicated that the procurement procedure that they are going to use was the “Open procedure”. In the strategy it was stated that the DPW was going to advertise the tender for two and a half weeks (2 ½) based on the following: *“The current RAMP expires on the 21 February 2011 and not further extension will be granted. The project has to be advertised and closing date has to be before builder’s holiday which begins on the 15 December 2010.”* It was stated that the estimated value for the tender was R24 500 000,00. The required CIDB contract grading was 7CE or 7GB or 6CE PE or 6GB PE, if it is an emerging enterprise. The Special Bid Adjudication Committee (SBAC) approved the strategy on 18 November 2010. The tender advertisement was issued on 26 November 2010 with a closing date of 15 December 2010 at 11:00.
3. The PA-13: Register for receiving bids/tenders signed-off on 18 January 2011 by SCM, indicated that in total seven (7) bids were received. The bids were evaluated on price and preference points. The BEC considered the results of the evaluation on 21 January 2011 and recommended that a risk assessment be conducted on the highest scoring bidder, Mamli, which tendered approximately 30,1% lower than the pre-tender estimate. A report on a risk analysis conducted by Virtual Consulting Engineers (Pty) Ltd was submitted by Profteam to the DPW on 28 January 2011. The risk analysis was considered by the BEC on 28 January 2011.
4. Based on the evaluation conducted, the BEC recommended the award of the contract to Mamli for an amount of R16 983 876,75 on 3 February 2011. The SBAC approved the appointment of Mamli on 10 February 2011. In a letter dated 15 February 2011, Mamli was informed that they their bid dated 15 December 2010 for the Maintenance and Servicing of buildings, civil, mechanical and electrical infrastructure and installations at the Lebombo port of entry for 36 months was accepted for an amount of R16 983 876,75. The DPW-07 – Form of offer and acceptance was signed by Mamli on 15 December 2010 on submission of their proposal and accepted by DPW on 22 February 2011.

The SCM process followed in the appointment of Mamli Projects  was in contravention of the prevailing prescripts in view of the following:

(i)        The procurement instruction issued which supports the procurement of a contractor for the maintenance of Lebombo port of entry indicates that the estimated value of the project was R4 500 000,00. However, the procurement strategy submitted to the SBAC for approval and the scoring model utilised by the BEC to evaluate the bids, indicates that the pre-tender estimate of the project was R24 500 000,00. A revised procurement instruction was not issued to indicate that the scope of work changed or that additional budget is required and available. It could not be established from the documentation on the tender file as to why the tender estimate was changed and on which ground(s) and from which budget the additional costs would be defrayed.

(ii)       The procurement instruction dated 14 June 2010 stated that the service providers for the services should be procured without delay as the project is of highest priority. However, the advertisement was only placed on 26 November 2010 and the appointment of the successful bidder, Mamli only concluded on 15 February 2011, which is nine months from the date the instruction was issued. This point to an ineffective system of supply chain demand management by the DPW as required by PN 6 of 2007/2008, paragraph 2.5.

(iii)      The project description for the Lebombo Port of entry is “Maintenance and Servicing of buildings, civil, mechanical, electrical infrastructure and installations for a period of 36 months”. It is evident from the project description and specifications that the contractor appointed for the project should have experience and skills in civil, mechanical, electrical infrastructure and installations. The procurement strategy dated 12 November 2010 required a CIDB grading designation of 7CE or 7GB or 6CE PE or 6GB PE, if it is an emerging enterprise. As per the definition provided in the CIDB guidelines on classes of construction works, the grading designation(s) for projects which includes civil, mechanical, electrical works should include CE, EB/EP and ME grading. A GB designation only includes general building works which do not require specialised skills and experience as is the case with contracts that include civil, electrical or mechanical works, which is of a specialised nature. This above points to inadequate planning by the DPW in assessing the nature and extent of the project and also constitutes non-adherence to the CIDB prescripts. As a result of the aforementioned the bid specifications did not promote competition amongst prospective service providers.

(iv)     The CIDB contract status report dated 21 December 2010 indicated that Mamli Projects had a 6GB PE and a 1CE PE grading, which met the requirement of the tender and that their enterprise status was “Active”. However, it was noted from the report that Mamli’s status was expired on 31 March 2012. The contract was awarded to Mamli on 15 February 2011 and the DPW-07: Form of offer of acceptance was signed on 22 February 2011 where after the project commenced. The contract was for 36 months; therefore the estimated completion date is end of February 2014. A search on the CIDB database conducted on 5 April 2012 revealed that Mamli’s memberships is currently “Expired”. This poses the risk to the DPW that Mamli does not meet the requirements of the CIDB prescripts currently to be registered as a construction entity.

(v)      The risk analysis conducted by Virtual Consulting Engineers focussed on the risks in appointing Mamli. In the report the following was noted in regards to the areas that they analysed:

1.                **Quality of previous work:** Mamli provided no references of current projects and the references of projects completed were only for projects completed prior to 2008. (*The AGSA confirmed this from the DPW-09: Particulars of tenderer’s projects form submitted by Mamli).* It was indicated that the projects completed related to general building contracts (*The AGSA confirmed this from the DPW-09: Particulars of tenderer’s projects form).* The consultants concluded that the feedback received from the references on four of the six projects on the quality of the work performed was overall good.
2.                **Contractual commitment:** The feedback received from the four of the six references indicated satisfactorily contractual commitment in regards to completion time, compliance with laws and regulations, resources and contract management.
3.                **Commercial**: The tender price of Mamli is 30,63% lower than the pre-tender estimate and the majority of the rates quoted is not market related which poses the risk that Mamli can make a potential loss of approximately R5 million during the maintenance and operation stage of the contract and will not be able to complete the work as per the bid specifications. Furthermore, major arithmetical errors were found which brings the correct tender amount to R17 771 308,95.
4.                In conclusion, the consultant indicated that Mamli receive excellent reviews with regards to quality of work and contractual commitment which reduces the risk. However, most of the references provided are for construction contracts and it is unclear how Mamli will fare on a project of this scale and type. The extremely low tender price for operation and maintenance poses a risk as it impossible in the consultant’s opinion to maintain and operate the port of entry at the tendered price. Mamli did not complete the schedule of proposed sub-contractors and therefore the sub-contractors must be appointed at the start of the contract which poses a risk as the specialist sub-contractors required would not be able to perform maintenance work at the extremely low tendered rates of Mamli.

(vi)    In the BEC meeting dated 28 January 2011, where the risk assessment report was considered, the project manager indicated to the committee that Mamli poses a commercial risk to the DPW in regards to their low rates and the fact that they don’t have any experience in maintenance and operations projects. Irrespective of the risks highlighted by the project manager, the committee instructed the project manager to compile the PA-21 (Tender evaluation report to the SBAC) recommending the appointment of Mamli. The SBAC approved the appointment without requesting clarity on the measures that will be instituted to manage the risks identified although they are required to act with the highest level of competence and to apply their minds to matters at hand in order to take meaningful and accountable decisions.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and the BEC recommending the contract to be awarded to Mamli without weighting-up the risks factors in appointing Mamli. It is also a direct result of the SBAC not acting in accordance with their mandate, role and functions.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

1. In the approval of the bid specifications for construction projects, the BSC should ensure that the project manager drafted the specifications in line with the requirements as set out in paragraph 102 of the DPW Directive: Acquisition and Disposal Management dated 19 February 2010.
2. The CIDB: Standard for Uniformity in construction procurement should be used in determining the appropriate class of construction work and grading level required for a project, taking into account the nature and extent of the work and the level of complexity.
3. The SCM unit should implement an effective system of supply chain demand management to ensure that goods and services required are procured at the correct time to support the strategic and operational commitments of the DPW.
4. The BEC should consider risk assessment reports in a fair and unbiased manner to ensure that the DPW is not unnecessarily exposed to risks that was identified before the appointment was finalised. In future, the BEC should record their reasons for recommending a service provider although significant risks were identified.
5. The SBAC should act in accordance with the Code of Conduct for Bid Adjudication Committees dated 24 March 2006 to ensure that their decisions are in line with the strategic and operational requirements of the DPW and that their decisions are not to the detriment of the DPW.

**Management response**

(i)            Project management will respond

(ii)           Project management will respond

(iii)          Project management will respond

(iv)         At the time of the award the contractor was registered on CIDB. Clause F2.1 and H2.1 of the CIDB Standard for Uniformity in Construction Procurement require that bidders be active or capable of being so at the time of evaluation. The same document is silent in terms of a requirement to regularly monitor the status of the contractor on CIDB. The emphasis is on being active during the evaluation process which the Department duly complied with.

(v)          Project management will respond

(vi)         The committee deliberated on the submission and arrived at a decision to approve after having considered the confirmation of price (attached) by the bidder undertaking to complete the service with the amount tendered. The request of the confirmation letter was a form of risk management by the SNBAC.

Name: Eulala Kruger

Position: Acting Chief Director: SCM

Date:

**Auditor’s conclusion**

Management comments noted. As indicated in the management response above for (i), (ii), (iii) and (v) “*Project manager will respond*”, note should be taken that management comments were not received as per the agreed date of 25 June 2012. No evidence could be provided to the contrary, therefore the finding remains valid.

For management comments (iv) and (vi) the response is noted; however for (iv) the risk remains for the PMTE that should the entity not be registered with CIDB that the entity might not meet the requirements for registration with the CIDB grading, which was a requirement when assessing the entity’s ability to complete the project. Thus the risk is still highlighted to the PMTE. With regards to management response (vi), although the confirmation of price was received and note is taken of the fact that the SNBAC deliberated on the matter, the risk of the entity not having previous experience in maintenance and operations remains. The external risk assessment is more reliable that an internal confirmation from the supplier itself. Therefore, the findings as listed above remain valid and will be reported as such.

1. **COAF 26 - Deviations with the Supply Chain Management Prescripts: Yikusasa Building Contractors SA CC(H11/006: Installation of Security Measures at 11 & 12 Anselia Street Waterkloof)**

**Audit finding**

Laws, rules and regulations

1. Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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 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 or his/her delegate*.”
2. Treasury Regulation 16A6.3(c) states that the *“The accounting officer or accounting authority must ensure that 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.”*
3. Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*
4. Circular on Code of Conduct for Bid Adjudication Committees, paragraph 4.5.2 issued 24 March 2006 states that “*Members of the Bid Evaluation Committee may present their recommendations/reports to the Bid Adjudication Committee and clarify any issues but shall not have any voting powers.”*
5. The Ministerial Handbook of 2007, paragraph 3.4 states that “*The Minister of Public Works should be requested to implement, in conjunction with SAPS, the recommended security arrangements at privately owned residents in terms of the scheme approved by the Cabinet for this purpose.”*

During the review of the appointment of Yikusasa, the following was noted:

1. On 21 December 2010, a PA-01: Request for approval of the procurement strategy for the project: Installation of Security Measures at 11 & 12 Anselia street, Waterkloof was compiled by Mr Mark Nare and supported by Mr Makude Kekana and submitted to the NBAC for approval. In the strategy, it was indicated that the procurement process that they were going to follow was the “Nominated procedure”. Attached to the strategy document was an internal memorandum (reference number WCS 045905) also dated 21 December 2010 from Mr Mark Nare, a project manager in the Prestige Projects section to the NBAC requesting approval to nominate contractors for the installation of security measures at the properties situated in 11 & 12 Anselia street, Waterkloof. The contractors nominated were as follows:

               Thabang Property Developers CC

               Thodi Developers (Pty) Ltd

               Yikusasa Building Contractors  SA CC (Yikusasa)

               Letlole GG Consultants

               JDR Construction CC

1. In the internal memorandum it was stated that a procurement instruction was received from the Prestige KAM section instructing Prestige projects to install security measures as a matter of urgency at the above-mentioned properties as the residence possesses a serious security risk to the Minister occupying the house.
2. The following motivation to deviate was provided: *“Due to the complexity and sensitivity of the project, we require contractors who have already done and completed similar projects as they will be able to complete the project on time. These contractors are also specialist in the installation of security systems and fall within CIDB grading in terms of the estimation”*
3. It was stated that the project estimate was R8 735 454,00 (incl.VAT) and that  funds had already been secured for the implementation of the project.
4. The BAC approved the procurement strategy on 21 December 2010 based on the motivation and on condition that a SCM official is included in BSC. The PA-25: Request for approval of the BSC and BEC members compiled by Mr Mark Nare was approved by the CD: Procurement, Mr Trevor Tabane on 21 December 2010.
5. The five nominated contractors were invited to participate in the tender in letters dated 24 February 2011. The letters indicated that the closing date for the tender was 23 March 2011 and that the prospective bidders had to attend a pre-tender site inspection meeting on 3 March 2011.
6. Only two contractors responded on the tender invite namely, Yikusasa and Letlole GG Consultants. The BEC evaluated the two tenders on 7 April 2011 on price and preference as stated in the tender invite. Based on the evaluation results, the BEC recommended the award of the contract to Yikusasa at a contract amount of R8 127 873.30. The BAC approved the appointment of Yikusasa on 7 June 2011.
7. In a letter dated 15 June 2011, Yikusasa was informed that they received the contract for the installation of security measures at 11 & 12 Ansela Street, Waterkloof. A form of offer and acceptance between the DPW and Yikusasa was signed on 15 June 2011 and 22 March 2011 respectively.

The SCM process followed in the appointment of Yikusasa was in contravention of the prevailing prescripts in view of the following:

(i)        The motivation states that the nominated five contractors had already done and completed similar projects and that they are specialists in the installation of security systems and fall within the required CIDB grading in terms of the estimation. However, there was no proof attached to the motivation to indicate that they were previously utilised on such complex and sensitive projects by any organ of state. Furthermore, no evidence was on the tender file that these contractors were nominated in conjunction with SAPS as required in terms of the Ministerial Handbook or that these contractors have been vetted by SAPS for security risks.

(ii)     Only Yikusasa Building Contractors SA CC’s bid proposal was provided to the AGSA for review and the AGSA is unable to conclude if the evaluation process was fair, consistent, competitive and transparent. Furthermore, this constitutes a limitation of scope on our procedures.

(iii)    It was indicated in the motivation that the contractors nominated had already done and completed similar projects. It was noted from the bid proposal submitted by Yikusasa that they had completed several security projects in the government environment. However, no evidence was provided that these projects were successfully completed to the satisfaction of the clients.

Furthermore, in terms of the “Checklist for submissions to the NBAC” a risk assessment must be performed on the preferred bidder when the evaluation was conducted on price and preference. No evidence was provided that a risk assessment was performed on Yikusasa before the bid was awarded.

(iv)    During an Audit Steering Committee meeting held on 22 February 2012 between the representatives of the DPW and the AGSA, it was indicated that the DPW has no approved supplier register for capital works (Construction and Maintenance). Based on this confirmation, a meeting was scheduled with the project manager that was responsible for the project in question.

During the meeting with the project manager, Mr Mark Nare on 23 February 2012, he indicated that the procurement for ministerial security goods and/or services is of technical nature and that the department utilise contractors with a history of performance in the specific services. The nominated suppliers are selected by the representatives of SCM based on their assessment of the quality of the work performed by these suppliers previously and their required CIDB grading.

However, the procurement official, Ms Pearl Mkansi indicated to the AGSA during a discussion on 23 February 2012 that the SCM section is not involved in the nomination of the contractors as they are not in a position to express an opinion on the quality of the services previously rendered and they are not technical specialists. She further indicated for the tender in question, they received the procurement strategy document from Mr Nare and the names of the nominated contractors were already indicated.

The AGSA is therefore unable to confirm which approach was used in the nomination of the respective contractors and to conclude if the nomination process was fair, transparent and consistent.

(vii)   In contravention of the Circular on BACs, a member of the BEC, Dikeledi Malongane was also a member of the BAC which casted a vote in the approval of the award of the contract to Yikusasa.

(viii)  The SCM process followed by the DPW, namely a nomination process, constitutes a deviation of the normal procurement process. The deviation was approved by the NBAC which has the delegation to approve deviations. However, the value of the service that was procured was above R1 million and therefore the deviation had to be reported to the National Treasury and AGSA within 10 working days after the procurement strategy was approved on 21 December 2010. The DPW only reported the deviation to the National Treasury and AGSA in a letter dated 21 February 2012 which is in contravention of PN 6 of 2007/2008, par 3.1. (Also refer to COAF 38 issued on 24 February 2012)

(v)     The tender file provided to the AGSA was incomplete and the AGSA had to approach the project manager and SCM officials for documentation namely the motivation for the deviation and letter to the National Treasury and AGSA. Furthermore, some of the documentation such as the minutes of the BAC meeting where award was approved was not on file. The AGSA was informed that these minutes are filed centrally at SCM.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations. The NBAC approves deviations without ensuring that the process followed to nominate the contractors is fair and consistent and accept recommendation from the BEC without satisfying themselves that the evaluation process was in accordance with the prevailing SCM prescripts. The BEC recommended that the contract be awarded to Yikusasa without obtaining references on the quality of work completed or performing a risk assessment to ensure that they can complete the project and has security clearance from SAPS to execute a project of such sensitivity and magnitude.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      The DPW should only deviate from the inviting of competitive bids in cases where it is impractical to invite competitive bids. The reasons to deviate from the prescribed procurement process should be properly recorded and should be substantiated by evidence.

(b)      The Bid Adjudication Committee must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations and to ensure that the scoring is fair, consistent and correctly calculated and applied during the evaluation process.

(c)      The DPW should ensure during the procurement of goods and/or services that they comply with all the relevant laws, regulations or any other legislative requirement such as the ministerial handbook in this case, to ensure that the DPW is not expose to any risks or possible legal action(s).

(d)      The SCM policy should be updated to provide for the different procurement procedures as set out on the procurement strategy to ensure that the DPW management, the officials and the BACs is informed when the different procedures maybe utilised, the process that should be followed when the specific procedure is selected and to define the roles and responsibilities of the different role-players in the process.

**Management response**

The nomination approach is done due to the fact that executives of the country while in office should be protected at all times and service should be rendered to them to make have them spend more time on governing the country without shifting focus to the conditions which they operate.

Prestige on its own has major challenges in the sense that people served are not ordinary people but people who has direct impact on the country from financial aspect, social aspect, country relationships, international market etc, if any happen to an executive sitting in office it will send wrong signal to any country who want to do business with South Africa and that might have ripple effect which might results in income and investment loss to the country as such to the poor.

Reasons for Nominations process

When procurement is undertaken the following are taken into considerations for the best interests and image of the country as that is carried by the Principals.

1. Security consideration, limit access to principal’s security information to many contractors who might giveaway information to people with malicious intention aware or unaware.

2. Utilization of trusted and tested service provider which to date there has not been any security threat or breach such contractor have a history of performing work within Prestige either within public works or other prestige clients in the department doing government work and have been cleared or vetted previously specifically Prestige  jobs.

3. The urgency which the security measures should be installed as a matter national interest.

4. Time and quality is of essence when it comes to servicing the principals from prestige point of view, that alone does not mean service providers to take advantage of the situations as within prestige non-performance is dealt with decisively and procedurally through contract terminations

In prestige project the project approach is non-performance is not tolerated and non performing contractor not to be used at all specifically for prestige and the environment is not normal.

The procurement process

Previously there was a thing called prestige data base until the entire data base was consolidated as part of head office when prestige had challenges of performance and other issues, a head office unit was put in place just to arrest the situation and normalize the environment. The prestige environment has improved, project done on time, quality and some even within costs with little variation if any.

The process was Prestige will use the data base to nominate from the listed service provider. The list will be presented to bid committee for approval of the strategy which they will interrogate and approve or disapprove pertaining to the information as presented.

At times contractor names are proposed by projects due to service provider history some are proposed by virtue of the skills, delivery, quality of work and vetting or clearance previously given when undertaking Prestige Projects.

Ones nominations is approved, the service providers are invited to come and bid for the project for fair competition, as for the return or not returning of the bids that becomes matter of business to those who are invited, some bid some do not bid at all or some might fail to submit on time.

Ones the bid are received, procurement checks all returnable information including the requirements to go to the next stage, a report is issued and those that meet all the requirement are forwarded for bid evaluations, ones evaluations is completed an a service provider is found favourable to be awarded a further check is done for risk assessment.

If the risk assessment confirms that the service provider is not a risk to the department, the bid is then forwarded to bid committee for award or not award, mostly award is granted ones all procedures and processes and requirements are met.

Management responses

Recommendations by the Auditor General

The recommendations by the AG are accepted by projects and it is believed they will go a great length in assisting the department to improve the way we do business. It has always been prestige project view that policy and process reviews are critical. The current policies and procedures are not favourable to DPW in its entirety and critically prestige projects.

 The following policy and procedure will be developed and they will include process maps, it should be noted as a challenge that most of the policies, process and procedures are not documented which makes it difficult to operate as they change daily to adapt to needs of the day.

Responses to address AG recommendations and

| **Document** | **By whom** | **Due date** |
| --- | --- | --- |
| Prestige projects procurement policy  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| Prestige projects procurement procedure  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| Prestige procurement process maps  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| All stakeholders and partners including AG to assist through comments to have an effective and efficient operation which serves the department and its clients better.  The above to be effective on the beginning of the new financial year ones DPW executive have approved | | |

All new projects in the next financial if the AG has time to regularly visit prestige project to assists in auditing of our files to have an independent assessment to ensure that all new policy, procedures and processes are complied with and to assist in continuous business improvement recommendations.

Name: Makude Kekana

Position: Chief Director: PAP/Prestige

Date: 1/3/2012

**Auditor’s conclusion**

The DPW management acknowledge that there was deviations in the value chain of the business from service needs or requirements to the execution of the project and committed to implement the recommendations made by the AGSA. The management did however not provide specific responses on the specific deviations identified. Detail reasons are provided on why the nomination process was followed in this project and management also elaborated on the procurement process that should be followed during the procurement of goods and/or services for prestige projects.

Therefore, the total expenditure to date of R203 269,95 on the contract amount of R8,127,873.30 incurred in the procurement of the services for the project is classified as irregular expenditure and must be disclosed in the financial statements of the department responsible for the expenditure of the above mentioned project. Thus not impacting on the irregular expenditure of PMTE.

1. **COAF 30 - Deviations with the Supply Chain Management Practices: Kwagga Holdings (Pty) Ltd (Kwagga Holdings)**

**Audit finding**

Laws, rules and regulations

1. Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(b)Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(c)     Circular on Code of Conduct for Bid Adjudication Committees, paragraph 4.5.2 issued 24 March 2006 states that “*Members of the Bid Evaluation Committee may present their recommendations/reports to the Bid Adjudication Committee and clarify any issues but shall not have any voting powers.”*

(d)     The Ministerial Handbook of 2007, paragraph 3.4 states that “*The Minister of Public Works should be requested to implement, in conjunction with SAPS, the recommended security arrangements at privately owned residents in terms of the scheme approved by the Cabinet for this purpose.”*

During the review of the appointment of Kwagga Holdings, the following was noted:

(a)      On 21 December 2010, a PA-01: Request for approval of the procurement strategy for the project: Installation of Security Measures at 190 Sterlitzia street, Waterkloof compiled by Mr Mark Nare and supported by Mr Makude Kekana was submitted to the NBAC for approval. In the strategy, it was indicated that the procurement procedures that they were going to follow was the “Nominated procedure”. Attached to the strategy document was an   internal memorandum,(reference number WCS 045899) also dated 21 December 2010 from Mr Marks Nare, a project manager in the Prestige Projects section to the NBAC requesting approval to nominate contractors for the installation of security measures at a properties situated in 190 Sterlitzia Street, Waterkloof. The contractors nominated were  as follows:

               Sasani Construction

               Haba Projects

               Sibanda Construction

               Kwagga Holdings

               Sikona Building Construction CC

               Onecha Construction

         In the internal memorandum it was stated that a procurement instruction was received from the Prestige KAM section instructing Prestige projects to install security measures as a matter of urgency at the above-mentioned properties as the residence possesses a serious security risk to the Minister occupying the house.

The following motivation to deviate was provided: *“Due to the complexity and sensitivity of the project, we require contractors who have already done and completed similar projects as they will be able to complete the project on time. These contractors are also specialist in the installation of security systems and fall within CIDB grading in terms of the estimation”*

         It was stated that the project estimate was R6 370 419 (incl.VAT) and that funds had already been secured for the implementation of the project.

         The BAC approved the procurement strategy on 21 December 2010 based on the motivation and on condition that a SCM official is included in BSC. The PA-25: Request for approval of the BSC and BEC members compiled by Mr Mark Nare was approved by the CD: Procurement, Mr Trevor Tabane on 21 December 2010.

         The six nominated contractors were invited to participate in the tender in letters dated 24 February 2011. The letters indicated that the closing date for the tender was 23 March 2011 and that the prospective bidders had to attend a pre-tender site inspection meeting on 3 March 2011.

         Only two contractors responded on the tender invite namely, Sikhona Building Contractors and Kwagga Holdings (Pty) Ltd. Sikona Building Contractors was declared administrative non-responsive due the resolution of board of directors not being completed and their tax clearance certificate that had expired.

         The BEC evaluated the Kwagga Holdings on 7 April 2011 on price and preference as stated in the tender invite. Based on the evaluation results, the BEC recommended the award of the contract Kwagga Holdings CC of for an amount of R5 922 013,78 on 30 May 2011. The BAC approved the appointment of Kwagga Holdings on 7 June 2011.

In a letter dated 30 June 2011, Kwagga Holdings was informed that they received the contract for the installation of security measures at 190 Sterlitzia Street, Waterkloof. A form of offer and acceptance between the DPW and Kwagga Holdings was signed on 30 June 2011 and 15 March 2011 respectively.

(b)     The SCM process followed in the appointment of Kwagga Holdings was in contravention of the prevailing prescripts in view of the following:

(i)        The motivation states that the nominated five contractors had already done and completed similar projects and that they are specialists in the installation of security systems and fall within the required CIDB grading in terms of the estimation. However, there was no proof attached to the motivation to indicate that they were previously utilised on such complex and sensitive projects by any organ of state. Furthermore, no evidence was on the tender file that these contractors were nominated in conjunction with SAPS as required in terms of the Ministerial Handbook or that these contractors have been vetted by SAPS for security risks.

(ii)     Only Kwagga Holdings’s bid proposal was provided to the AGSA for review and the AGSA is unable to conclude if the evaluation process was fair, consistent, competitive and transparent. Furthermore, this constitutes a limitation of scope on our procedures.

(iii)    It was indicated in the motivation that the contractors nominated had already done and completed similar projects. It was noted from the bid proposal submitted by Kwagga Holdings that they had completed several security projects in the government environment. However, no evidence was provided that these projects were successfully completed to the satisfaction of the clients.

Furthermore, in terms of the “Checklist for submissions to the NBAC” a risk assessment must be performed on the preferred bidder when the evaluation was conducted on price and preference. No evidence was provided that a risk assessment was performed on Kwagga Holdings before the bid was awarded.

(iv)    During an Audit Steering Committee meeting held on 22 February 2012 between the representatives of the DPW and the AGSA, it was indicated that the DPW has no approved supplier register for capital works (Construction and Maintenance). Based on this confirmation, a meeting was scheduled with the project manager that was responsible for the project in question.

During the meeting with the project manager, Mr Mark Nare on 23 February 2012, he indicated that the procurement for ministerial security goods and/or services is of technical nature and that the department utilise contractors with a history of performance in the specific services. The nominated suppliers are selected by the representatives of SCM based on their assessment of the quality of the work performed by these suppliers previously and their required CIDB grading.

However, the procurement official, Ms Pearl Mkansi indicated to the AGSA during a discussion on 23 February 2012 that the SCM section is not involved in the nomination of the contractors as they are not in a position to express an opinion on the quality of the services previously rendered and they are not technical specialist. She further indicated for the tender in question, they received the procurement strategy document from Mr Nare and the names of the nominated contractors were already indicated.

The AGSA is therefore unable to confirm which approach was used in the nomination of the respective contractors and to conclude if the nomination process was fair, transparent and consistent.

(vii)   In contravention of the Circular on BACs, a member of the BEC, Dikeledi Malongane was also a member of the BAC which casted a vote in the approval of the award of the contract to Kwagga Holdings.

(viii)  The SCM process followed by the DPW namely a nomination process constitutes a deviation of the normal procurement process. The deviation was approved by the NBAC which has the delegation to approve deviations. However, the value of the service that was procured was above R1 million and therefore the deviation had to be reported to the National Treasury and AGSA within 10 working days after the procurement strategy was approved on 21 December 2010. The DPW only reported the deviation to the National Treasury and AGSA in a letter dated 21 February 2012 which is in contravention of PN 6 of 2007/2008, par 3.1. (Also refer to COAF 38 issued on 24 February 2012)

(v)     The tender file provided to the AGSA was incomplete and the AGSA had to approach the project manager and SCM officials for documentation namely the motivation for the deviation and letter to the National Treasury and AGSA. Furthermore, some of the documentation such as the minutes of the BAC meeting where the award was approved was not on file. The AGSA was informed that these minutes are filed centrally at SCM.

(c)   The AGSA noted that the findings raised in relations to the appointment of Kwagga Holdings are similar to the findings raised with the appointment of Yikusasa Building Contractors SA CC for the installation of security measures at 11 & 12 Ansela Street, Waterkloof, which is of a concern as to why the same contractors where not nominated for both contracts if the skill and experience required was of such importance. Furthermore, most of the documents such as the motivation to deviate, NBAC approvals, letter to the National Treasury and the AGSA was dated the same as the documents for Yikusasa Building Contractors SA CC which indicates that the processes was initiated and finalised simultaneously. (Also refer to COAF 26 issued on 28 February 2012)

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations. The NBAC approves deviations without ensuring that the process followed to nominate the contractors is fair and consistent and accept recommendation from the BEC without satisfying themselves that the evaluation process was in accordance with the prevailing SCM prescripts. The BEC recommended that the contract be awarded to Kwagga Holdings without obtaining references on the quality of work completed or performing a risk assessment to ensure that they can complete the project and has security clearance from SAPS to execute a project of such sensitivity and magnitude.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      The DPW should only deviation from the inviting competitive bids in cases where it is impractical to invite competitive bids. The reasons to deviate from the prescribed procurement process should be properly recorded and should be substantiated by evidence.

(b)      The Bid Adjudication Committee must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations and to ensure that the scoring is fair, consistent and correctly calculated and applied during the evaluation process.

(c)      The DPW should ensure during the procurement of goods and/or services that they comply with all the relevant laws, regulations or any other legislative requirement such as the ministerial handbook in this case, to ensure that the DPW is not expose to any risks or possible legal action(s).

(d)      The SCM policy should be updated to provide for the different procurement procedures as set out on the procurement strategy to ensure that the DPW management, the officials and the BACs is informed when the different procedures maybe utilised, the process that should be followed when the specific procedure is selected and to define the roles and responsibilities of the different role-players in the processes.

**Management response**

The Project 190 Sterlizia  ref (WCS 045899) street at Waterkloof which are state-owned houses, were procured using nomination, as part of the process within DPW but moreover the process is used more in Prestige than any other area of DPW business.

The nomination approach is done due to the fact that executives of the country while in office should be protected at all times and service should be rendered to them to make have them spend more time on governing the country without shifting focus to the conditions which they operate.

Prestige on its own has major challenges in the sense that people served are not ordinary people but people who has direct impact on the country from financial aspect, social aspect, country relationships, international market etc, if any happen to an executive sitting in office it will send wrong signal to any country who want to do business with South Africa and that might have ripple effect which might results in income and investment loss to the country as such to the poor.

Reasons for Nominations process

When procurement is undertaken the following are taken into considerations for the best interests and image of the country as that is carried by the Principals.

1. Security consideration, limit access to principal’s security information to many contractors who might giveaway information to people with malicious intention aware or unaware.

2. Utilization of trusted and tested service provider which to date there has not been any security threat or breach such contractor have a history of performing work within Prestige either within public works or other prestige clients in the department doing government work and have been cleared or vetted previously specifically Prestige  jobs.

3. The urgency which the security measures should be installed as a matter national interest.

4. Time and quality is of essence when it comes to servicing the principals from prestige point of view, that alone does not mean service providers to take advantage of the situations as within prestige nonperformance is dealt with decisively and procedurally through contract terminations

In prestige project the project approach is nonperformance is not tolerated and non performing contractor not to be used at all specifically for prestige and the environment is not normal.

The procurement process

Previously there was a thing called prestige data base until the entire data base was consolidated as part of head office when prestige had challenges of performance and other issues, a head office unit was put in place just to arrest the situation and normalize the environment. The prestige environment has improved, project done on time, quality and some even within costs with little variation if any.

The process was Prestige will use the data base to nominate from the listed service provider. The list will be presented to bid committee for approval of the strategy which they will interrogate and approve or disapprove pertaining to the information as presented.

At times contractor names are proposed by projects due to service provider history some are proposed by virtue of the skills, delivery, quality of work and vetting or clearance previously given when undertaking Prestige Projects.

Ones nominations is approved, the service providers are invited to come and bid for the project for fair competition, as for the return or not returning of the bids that becomes matter of business to those who are invited, some bid some do not bid at all or some might fail to submit on time.

Ones the bid are received, procurement checks all returnable information including the requirements to go to the next stage, a report is issued and those that meet all the requirement are forwarded for bid evaluations, ones evaluations is completed an a service provider is found favourable to be awarded a further check is done for risk assessment.

If the risk assessment confirms that the service provider is not a risk to the department, the bid is then forwarded to bid committee for award or not award, mostly award is granted ones all procedures and processes and requirements are met.

Management responses

Recommendations by the Auditor General

The recommendations by the AG are accepted by projects and it is believed they will go a great length in assisting the department to improve the way we do business. It has always been prestige project view that policy and process reviews are critical. The current policies and procedures are not favourable to DPW in its entirety and critically prestige projects.

 The following policy and procedure will be developed and they will include process maps, it should be noted as a challenge that most of the policies, process and procedures are not documented which makes it difficult to operate as they change daily to adapt to needs of the day.

Responses to address AG recommendations and

|  |  |  |
| --- | --- | --- |
| Document | By whom | Due date |
| Prestige projects procurement policy  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| Prestige projects procurement procedure  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| Prestige procurement process maps  (security, maintenance projects , capital  projects) | Makude Kekana | 20 March 2012 |
| All stakeholders and partners including AG to assist through comments to have an effective and efficient operation which serves the department and its clients better.  The above to be effective on the beginning of the new financial year ones DPW executive have approved | | |

All new projects in the next financial if the AG has time to regularly visit prestige project to assists in auditing of our files to have an independent assessment to ensure that all new policy, procedures and processes are complied with and to assist in continuous business improvement recommendations.

Name:             Makude Kekana

Position: Chief Director: PAP/Prestige

Date: 1/3/2012

**Auditor’s conclusion**

The DPW management acknowledge that there was deviations in the value chain of the business from service needs or requirements to the execution of the project and committed to implement the recommendations made by the AGSA. The management did however not provide specific responses on the specific deviations identified. Detail reasons are provided on why the nomination process was followed in this project and management also elaborated on the procurement process that should be followed during the procurement of goods and/or services for prestige projects.

Therefore, the total expenditure to date of R796 929,05 on the contract amount of R5,922,013.78 incurred in the procurement of the services for the project is classified as irregular expenditure and must be disclosed in the financial statements of the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular of PMTE.

1. **COAF 34 - Deviations with the Supply Chain Management Prescripts: Mercy Civils & Building CC (Mercy Civils)(Tender H10/021): Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation**

**Audit finding**

Laws, rules and regulations

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

(b)      PMFA, section 38(1)(h)(iii) states that: “*The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate disciplinary against any official in the service of the department, trading entity or constitutional institution who makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure.*

(c)      TR16A.6.3(c) states that: “*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”*.

(d)      PN 6 of 2007/08, par. 2.3 states that:“*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.”*

(e)      PN 6 of 2007/08, par. 2.5 states that: “*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)       PN 8 of 2007/08, par. 3.4.3 states that: “*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.”*

(g)    National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.*

(h)  Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14 states that: *“Advertisement for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB’s i-Tender@cidb services at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.”*

(i)      Construction Industry Development Board Regulations, 2004, section 18(1A), (1) and (2) states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract for the public sector of which the value exceeds R200 000.00 must be registered in accordance with this par. An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single construction works contract, of which the contract value exceeds a value determined by the Minister by notice in the Gazette. The CIDB must, within 30 working days from receipt of the duly completed application, register the project concerned and supply the employer with a receipt of registration.”*

During the review of the appointment of Mercy Civils & Buildings CC, the following was noted:

(a)      In a procurement instruction (ref no: WCS no. 048186) dated 14 June 2010 issued by Key Accounts Management to Special and Major Projects, it was indicated that the current RAMP contract for Ficksburg and Caledonspoort port of entry is expiring on 20 November 2010. The previous RAMP contract valued at R23,6 million had addressed the serious state of disrepair of the port of entry. It was requested that service providers are procured to ensure continuation of the maintenance contract and to prevent deterioration of facilities at the port of entry. The maintenance contract was estimated at R4 million which would be defrayed from the DPW Capital Budget for Land Ports of Entry.

The PA-01: Request for approval of procurement strategy for the project - Ficksburg and Caledonspoort port of entry: Appointment of contractors for maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation for 36 months, was compiled by the project manager, K Masilo on 9 September 2010 and supported by T Phiri on the same day.  In the strategy it was indicated that the estimated value of the services was R6 million and the procurement procedure to be followed was the “Open Procedure”. It was further indicated that tender will be advertisement period for two and a half weeks (2 ½). The required CIDB contract grading was 5CE (or higher) or 4CE PE (or higher), if it is an emerging enterprise. The National Bid Adjudication Committee (NBAC) approved the strategy on 14 September 2010. The tender was advertised on 8 October 2010 with the closing date of 27 October 2010 at 11:00.

The PA-13: Register for receiving bids/tenders compiled by SCM (not signed-off) indicated that in total six (6) bids were received of which one was disqualified. The bids were evaluated on price and preference points. The BEC considered the results of the evaluation on 22 November 2010 and recommended that a risk assessment be conducted on the highest scoring bidder, Mercy Civils, although they tendered higher than the pre-tender estimate. A report on the risk assessment conducted by Ukhukhula Consulting was submitted to the DPW on 24 November 2010. The risk assessment was considered by the BEC on 1 December 2010.

Based on the risk assessment conducted, the BEC recommended the award of the contract to Mercy Civils for an amount of R8 368 393,44 on 10 December 2010. The NBAC approved the award on 14 December 2010. In a letter dated 22 December 2010, Mercy Civils was informed that their bid dated 25 October 2010 for the “Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation” at Ficksburg Caledonspoort port of entry was accepted for an amount of R8 368 393,44. The DPW-07 - Form of offer and acceptance was signed by Mercy Civils on 25 October 2010 on submission of their proposal and accepted by DPW on 22 December 2010.

(b)      The SCM process followed in the appointment of Mercy Civils was in contravention of the prevailing prescripts in view of the following:

(i)      The tender was advertised in the government tender bulletin on 8 October 2010 (No. 2651) for a period of 21 days. No evidence was provided that the tender was also advertised on the CIDB website as required in terms of the CIDB – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14.

(ii)     The tender document issued to the prospective bidders did not include the SBD 9: Certificate of independent bid determination that has to be included in all tender documents when inviting competitive bids in contravention of Practice Note 21 July 2010. Therefore, none of the bidders completed the document which exposes the DPW to the risk of bid rigging and the abuse of the SCM system.

         (iii)    In the PA-01: Request for approval of procurement strategy and PA-21: Tender evaluation report to the NBAC, it was indicated that the pre-tender estimated was R6 000 000. However, the tender was awarded for R R8 368 393.44 to Mercy Civil. It was noted that in the BEC minutes where the award was discussed, the BEC mentioned that the tender amount is higher than the pre-estimate but no resolution was taken on this issue on how this should be addressed.

(iv)    The tender was awarded to Mercy Civils for an amount of R8 368 393.44 and therefore the project had to be registered at the CIDB. No evidence could be found that the DPW applied to the CIDB to register the project. The AGSA confirmed on the CIDB website on 17 May 2012 that the project is still not registered as an current project in contravention of the CIDB regulations, section 18(1A),(1) and (2).

(v)     In a report issued by Ukhukhula Consulting on 24 November 2010, it was indicated that they did a risk assessment based on the quality of previous work, the contractor’s contractual commitment, the tendered rate in the bill of quantities and the CIDB registration to determine if the appointment of Mercy Civils holds any risks for the DPW.  The consultants reported as follows:

1.                **Quality of previous work:** No quality related issues were raised by the associated references of the projects listed in the tender document.
2.                **Contractual commitment:** Various issues regarding the contractual commitment in terms of resources and contractual completion periods were provided by the references, indicating that there is a technical risk involved in appointing the bidder. The majority of the references indicated that they will not recommend the contractor. Feedback received from references for three of the contracts that is similar to the contract in question indicated that penalties were applied on contracts due to unsatisfactorily progress, late completion and insufficient resources.
3.                **Commercial:** Calculation errors were found to the value of R580 517,64. Therefore, the rates tendered in schedule of quantities should be reduced to incorporate the calculation errors and to balance the amount to the final tendered amount. However, the appointment of the bidder is not considered as a commercial risk if the rates in the schedule of quantities are balanced.
4.                **CIDB registration:** The bidder satisfies the CIDB registration criteria.

It was concluded that Mercy Civils has completed similar construction projects, however, based on the negative feedback from references as well as poor contractual commitment record in terms of unsatisfactory progress and late completion, the appointment of Mercy Civils is considered a technical risk to the DPW. The report was considered by the BEC on 1 December 2010. The technical risk identified was highlighted to the BEC members and they acknowledged the risk.

The BEC recommended the award to Mercy Civils, irrespective of the risk identified, which has a direct impact on the successful completion of the project. Furthermore, no resolution was taken on how the technical risk is going to be mitigated and managed.

         In appointing Mercy Civils, the DPW exposed itself to a technical risk which could result in fruitless and wasteful expenditure as defined in section 1 of the PFMA, if the contractor is in default or placed in MORA.

(c)          The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and the BEC recommending the contract to be awarded to Mercy Civils without weighing up the risks factors in appointing Mercy Civils. It is also a direct result of the BAC not acting in accordance with their mandate, role and functions to ensure that the SCM was fair and consistent and in line with the prevailing SCM prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure. Furthermore, if the BECs are not acting on the conclusions made in the risk assessments and only conducting these assessments because it is prescribed, the expenditure relating to the appointments of these consultants for the assessments can be classified as fruitless and wasteful expenditure. In addition, appointing contractors that poses a risk may also result in DPW incurring fruitless and wasteful expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Governance**

The entity does not assess the likelihood and impact of risks identified.

The entity does not respond to the assessed risks by determining a risk strategy / action plan to manage identified risks.

**Recommendation**

(a)      Management must ensure that the department abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(b)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(c)      Management should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury and include the prescribed documentation to ensure that DPW is not exposed to risks.

(d)      The BEC should consider risk assessment reports in a fair and unbiased manner to ensure that the DPW is not unnecessarily exposed to risks that was identified before the appointment was finalised. In future, the BEC should record their reasons for recommending a service provider although significant risks were identified.

(e)      The BAC must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations.

Corrective action should be considered against the members of the BEC and NBAC for their failure to fulfill their mandate, role and functions and to ensure that the supply chain management process was fair and consistent and in line with the prevailing SCM

**Management response**

(a)     I am in agreement with your finding. The tender was advertised for 2 ½ weeks and had a compulsory briefing session. The CIDB does not accept such advert – the advert must allow for at least 10 days before compulsory briefing. However an advert was prepared which CIDB-I tender did not accept. See attached draft.

(b)     I am in agreement with the finding. The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official before they are printed.

(c)     I am in agreement with the finding. The award was not registered on CIDB. We will ensure that this is not repeated in future. All construction related bids will be register upon receipt of letter of acceptance.

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| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | 1. -    The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official before they are printed. 2. -    All construction related bids will be register upon receipt of letter of acceptance. | | |
| 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 | D: SCM | | |
| Estimated completion date of corrective action: | 29/05/2012 | | |
| 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 | n/a | | |
|  |  |  |  |

Name:  Eulala Kruger

Position:  ACD: SCM

Date: 29/5/2012

**Auditor’s conclusion**

(a)     The DPW is in agreement with the finding. The finding is unresolved and will be reported.

(b)     The DPW is in agreement with the finding. The finding is unresolved and will be reported.

(c)     No response was received on (iii). The finding is unresolved and will be reported.

(d)     The DPW is in agreement with the finding. The finding is unresolved and will be reported.

(e)     No response was received on (v). The finding is unresolved and will be reported.

1. **COAF 38 - Procurement in terms of TR 16A6.4 not reported to AGSA within 10 working days**

**Audit finding**

Laws, rules and Regulations:

National Treasury Practice Note 6 of 2007/2008 requires that,

*“3.1      With effect from the date on which this practice note takes effect, 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.”*

The following list of deviations in terms of practice note 6 of 2007/ 2008 was requested by DPW request for information number 95:

a)            A list of all deviations reported to NT in terms of Practice Note 6 of 2007/08 for awards above R1 million for which bidding process was not followed. The latter should indicate when the award has been made and when it has been reported to NT.

b)            A list of all deviations not reported to NT and the AGSA, within 10 days as required in terms of Practice Note 6 of 2007/08, for awards above R1 million for which bidding process was not followed. The latter should indicate the region where the award was made and the reason for the non compliance.

The following deviations were noted from the information submitted:

* 1. The following deviations were not timeously reported to the AGSA.

| **NO.** | **SERVICE DESCRIPTION** | **SERVICE PROVIDER** | **TENDER NUMBER** | **DATE AWARDED** | **DATE SIGNED BY CHIEF DIRECTOR: SCM** | **DATE SENT TO NATIONAL TREASURY AND AUDITOR-GENERAL** | **AMOUNT (R)** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Head Office** | | | | | | | |
| 1 | Lease: Office Accommodation and Parking Facilities: Statistics South Africa: Old Fire Brigade building | Maluti-A-Phofung | 24/2/1/2/34/6835 | 25/10/2011 | 01/11/2011 | 01/11/2011 | 1 080 720,00 |
| 2 | Security measures at 190sterlitzia street: Waterkloof | Kwagga Holdings (Pty) Ltd | H11/005 | 15/06/2011 | 21/02/2012 | 22/02/2012 | 5 922 013,78 |
| 3 | Security Measures at 11 & 12 Anselis Street: Waterkloof | Yikusasa Building Construction | H11/006 | 15/06/2011 | 21/02/2012 | 22/02/2012 | 8 127 873,28 |
| **Johannesburg** | | | | | | | |
| 4 | Letting of office and parking accommodation for Statistics SA- Midrand | Emira Property Funs | 6110/0793/2 | 19/04/2011 | 13/02/2012 | 15/02/2012 | 1 017 100,56 |
| 5 | Letting of office and parking accommodation for SAPS- Westonaria | Leslie Diab Holdings (Pty) Ltd | 6122/0126 | 12/04/2011 | 13/02/2012 | 15/02/2012 | 1 111 596,49 |
| 6 | Letting of office and parking accommodation for SASSA – Randfontein | Meritum Hoofkantoor Eiendomme BPK |  | 19/04/2011 | 13/02/2012 | 15/02/2012 | 1 224 093,46 |
| 7 | Letting of office and parking accommodation for Statistics – Olifantsfontein | Olifants Centre Properties cc | 6110/0794/2 | 24/05/2011 | 13/02/2012 | 15/02/2012 | 1 200 730,96 |
| 8 | Letting of office and parking accommodation for Dept of Justice  & Constitutional | Amaryllis Investment (Pty) Ltd | 6116/1171 | 24/05/2011 | 2012/02/13 | 2012/02/15 | 3 725 023,37 |
| 9 | Letting of office and parking accommodation for SAPS – Boksburg North | Malit Investment cc | 6104/0551 | 07/06/2011 | 2012/02/13 | 2012/02/15 | 1 192 960,89 |
| 10 | Letting of office and parking accommodation for Statistics SA – Roodepoort | Tropical Sky Trading 160 cc | New | 14/06/2011 | 13/02/2012 | 15/02/2012 | 1 401 926,62 |
| 11 | Letting of office and parking accommodation for Statistics SA – Dobsonville | JHB Properties (Pty) Ltd                (Gensec | New | 12/07/2011 | 13/02/2012 | 15/02/2012 | 1 392 355,81 |
| 12 | Letting of office and parking accommodation for Statistics SA – Randburg | Emira Property Fund | New | 12/07/2011 | 13/02/2012 | 15/02/2012 | 1 311 500,14 |
| 13 | Letting of office and parking accommodation for Dept of Labour- Nigel | Trichardt Street Prop (Pty) Ltd | New | 16/08/2011 | 13/02/2012 | 15/02/2012 | 2 022 785,57 |
| 14 | Letting of office and parking accommodation for Dept of Labour – Brakpan | Wilstan Holdings | 6105/0201 | 16/08/2011 | 13/02/2012 | 15/02/2012 | 1 424 916,22 |
| 15 | Letting of office and parking accommodation for Department of Home Affairs – Roodepoort | Umhlangeni City | 6118/0990 | 20/09/2011 | 13/02/2012 | 15/02/2012 | 1 948 698,50 |
| 16 | Letting of office and parking accommodation for Department of Home Affairs – Kempton Park | South Tibouchina Investments cc | 6110/0781 | 20/09/2011 | 13/02/2012 | 15/02/2012 | 3 487 195,80 |
| 17 | Letting of office and parking accommodation for SAPS Training Centre ( Extension for period of 12 Months) | Leopont 166 Properties | 6103/0764 | 13/09/2011 | 13/02/2012 | 15/02/2012 | 1 116 944,64 |
| **Durban** | | | | | | | |
| 18 | DCS Westville Prison:Major Service and Repairs to Main | P & I Ameture winders and Electrical | DBN0211/23540 | 30/08/2011 | 21/02/2012 | 22/02/2012 | 1 039 828,20 |
| **Bloemfontein** | | | | | | | |
| 19 | Bloemfontein: Magistrate's Offices: Repairs and renovations | S & B Carpenters | BL10/078 | 12/04/2011 | Not signed and dated | 22/02/2012 | 11 611 859,39 |
| 20 | Bloemfontein: SAPS: Mechanical Service: 12 - 14 George Lubbe Street: BKD Hamilton Stores Garage: Lease Renewal Storage Accommodation | The George Nicolas Trust | BL11/011 | 26/07/2011 | 21/02/2012 | 22/02/2012 | 2 887 030,80 |
| 21 | Bloemfontein: SAPS: Viss Unit: 22 - 24  George Lubbe Street: Old Hubblex Warehouse: Lease Renewal Office and Storage Accommodation | The George Nicolas Trust | BL11/012 | 26/07/2011 | 21/02/2012 | 22/02/2012 | 2 251 920,00 |
| 22 | Bloemfontein: Rural Development and Land Reform (DRD & LR): 1ST to 8TH   Floors: SA Eagle building: Lease Renewal Office Accommodation and Parking Facilities. | The George Nicolas Trust | BL11/013 | 26/07/2011 | 21/02/2012 | 22/02/2012 | 2 047 881,60 |
| 23 | Bloemfontein: SAPS: LCRC and Detectives Unit: Trebbob Building: ERF 26408: Lease Renewal Office Accommodation and Parking Facilities. | The GNG Family trust | BL11/014 | 26/07/2011 | 21/02/2012 | 22/02/2012 | 3 387 813,24 |
| 24 | Bloemfontein: SAPS: Repair and Renovations | Kgubetswana Distributors Suppliers PTY LTD | BL11/022 | 11/10/2011 | 20/02/2012 | 22/02/2012 | 2 561 000,00 |
| 25 | Construction: Smithfield: SAPS: Upgrading and Construction | Bella Mabanda Win Construction cc | BL11/011 | 18/10/2011 | 21/02/2012 | 22/02/2012 | 19 868 900,20 |
| 26 | Parys Police Flats: SAPS: Repair and renovate houses | Maqaza Building and Maintenance | BL11/024 | 11/10/2011 | 20/02/2012 | 22/02/2012 | 2 692 889,34 |
| 27 | Ladybrand Correctional Services Maintenance of infrastructure | TP Builders | BL11/028 | 08/11/2011 | 20/02/2012 | 22/02/2012 | 8 617 743,00 |

b)            The following deviations were not reported to the AGSA although it was indicated on the schedules (shown below) that it was submitted to National Treasury and to the AGSA.

| **NO.** | **SERVICE DESCRIPTION** | **SERVICE PROVIDER** | **TENDER NUMBER** | **DATE AWARDED** | **DATE SIGNED BY CHIEF DIRECTOR: SCM** | **DATE SENT TO NATIONAL TREASURY AND AUDITOR-GENERAL** | **AMOUNT (R)** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | DCS: Boksburg Prison: Provision and installation of air conditioning, generator sets, street lighting, carports and paving | Superfacta Trading 209 cc | JHB.10/92 | 06/05/2011 | 13/02/2012 | 14/02/2012 | 3 795 795,30 |
| **2** | DCS: Leeuwkop Prison: provision and installation of 4NO 200KVA Generators at Medium A, B, C & C-Max and 1NI 315 KVA Gen St at agriculture | Electrim Control System | JHB.10/93 | 04/05/2011 | 13/02/2012 | 14/02/2012 | 2 991 000,00 |
| **3** | DCS: Krugersdorp Prison: Provision and Installation of 950KVA Generator set and Borehole pump | BMK Electronics | JHB.10/95 | 19/07/2011 | 13/02/2012 | 14/02/2012 | 1 945 410,00 |
| **4** | DCS: Benoni Modderbee: Provision and Installation of 42KVA Genset, carports and paving | Mokgoshi Electrical | JHB.10/96 | 22/07/2011 | 13/02/2012 | 14/02/2012 | 1 063 225,80 |
| **5** | STATS SA: Kokstad Royalts Center 86 Main Street:Procurement of Office Accommodation and Parking | T.Christodoulou & Sons | 24/2/1/2/34/6317/50 | 14/07/2011 | Reported to National Treasury | 21/09/2011 | 2 079 244,04 |
| **6** | STATS SA: Pinetown, 28 Chrompto Street:Procurement of Office Accommodation | Aquarelle Investments 266 (Pty) Ltd | 24/2/1/2/34/6306/49 | 14/07/2011 | Reported to National Treasury | 12/09/2011 | 2 404 645,47 |
| **7** | STATS SA:Greytown:168 Pine street:Approval of lease for three yrs | Ayub Kharodia Properties cc | 24/2/1/2/34/6223/55 | 15/09/2011 | Reported to National Treasury | 21/09/2011 | 2 558 956,99 |
| **8** | STATS SA:Manguza:Medical Centre Manguza Main Street:Procurement of Office Accommodation and Parking | Kays Aventegarage Properties cc | 24/2/1/2/34/6311/54 | 15/09/2011 | Reported to National Treasury | 21/09/2011 | 2 772 870,37 |
| **9** | STATS SA:Umhlanga:Standard Bank Building:1 Milleneum Boulevard | Growth point Properties Ltd | 24/2/1/2/34/6310/46 | 16/08/2011 | Reported to National Treasury | 21/09/2011 | 3 013 256,12 |

c)            The following deviations included in the list were not submitted to the AGSA. Monitoring controls to ensure that all deviations are reported to the AGSA as required by National Treasury Practice Note 6 of 2007/2008 are not effective.

| **NO.** | **SERVICE DESCRIPTION** | **SERVICE PROVIDER** | **TENDER NUMBER** | **DATE AWARDED** | **AMOUNT**  **R** |
| --- | --- | --- | --- | --- | --- |
| **Mtatha** | | | | | |
| 1 | Repairs and renovations to entire complex | Sebata-Sebatana | MTHCFR/10 | 14/06/2011 | 8 139 623,94 |
| 2 | Earthworks preparation in various centers | NMPS Construction CC | MTHNTNEW/II | 19/08/2011 | 2 114 122,53 |
| 3 | Infrastructure Development | Tavecon Bld & Construction | MTHNYE/P | 26/09/2011 | 2 472 568,80 |
| **Cape Town** | | | | | |
| 4 | CT: Dept Arts & Culture: Iziko museums & national library sites: Installation of intergrated security systems incl. CCTV cameras | Secure Electronics | CPT1021/11 | 30/08/2011 | 8 946 959,50 |
| 5 | CT Rondebosch: GSE no.4: Internal & External upgrade | Nolitha PTY Ltd | CPT1035/11 | 27/09/2011 | 4 978 600,00 |
| 6 | CT Parliamentary Prestige official office & residential accommodation: Interim phase 2 facilities management contracts | DSVH FM Consortium | CPT1049/11 | 1/09/2011 | 9 977 748,00 |
| 7 | C.T.: Parliamentary complex: Interim security equipment maintenance contract | Africa Strategic Asset Protection | CPT1082/11 | 4/11/2011 | 3 884 589,40 |
| 8 | Gordons Bay Harbour: Repairs to harbour & civil infrastructure | Qunu Consulting | CPTC001/11 | 3/05/2011 | 1 100 681,40 |
| 9 | Gordons Bay Harbour: Repairs to harbour & civil infrastructure | Qunu Consulting | CPTC002/11 | 3/05/2011 | 2 971 945,80 |
| 10 | St Helena Bay Harbour: Repairs & maintenance | WSP Africa Coastal Engineers | CPTC003/11 | 3/05/2011 | 1 347 480,00 |
| 11 | Wynberg 2 Mil Hospital: Refurbishment of hospital | BMDS Consulting Engineers | CPTC010/11 | 26/07/2011 | 13 693 536,82 |
| **Nelspruit** | | | | | |
| 12 | Acquisition of office space for the Office of the Public Protector in Nelspruit | Capswancruse Trust | NA | 16/08/2011 | 1 559 107,93 |
| 13 | Acquisition of office space for the STATS SA in Thulamahashe | Bushbuckridge Municipality | NA | 18/04/2011 | 2 256 294,84 |
| 14 | Acquision of office accommodation in Belfast for DHA | Brizograph cc | NA | 31/05/2011 | 4 007 939,76 |
| 15 | Acquisition of ofice space for the DMR in Witbank | Vusani Property Investments (Pty) Ltd | NA | 23/06/2011 | 4 609 698,35 |
| 16 | Acquisition of ofice space for the DMR in Witbank | Vusani Property Investments (Pty) Ltd | NA | 23/06/2011 | 4 609 698,35 |
| 17 | Acquisition of interim office space for the High court in Nelpsruit | PDL Property Management | NA | 09/06/2011 | 5 183 785,20 |
| **Kimberley** | | | | | |
| 18 | OLYVENHOUTSDRIFT 8 SAI:  Renovations to houses 5 & | Entsha Construction | KM16/11 | 06/12/2011 | 5 877 395,40 |
| 19 | KIMBERLEY DOD NC COMMANDO:  Replacement of sewerage pumps | Gap Electrical | KM20/11 | 27/10/2011 | 1 029 836,10 |
| 20 | Postmasburg: Procurement of Office accommodation and parking bays for STATS SA | Torette Buildings: Mrs. Nelia Viljoen | Negotiation Procedure | 18/07/2011 | 1 001 113,34 |
| **Durban** | | | | | |
| 21 | DCS Westville Prison:Major Boiler No. 1 and Statutory Compliance for Order No. 2 | Full Imput 1418 cc | DBN1210/22407 | 26/05/2011 | 7 000 000,00 |
| **Polokwane** | | | | | |
| 22 | RENEWAL OF LEASE | PARADISE GREEK INVESTMENT | H6026/2011 | 15/08/2011 | Amount not included in register and could not be provided to date(should this be <R1million it will not be subject to PN 6 of 2007-08 |
| 23 | NEGOTIATION FOR LEASE | M.R MPHEPHU | H6054/0068 | 20/06/2011 | 1 958 803,76 |
| 24 | NEGOTIATION FOR ACQUISITION OF SITE (LAND) | SCARLET IBIS INVESTMENTS 2 | H6026/1562 | 05/08/2011 | 21 000 000,00 |
| 25 |  | TOWN AND CITY PROPERTIES | H6032/0403 | 16/09/2011 | 1 276 691,73 |
| **Port Elizabeth** | | | | | |
| 26 | WILLOWMORE: ERF 1544 &1545: ACCOMMODATION: SAPS: DETECTIVE AND CLUSTER COMMANDER | DUDU PROPS | LSPE03/2011 | 19/07/2011 | 3 613 458,04 |
| 27 | UITENHAGE: OLD SERVICE STAR BUILDING: CALEDON STREET:STATISTICS SA: CENSUS OFFICE | SONACA TRUST | LSPE04/2011 | 10/05/2011 | 2 721 394,19 |
| 28 | EAST LONDON: OCEAN TERRACE PARK: BLOCK 1: STATISTICS SA: CENSUS OFFICE | CONDO PROPS 42 (PTY)LTD | LSPE05/2011 | 14/06/2011 | 2 004 491,78 |
| 29 | EAST LONDON: DEPT OF ENVIRONMENTAL AFFAIRS: SOCIAL RESPONSIBILITY POLICY AND PROJECTS | CEDAR FALLS | LSPE17/2011 | 28/06/2011 | 2 656 845,12 |
| 30 | GRAAFF REINET: LEASE OF OFFICE ACCOMMODATION: SATELLITE DISTRIC OFFICES: STATISTICS SA | MID-GRAAFF PROPERTIES | LSPE24/2011 | 18/08/2011 | 2 070 071,69 |
| **Pretoria** | | | | | |
| 31 | PTA: Gauteng District office: Stats Offices: 1500m² and 20 parking bays | Zambli 216 (PTY) LTD | PT11/038 | 25/08/2011 | 4 417 835,66 |
| 32 | DOD: Repairs and maintenance of various buildings in Pretoria` | Superfecta Trading cc | N/A | 20/06/2011 | 15 276 455,19 |
| 33 | Human Settlement: 240 and 260 Walker street | Fountainhead | 6029/0353 |  | 130 745 346,09 |
| 34 | Department of Agriculture: 140 Hamilton Forum: Additional space | Petatype cc | 6029/1410 |  | 2 403 053,52 |
| 35 | Department of Justice: 28 Church Square: | City Property | 6029/1376 |  | 11 883 446,76 |
| 36 | Public Enterprise: Infotech | Growth point | 6029/2347 |  | 13 482 912,84 |
| 37 | Department of Justice: Salu building | Phomella | 6029/6672.2 |  | 3 078 738,50 |
| 38 | Department of Defence: Navy Head Quarters | New Heights | N/A |  | 176 819 027,20 |
| 39 | Department of Defence: Gauteng Medical Command | Ons tuis bellengang | N/A |  | 25 738 313,27 |
| 40 | Department of Defence: War college | Khulemani Masingita Holdings | 6029/5380/1 |  | 27 720 622,52 |
| 41 | Home Affairs | Zambli 216 (PTY) Ltd | 6029/0216/2 |  | 31 525 756,84 |
| 42 | STATS SA: Mamelodi | Maxicity | 6029/6777/2 |  | 1 779 407,37 |
| 43 | DRDLR: Capitol Towers 224 Church street | City Property Administration | PC318090 |  | 15 016 930,66 |
| 44 | SAPS: Sinoville centre | Fortress Income 5 (PTY) LTD | PC305328 |  | 1 302 329,16 |
| 45 | SAPS: Schindler building | Tiespro 230 (PY) LTD | N/A |  | 86 292 764,39 |
| 46 | Pretoria : Gauteng District office: Stats offices: 1500m² and 20 parking bays | JHI Fortres | H6020/6655 | 27/08/2011 | 4 417 835,66 |
| **Bloemfontein** | | | | | |
| 47 | Virginia Magistrate office: Repairs and renovations | DJ & SS Cleaning Services & Construction | BL11/004 | 02/08/2011 | 2 663 095,86 |
| 48 | Phuthaditjhaba: QwaQwa Statistics south Africa (stats SA): New office accommodation and parking facilities | Maluti-A-Phofung municipality | 24/2/1/2/34/6835 | 19/07/2011 | 1 080 720,00 |
| 49 | Rendering of Cleaning Services: NDPW: BFN | Khanya Cleaning Services | BL11/003 | 29/06/2011 | 3 081 532,80 |

Reasons for the deviations:

As per discussion with the Assistant Director: Compliance and Inspectorate it was indicated that head office notifies the AGSA, however he indicated that no controls are available at regional level.

Similar findings were also reported in the 2010-11 financial year.

The aforementioned deviations may result in the following:

a)            Non compliance with Practice Note 6 of 2007/2008 and TR16A6.4.

b)            The department does not have proper control measures in place to ensure that the deviations are timeously reported to National Treasury and the AGSA.

c)            The department may not be aware of all the deviations and may not assess whether they should be considered as being irregular and therefore being included in the irregular expenditure disclosure note.

**Internal control deficiency**

**Leadership:**

The oversight responsibility was not effectively exercised regarding financial and performance reporting and compliance and related internal controls

**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**

1. The responsibility for the submission of the information to National Treasury and the AGSA must be assigned to an official at head office.
2. Regional managers must be required to submit the information within five working to the responsible official as recommended in paragraph (a).
3. The responsible official should maintain a register tracking the deviation and the submission thereof to both National Treasury and the AGSA. Proof of submissions should be referenced to the mentioned register.
4. Reconciliations between the deviations reported by the regions and head office with the register should be performed to ensure the completeness of the register recommended in paragraph (c).

**Management response**

PE Regional Office

Acknowledgement

1. a)     Management agrees that the above information was not reported to National Treasury and Auditor-General within 10 days of the award. It must however be mentioned that when the department realised this deficiency, it issued an SCM Guide No.4 of 2011/12 in which the department at large was reminded of this requirement. This guide was issued together with a schedule/framework of reporting these deviations and further requested that we submit the information from the 01st April 2011 to date (to date being the 28th September 2011 – See proof of the e-mail and the SCM Guide). Consequently, the regional office of Port Elizabeth submitted such deviations on the 10th October 2011. Information was further requested by the responsible officials in Head Office on the 21st December 2011 with a due-date of the 23rd December 2011 and Port Elizabeth Regional Office submitted the required deviations on the 23rd December 2011.
2. b)     The reason for non-compliance is merely an oversight that was also exacerbated by the fact that there was no framework or manner in which such information ought to be provided to the responsible person in Head Office.

Recommendation

1. a)     The recommendation by the AG is acknowledged. It is worth mentioning that the SCM Guide established is responding to the first three recommendations by AG. The fourth one will be implemented soon by head office.

Internal control deficiency

1. a)     The internal control deficiency identified by AG is correct and the following action plans will be put in place to ensure that we comply with Practice Note 6 of 2007/2008 and TR16A6.4:

Action plan, responsible official and timeframe

1. (a)    Management will as of the 01st March 2012 ensure that all deviations are reported within 5 working days to the Chief Director: SCM in Head Office in the current applicable format.
2. (b)    Identified responsible officials who do not report such deviations to the official who should further report them to Head Office will be dealt with in terms of the disciplinary process of the department.  The person who will ensure that all these happen is:

Name:  M.T. Mohwasa

Position: Director: Finance & SCM

Date:1/3/2012

Johannesburg Regional Office

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

It is true that the deviation from inviting competitive bids was not reported to the AGSA or the National Treasury.  The Regional Offices were informed on 28 September 2011 to report on deviations from 1 April 2011 onwards. The email and SCM Guide 4/2011-12 are attached

Name: Thys van der Walt

Position: Deputy Director: Supply Chain Management

Date: 27/2/2012

Nelspruit Regional Office

Management is agreement with the audit finding for the following reasons: The above information was not reported to National Treasury and Auditor-General within 10 days of the award. It must be mentioned that when the department realised this deficiency, it issued a SCM Guide No.4 of 2011/12 in which the department at large was reminded of this requirement.

This guide was issued together with a schedule/framework of reporting these deviations and further requested that we submit the information from the 01st April 2011 to date (to date being the 28th September 2011 – See proof of the e-mail and the SCM Guide).

The reason for non-compliance is purely an oversight that was also exacerbated by the fact that there was no framework or manner in which such information ought to be provided to the responsible person in Head Office.

Internal control deficiency

The internal control deficiency identified by AG is correct and the following action plans will be put in place to ensure that we comply with Practice Note 6 of 2007/2008 and TR16A6.4:

Action plan, responsible official and timeframe

a)     Besides the current status on reporting, management has started already to ensure that all deviations are reported within 5 working days to the Chief Director: SCM in Head Office in the current applicable format. So far as at 28 February 2012, no new deviations were identified for reporting to HO within the required time frames.

b)     Identified responsible officials who do not report such deviations to the official who should further report them to Head Office will be dealt with in terms of the disciplinary process of the department. Failure to comply, HEAD: FIN/SCM will be held accountable.

Name:  M V. Mbukushe

Position: Deputy Director: Finance & SCM

Date: 28/2/2012

Polokwane Regional Office

SCM 4/2011/12 was forwarded to Regions on 28/09/2011  requesting deviations report from April 2011 with due date of 07/10/2011 and information was submitted as  per below details. *I agree on the period that they were not reported within 5 days after award.*

Name:  Lucas Serepo

Position: Deputy Director: Finance & SCM

Date: 27/2/2012

Head Office

a)    I am in agreement with the findings and these are the measures that have been put in place going forward:

(i)    An official in Head Office has been assigned to be responsible for the submissions of all deviations to National Treasury.

(ii)   The secretariats of all the Bid Adjudication Committees (Special. National and Regional) have been requested to submit all deviations that were approved to the assigned official to keep record, monitor and follow-up.

(iii)  The assigned official has developed a spread sheet where all deviations are recorded to keep track of when they were submitted to National Treasury.

Name:Tina Majozi

Position: Deputy Director: Bid Administration

Date:   29/2/2012

b)    I am in agreement with the finding and these are the measures that have been put in place going forward:

(i)    An official in Head Office has been assigned to be responsible for the submissions of all deviations to National Treasury.

(ii)   The secretariats of all the Bid Adjudication Committees (Special. National and Regional) have been requested to submit all deviations that were approved to the assigned official to keep record, monitor and follow-up.

(iii)  The assigned official has developed a spread sheet where all deviations are recorded to keep track of when they were submitted to National Treasury.

Name: Tina Majozi

Position: Deputy Director Bid Administration

Date:29/2/2012

c)    I am in agreement with the finding and these are the measures that have been put in place going forward:

(i)    An official in Head Office has been assigned to be responsible for the submissions of all deviations to National Treasury.

(ii)   The secretariats of all the Bid Adjudication Committees (Special. National and Regional) have been requested to submit all deviations that were approved to the assigned official to keep record, monitor and follow-up.

(iii)  The assigned official has developed a spread sheet where all deviations are recorded to keep track of when they were submitted to National Treasury.

Name:   Tina Majozi

Position:  Deputy Director Bid Administration

Date:   29/2/2012

**Auditor’s conclusion**

Management comment noted and accepted.  The non compliance will however still be reported.

1. **COAF 50 - Deviations with the Supply Chain Management Practices: Yikusasa Building Contractors SA CC (Yikusasa) (Tender number H11/032- Repairs, Renovation and Upgrade of the Old Government Garage for Government Printing Works (GPW) – Pavilion Two: Additional Development**

**Audit finding**

(a)      National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that:

*“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(b)      National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that: “*Should it be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole provider, the accounting officer may procure the required goods and services by other means, such as price quotations or negotiations in accordance with TR16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate*”.

(c)      National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.2 states that*, “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.”*

(e)     Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.16 (Table 3: Standard method for procuring different classes of construction contracts) states the negotiation procedure may be used if *“The works are largely identical to works previously executed and it is not in the organisation’s interest to solicit other offers or cannot be technically or economically separated from a previous contract”.*

During the review of the appointment of Yikusasa, the following was noted:

(a)      In a letter dated 22 February 2011 from the acting CEO of GPW to DPW, it was indicated that the development of pavilion two situated at the government garage premises has been concluded and that printing equipment has been installed at the premises but that the GPW has procured a sheet-fed printing press and before it can be installed at the premises, additional construction services are required to the site. In the letter it was stated that the GPW needs have already been discussed with officials of the DPW and it was agreed that the additional construction services will be done on the basis of variation orders to the original renovation project. In the letter it was confirmed that GPW is in agreement with DPW to appoint the same contractor which did the original renovation services at pavilion two and that GPW will fund all expenses related to the additional construction work. GPW requested that the process be treated as matter priority as the new printing press needs to be commissioned.

         In a follow-up letter from the GPW to the DPW it was indicated that the reason why it is recommended that the same contractors be appointed was to prevent interference with the status of the current guarantees applicable to the building.

In an internal memorandum, dated 16 May 2011 from the CD: Professional Services to the NBAC, it was indicated that the DPW previously did a renovation at the GPW which was recently successfully completed. However, the GPW has requested additional development at the site which is still under guarantee due to retention. In the above-mentioned memo, an extension of appointment of the previous contractor and consulting firms was requested to expedite the documentation and to avoid forfeiting guarantees. In the memo the details of the previous professional team and contractor were stated. It was also stated that the project is funded by GPW and the estimated costs amount to R9 766 265 and that the project would not be executed as a variation order as the first phase of the project was already completed when the request was received.

The PA-01: Request for approval of the procurement strategy for the project was compiled by the project manager, Mr ME Mabuso on 25 May 2011 and supported by Mr T Phiri on 26 May 2011. In the strategy it was indicated that the procurement procedure that they are going to use was the “Negotiated procedure”. The BAC approved the procurement strategy on 14 June 2011 stating the following: “*The PM indicated that the work is critical to the functioning of the GPW and also recommended the same service provider to do the additional work due to the quality of work completed”.* It was confirmed that Yikusasa did the previous project at the GPW for a contract price of approximately R34 million.

In a letter dated 30 June 2011 to Yikusasa from the Bid administration unit in the DPW, the contractor was invited to collect tender documents from the DPW’s offices. The closing date for the submission of the completed tender documents was 20 July 2011 at 11:00. The completed bid documents were submitted by Yikusasa on 14 July 2011.

The BEC considered the bid proposal of Yikusasa on 28 July 2011 stating that Yikusasa are the negotiated contractors. The BEC agreed that a risk assessment report will be conducted by the consultant quantity surveyor. Based on the evaluation conducted, the BEC recommended the award of the contract to Yikusasa for an amount of R8 880 936,36 on 3 August 2011. The BAC approved the appointment of Yikusasa on 12 August 2011.

In a letter dated 15 August 2011, Yikusasa was informed that they their bid dated 14 July 2011 for the repair, maintenance and upgrading of the old government garage for printing works (second pavilion): Additional development for an amount of R8 880 936,36 was accepted subject to security of 10% of tender price being submitted for the execution of the contract within 21 days from the date of the letter. The DPW-07 – Form of offer and acceptance was signed by Yikusasa on 14 July 2011 on submission of their proposal and accepted by DPW on 16 August 2011.

The SCM process followed in the appointment of Yikusasa was in contravention of the prevailing prescripts in view of the following:

* 1. The request for approval of the procurement strategy for professional services indicated that the estimated costs for the project was above R500 000. Therefore, a competitive bidding had to be followed. Instead of inviting bids the department decided to negotiate with the previous contractor who initially did work on the pavilion two – Old Government building. In the motivation submitted to the NBAC it was indicated that GPW requested that the appointment of the previous contractor and consulting firm be extended to expedite the documentation and to avoid forfeiting guarantees with the previous contractor. In terms of section 4.2.1.6 of the Construction Industry Development Board – Standard for uniformity in construction procurement (January 2009), the DPW may use a negotiation process if the works are largely identical to the works previously executed and it is not in the organisations interest to solicit other offers or cannot be technically or economically separated from a previous contract. Therefore, the DPW acted in accordance with the CIBD regulations.

* 1. The DPW-09: Particulars of renderer’s project, states that *renderer’s are* *required to furnish particulars on current projects and completed projects and that failure to furnish the particulars will result in the tender offer being disqualified from further consideration*. It was noted that Yikusasa indicated on the DPW-09 that they had two projects running at the South Gauteng High Court and Lethabo Power Station which commenced in March 2009 and January 2011 respectively and were due for completion in September 2011 and July 2011 respectively.
  2. The service was awarded to Yikusasa on 15 August 2011. However, the AGSA noted that on 15 June 2011, the DPW also awarded a contract for “*Installation of security measures at 11 & 12 Anselia Street Waterkloof”* to the value ofR8 127 873.30 to Yikusasa. The procurement certificate for the above contract stated that the time of completion/construction period was 8 months for this project.
  3. Yikusasa did not declare on the DPW-09 that they were currently engaged in another project at the DPW. As the BEC members differed for the different projects/procurements, the misrepresentation made by Yikusasa was not noted by the BEC. Therefore, the BEC was misled by the information provided by Yikusasa and had the correct information been provided, the outcome could have been different. Furthermore, in accordance with the provisions of the DPW-09, Yikusasa had to be disqualified for not furnishing complete project information.
  4. Contradicting information with regards to the responsive criteria was noted between the PA-04: Notice and invitation to tender that was signed-off by the project manager on 29 June 2011 and the PA-04 that was issued to Yikusasa on 30 June 2011. This resulted in the SBD 9: Certificate of independent bid determination not being completed and submitted by Yikusasa in contravention of Practice Note 21 July 2010.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and the BEC recommending the contract to be awarded to Yikusasa without satisfying themselves that the information provided by Yikusasa was true and correct and all the prescribed documentation was completed and submitted.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

1. In cases where the DPW deviate from the prescribed procurement process based on a valid reason, the deviation must be reported to the National Treasury and the AGSA within the prescribed ten (10) working days to ensure compliance.
2. The DPW should implement effective measures to ensure compliance with the requirement that bids maybe not be considered by the DPW, if all the required documentation has not been submitted by the bidders.
3. The DPW should implement effective measures to ensure that the BEC satisfy themselves during the evaluation process and before recommending the preferred bidder to the BAC that the information provided in the bid documents are true and correct.
4. The DPW should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury and include all the prescribed documentation to ensure that prospective bidders are provided with a fair opportunity to offer their goods and/or services at a competitive price.

**Management response**

(a)     Competitive Bidding for Professional Services - Disagree with the findings: The department is currently using to method for appointment of professional service providers which are: Roster for routine assignments and competitive bidding. For the aforementioned project we proposed to retain and utilize previous professional team because projected professional fees were below R2 Million (Including VAT) which is in accordance with the departmental policy for appointment of professionals.

(b)     I am not in agreement with the finding. The award was made on 15 August 2011. Report of the deviation was sent to National Treasury on 22 August 2011, seven (7) days after the award date. The report was also sent to the AG in seven days.

(c)     Previous and Current Projects - Agree with the findings: However, declaration of previous and current projects executed by the contractor on the DPW-09 is not a responsive criteria and not the only determining factor for award of the contract. Historical performance and previous project are also relevant for valuation of capacity of the contractor.

(d)     Certificate of Independent Bid Determination - According SCM Circular 47 of 2010/201, if bidder has / have failed to submit PA 29, the bidder must be requested writing to submit the signed form (PA 29) within seven (7) working days. Failure to submit the signed form within seven (7) working days of notification may result in the invalidation of the bid or being declared non-responsive.

Name: Mr Makgwadi Mabuso / Mr Thabo Tladi

Position: D: PMS / D: SCM

Date: 04/04/2012 / 02/04/2012

**Auditor’s conclusion**

(a)    The AGSA noted the comment. However, the AGSA is in disagreement with the response as the project undertaken for the repair, maintenance and upgrading of the old government garage for printing works (second pavilion): Additional development do not meet the definition of professional services (consultant). PN 3 of 2003 states that the term consultant includes amongst others: “*Consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organizations (NGOs) and individuals”.* The scope of the project meets the definition of an construction contract which is as follows: *“The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure”.* To clarify the facts stated in the management response, the AGSA will report the finding.

(b)     The DPW management agree with the finding. However, it is stated that the declaration of previous and current projects is not a responsive criteria and not the only determining factor for the award of the contract. The AGSA disagree with the statements as the completion of the DPW-09 was listed in the PA-09 (EC): List of returnable documents which was part of bid document that was issued to the bidder. The PA-09 (EC) clearly stated that the returnable documents are required for the tender evaluation process. The findings remain unresolved and will be reported.

(c)     The response from management refers the AGSA to the SCM circular 47 of 2010/11 that is based on NT Practice Note 21 July 2010, which states that if a bidder fails to submit the PA-29, the bidder must be requested, in writing, to submit the signed form within seven (7) working days of notification. No evidence was provided that the bidder was notified to submit the form and that the bidder submitted the PA-29, subsequent to the evaluation and award of the contract. The findings remain unresolved and will be reported.

1. **COAF 83 - Deviations with the Supply Chain Management Prescripts: Midnight Star Trading 186 CC (Midnight)(Tender H10/002)**

**Audit finding**

Laws, rules and regulations

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

(b)      PMFA, section 38(1)(h)(iii) states that: “*The accounting officer for a department, trading entity or constitutional institution must take effective and appropriate disciplinary against any official in the service of the department, trading entity or constitutional institution who makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure.*

(c)      Treasury Regulations, March 2005, section 16A6.3(c) states that: *“The accounting officer or accounting authority must ensure that 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.”*

(d)      Code of Conduct for Bid Adjudication Committees issued by NT on 24 March 2006, paragraph 3.4 states that: *“The Bid Adjudication Committee should only consider recommendations/ reports if at least (60%) of its members are present.”*

(e)      National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(f)       Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14 states that: *“Advertisement for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB’s i-Tender@cidb services at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.”*

(g)     Construction Industry Development Board Regulations, 2004, section 18(1A), (1) and (2) states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract for the public sector of which the value exceeds R200 000.00 must be registered in accordance with this par. An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single construction works contract, of which the contract value exceeds a value determined by the Minister by notice in the Gazette. The CIDB must, within 30 working days from receipt of the duly completed application, register the project concerned and supply the employer with a receipt of registration.”*

(h)     Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.5.1 and 4.5.2 states that: *“Contractor grading designations shall, where appropriate, be described in all procurement documents by a three digit alpha-numeric where the first character is a number representing the tender value designation shown in column 2 of Table G1 in Annex G and the next two characters are capital letters representing the designation for the class of construction works shown in column 2 of Table G2 in Annex G. The following wording shall be included in the Notice and Invitation to Tender in all engineering and construction works contracts: It is estimated that tenderers should have a CIDB contractor grading designation of  .... or ...... or higher.”*

(i)      Construction Industry Development Board Regulations, 2004, section 17states that: “*A contractor registered in a contractor grading designation indicated in column 1 of the table below, is considered to be capable of undertaking a contract in the range of tender values*

*indicated in the class of the construction works to which the category of registration of that contractor relates.”*

|  |  |
| --- | --- |
| ***Contractor Grading Designation*** | ***Less than or equal to (R)*** |
| *1(class of construction works)* | *200 000* |
| *2(class of construction works)* | *650 000* |
| *3(class of construction works)* | *2 000 000* |
| *4(class of construction works)* | *4 000 000* |
| *5(class of construction works)* | *6 500 000* |
| *6(class of construction works)* | *13 000 000* |
| *7(class of construction works)* | *40 000 000* |
| *8(class of construction works)* | *130 000 000* |
| *9(class of construction works)* | *No Limit* |

During the review of the appointment of Midnight Star Trading 186 CC, the following was noted:

1. The PA-01: Request for approval of procurement strategy for the project – ST Albans Prison: Repair, Maintenance and Operation of Water and Sewer was compiled by the project manager, P. Dalasile on 12 January 2010 and supported by T Phiri on 8 February 2010. In the strategy it was indicated that the estimated value of the services was R10 291 204,08 and the procurement procedure to be followed was the “Open Procedure”. It was further indicated that tender will be advertised for a period of two weeks. The required CIDB contract grading was 4 CE (or higher) or 3CE PE (or higher), if it is an emerging enterprise. It was indicated that the bid will be evaluated on price and preference. The National Bid Adjudication Committee (NBAC) approved the strategy on 17 February 2010. The tender was advertised on 26 March 2010 with the closing date of 9 April 2010 at 11:00.
2. The +PA-13: Register for receiving bids/tenders compiled and signed-off by SCM on 14 April 2010 indicated that in total two (2) bids were received. The bids were evaluated on price and preference points. The BEC considered the results of the evaluation in a meeting held on 23 April 2010 and concluded based on the PA-20: Scoring model that Midnight scored the highest points. A risk assessment was requested subsequent to BEC meeting. A report on the risk assessment conducted by Virtual Consulting Engineers was submitted to the DPW on 5 May 2010. The BEC recommended the appointment of Midnight to NBAC on 27 May 2010. The NBAC did not approve the recommendation and instructed the BEC to evaluate the results of the risk assessment and provide feedback on the risk assessment. The BEC considered the risk assessment results in a meeting held on 4 June 2010 and recommended in a revised tender report to the NBAC, the appointment of Midnight for an amount of R6 925 967,40.
3. The NBAC approved the appointment on 6 July 2010 subject to the verification of the implementation of the RAMP project. In a letter dated 13 July 2010, Midnight was informed that their bid for the repair, maintenance and operation of water and sewer: ST Albans prison was accepted for an amount of R6 925 967.40. The DPW-07 - Form of offer and acceptance was signed by Midnight on 6 April 2010 on submission of their proposal and accepted by DPW on 13 July 2010.

The SCM process followed in the appointment of Midnight was in contravention of the prevailing prescripts in view of the following:

1. In contravention of 16A6.3(c), the bid was advertised for 15 days (26 March 2010 to 9 April 2010). No motivation was provided why the bid was advertised for a shorter period of 21 days. Further, the deviation was not approved by the NBAC.
2. The tender was advertised in the government tender bulletin as required. However, no evidence was provided that the tender was also advertised on the CIDB website as required in terms of the CIDB – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14.
3. The tender document issued to the prospective bidders did not include the SBD 9: Certificate of independent bid determination that has to be included in all tender documents when inviting competitive bids in contravention of Practice Note 21 July 2010. Therefore, none of the bidders completed the document which exposes the DPW to the risk of bid rigging and the abuse of the SCM system.
4. The NBAC approval of the award of the bid to Midnight was in contravention of the Code of Conduct for Bid Adjudication Committees, paragraph 3.4 as only four (4) out of the eight (8) members attended the meeting and approved the appointment. Therefore, the award was invalid as a quorum (60%) was not established.
5. The NBAC approved the appointment of Midnight subject to the verification of the implementation of the RAMP project. No evidence could be found on the tender file that the said instruction of the NBAC to verify the implementation of the RAMP project was done. Furthermore, the AGSA was unable to confirm from the audit evidence provided, the duration of the contract.
6. The tender was awarded to Midnight for an amount of R6 925 967.40 and therefore the project had to be registered at the CIDB in term of the CIDB regulations, section 18(1A),(1) and (2). No evidence could be found that the DPW applied to the CIDB to register the project.
7. In a report issued by Virtual Consulting Engineers on 5 May 2010, it was indicated that they did a risk assessment to determine if the appointment of Midnight held any technical and commercial risks for the DPW.  The consultants reported as follows:
8.                **Quality of current and previous work:** The contractor listed five (5) projects in their tender proposal of which four (4) were completed and one (1) was current. Two (2) of the contracts related to sport field seating and two (2) were for building related work. No work related to other civil construction such as sewerage/water purification works, maintenance or operation of such installations. The 3CE grading for Midnight classify the company to tender for projects up to R2 million, which relates to the value of the previous projects. Of the five (5) projects evaluated, four (4) references indicated that the quality of work had been good and one reference could not be reached.
9.                **Contractual Commitment:** From the four (4) references received, three (3) indicated that the work was not completed on time or is currently running behind.
10.                **Commercial Risk:** The pricing and calculation on the bill of quantities indicated minor arithmetical errors to the amount of R12 405.00. The total tender price is 34.7% lower than the tender estimate and the general tender prices are unbalanced and not market related.

It was concluded that the Midnight has limited civil engineers construction experience and their projects mainly included basic building construction work. The lack of knowledge of civil, mechanical and electrical work was evident in the contractor’s tender tariff and price structure. A financial risk would be the reality and the price structure of the tender would result in a huge financial loss on major items as well as excessive profit on items which could be stated as a total lack of value for money for the State. It was stated that the bulk of the work on the contract relates to maintenance and operation to ensure compliance to legislation relating to the quality of wastewater effluent and the supply and standard of domestic water for the prison.

The BEC considered the risk assessment and acknowledged the weakness stated in the risk assessment but concluded that they are not convinced about the incapability of the contractor. The AGSA found the conclusion of the BEC to appoint Midnight irrespective of the risks identified, to be a concern, as the risk assessment serves the purpose of pointing out the risks in appointing the contractor and to protect the interest of the DPW. If the BEC acknowledge the weaknesses and risks but indicate that they are not in agreement with the consultant’s conclusion, the risk assessment serves no purpose and can be seen as a fruitless exercise. The risks that were identified by the consultant with the appointment of Midnight have a direct impact on the successful completion of the project.

         In appointing Midnight, the DPW exposed itself to a financial risk which could result in fruitless and wasteful expenditure as defined in section 1 of the PFMA, if the contractor is unable to complete the project successfully in the tendered price or set period or if sub-standard material is installed to prevent financial loss to Midnight.

1. The reliability of the risk assessment results is questionable. The consulting engineers mentioned in their report that Midnight was permitted to tender for contracts up to R2 million. The pre-tender estimate was more than R10 million and the tendered amount was approximately R7 million. The consultant did not raise this issue as a risk which is of a concern to the AGSA as this has a material impact on the successful completion of the contract.

Furthermore, the pre-tender amount and total tender price used to perform the commercial risk assessment was incorrect as it differed from the amounts in the procurement strategy document and the tender amount as per the bill of quantities. This raises a concern on the accuracy of the risk assessment results.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations and the BEC recommending the contract to be awarded to Midnight without weighing up the risks factors in appointing Midnight. It is also a direct result of the BAC not acting in accordance with their mandate, role and functions to ensure that the SCM process was fair and consistent and in line with the prevailing SCM prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure. Furthermore, appointing contractors that poses a risk may result in DPW incurring fruitless and wasteful expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Governance**

The entity does not assess the likelihood and impact of risks identified.

The entity does not respond to the assessed risks by determining a risk strategy / action plan to manage identified risks.

**Recommendation**

(a)      Management must ensure that the department complies with the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(c)      Management should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury and include the prescribed documentation to ensure that DPW is not exposed to risks.

(d)      The BEC should consider risk assessment reports in a fair and unbiased manner to ensure that the DPW is not unnecessarily exposed to risks that was identified before the appointment was finalised. In future, the BEC should record their reasons and present it to BAC for consideration and the BAC should scrutinise the reasons to verify if the reasons are valid and can be managed.

(e)      The BECs and BACs must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations and act in the best interest of the department.

(f)       Corrective action should be considered against the members of the BEC and NBAC for their failure to fulfill their mandate, role and functions and to ensure that the supply chain management process was fair and consistent and in line with the prevailing SCM prescripts.

(g)     Management must ensure that documentation that relates to the SCM is properly filed on the tender files for audit purposes e.g. tender advertisements that was published on the CIDB website.

(h)     Management should ensure that consultants appointed to conduct risk assessment has a proven track record and that the DPW received value for money to prevent fruitless and wasteful expenditure.

**Management response**

* 1. The bid was advertised for two weeks as indicated in the procurement strategy signed-off by the director on the 8February 2010 and was then approved by the NBAC on the 17 February 2010. This was undertaken under the resolve of the Department’s management decision to address urgency within the department. Please see the attached SCM Circular 2 of 2008/09.
  2. At the time of advertising the tender, the Department was inactive with CIDB I-tender. However, on 06/07/2011 the department was reinstated and SCM officials attended training which was provided by the CIDB after which their profiles were recreated. The award was then advertised on the I-Tender. (The attendance register and proof of award are attached).
  3. I do not agree with the finding. The Practice note (certificate of independent bid determination) came into effect on 21/07/2010. The tender was awarded on 6/07/2010 which is prior the effective date. Thus, at the time of the award, the said SBD9 had not come into effect.
  4. Ms. Mpho Mgemane was appointed as a member of the NBAC in 2010 but never participated in any meeting or tendered any apology. Attached are extracts of minutes that support this statement. The committee then requested that her appointment be formally retracted as it affected the quorum of the meeting.
  5. The NBAC conditions of approval were met as the RAMP programme was never terminated within the department and the project is still managed as a repair and maintenance programme project which is a 36 month contract.
  6. The risk assessment exercise is undertaken to determine the extent of the risk that may be posed by the appointment of the recommended bidder. Though the appointed consultants highlighted risk it was deemed by the BEC that the risk was manageable thus the recommendation to NBAC. The grading of a contractor by the CIDB indicated that the contractor was capable of undertaking works under the annual cashflows indicated.

(g)     From the consultant’s risk assessment report it is also indicated that the contractor was undertaking a project of R3.6 million which was within the annual estimate, this was considered by the BEC when adjudicating the said bid.

Name: Eulala Kruger

Position: Acting Director: SCM

Date: 22/5/2012

**Auditor’s conclusion**

(a)    The AGSA notes the comment and contents of the circular that was attached. However, the AGSA is in disagreement with management’s response. The DPW has no authority to issue circulars that over-rule the regulations issued by the National Treasury, which require that bids should be advertised for at least 21 days. Furthermore, no evidence was included in the tender file or provided by DPW to indicate that this service was urgent or an emergency which allowed them to dispense with the 21 days. Thus, the finding remains unresolved and the non compliance will be reported.

(b)     The DPW acknowledge that at the time the bid was advertised, the department was inactive on the CIDB I-tender. The finding remains unresolved and will be reported.

(c)     The response is noted and the AGSA agree that the PN only became effective after the award was already finalised. The finding is resolved and will not be reported in the final management report.

(d)     The response is noted. However, the evidence referred to in the comments to support the statement made was not provided. The finding remains unresolved and will be reported.

(e)     The response is noted. However, no evidence was provided that project was registered on the RAMP programme. Furthermore, in the appointment letter issued to the contractor, no mention is made that the contract will form part of the RAMP programme and that the contract duration was 36 months. The finding remains unresolved and will be reported.

(f)     The response is noted. The evidence that was provided indicates that the department applied subsequent to the COAF being raised that the project be registered. The AGSA verified on 28 Mei 2012 on the CIDB website under “List of active projects” that the project has not yet being registered. The finding remains unresolved and will be reported.

(g)     The response is noted. However, the AGSA disagrees with the response in view of the fact that the BEC requested an expert in the field to conduct an assessment which highlighted the following significant risks: that there were material financial risks involved in appointing the contractor, that the contractor lacks experience and contracts involved in currently and previously shows that the contractor do not meet timeframes. The BEC based their decision to recommend the contractor on the CIDB rating of contractor which is only one aspect of the risk assessment. The BEC stated that they were not convinced about the incapacity of the contractor; however, the grounds on which they base their conclusion are not evident from the BEC minutes. The finding remains unresolved and will be reported

(h)      The concern raised in respect of the reliability of the risk assessment report and discrepancies noted in the report was not addressed by the comments received. The finding remains unresolved and will be reported.

1. **COAF 90 - Deviations with the Supply Chain Management Prescripts: Momacha Trading CC (Momacha)(Tender H10/018)**

**Audit finding**

Laws, rules and regulations

(a)      National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(b)      Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(c)      Construction Industry Development Board – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14 states that: *“Advertisement for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB’s i-Tender@cidb services at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting.”*

(d)      Construction Industry Development Board Regulations, 2004 – Schedule 3 defines classes of construction works as follows:

1. -       *“Civil engineering works (CE): Construction works that are primary concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration or dismantling of building and engineering infrastructure;*
2. -       *Electrical engineering (Infrastructure)(EP): Construction works that are primary concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure (a) relating to the generation, transmission and distribution of electricity, or (b) which cannot be classified as EB;*
3. -       *Electrical engineering (Buildings)(EB): Construction works that are primary concerned with the installation, extension, modifications or repair of electrical installation in or on any premises used for the transmission of electricity from a point of control to a point of consumption, including any article forming part of such an installation;*
4. -       *General building works (GB): Construction works that are (a) primarily concerned with the development, extension, installation, renewal, renovations, alteration or dismantling of a permanent shelter for its occupants or contents, or (b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works;*
5. -       *Mechanical engineering works (ME): Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and material handling.”*

During the review of the appointment of Momacha Trading CC, the following was noted:

(a)      In a revised procurement instruction dated 15 June 2010 (ref: WCS No. 047931) issued by Key Accounts Management to Special and Major Projects, it was indicated that the Sani Pass (non-commercial) and Qacha’s Nek (commercial) are land ports of entry bordering Lesotho and South Africa and that the current RAMP contract will expire on 18 September 2010. The RAMP contract valued at R17 million had addressed the serious state of disrepair at the port of entry including buildings, fencing, roads, services, heating and air-conditioning, fire-fighting equipment, lighting, refrigeration and incinerator. It was requested that service providers are procured to ensure continuation of the maintenance contract and to prevent deterioration of facilities at the port of entry. The maintenance contract was estimated at R6 million which would be defrayed from the DPW Capital Budget for Land Ports of Entry.

The PA-01: Request for approval of procurement strategy for the project – Sani Pass and Qacha’s Nek ports of entry: Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure installation, was compiled by the project manager, GK Lukhele on 3 September 2010 and supported by T Phiri on 6 September 2010. In the strategy it was indicated that the estimated value of the services was R9 967 550,00 and the procurement procedure to be followed was the “Open Procedure”. It was further indicated that tender will be advertisement period for four and a half weeks (4 ½). The required CIDB contract grading was 6CE or 6GB (or higher) and 5CE PE or 5GB PE (or higher), if it is an emerging enterprise. The National Bid Adjudication Committee (NBAC) approved the strategy on 14 September 2010. The tender was advertised on 8 October 2010 with the closing date of 10 November 2010 at 11:00.

The PA-13: Register for receiving bids/tenders compiled and signed-off by SCM on 18 November 2010 indicated that in total seven (7) bids were received. The bids were evaluated on price and preference points. The BEC considered the results of the evaluation on 18 November 2010 and recommended that a risk assessment be conducted on the highest scoring bidder, Momacha, which tendered lower than the pre-tender estimate. A report on the risk assessment conducted by Ukhukhula Consulting Engineers (Pty) Ltd was submitted to the DPW on 29 November 2010. The risk assessment was considered by the BEC on the same day.

Based on the risk assessment conducted, the BEC recommended the award of the contract to Momacha for an amount of R8 232 666,64 on 1 December 2010. The NBAC approved the award on 7 December 2010 subject to confirmation of the tender price and indicated that no variation will be allowed on priced bills. In a letter dated 13 December 2010, Momacha was informed that their bid dated 14 October 2010 for the “Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure installation for a period of 36 months” at Sani Pass and Qacha’s Nek ports of entry was accepted for an amount of R8 232 666,64. The DPW-07 - Form of offer and acceptance was signed by Momacha on 14 October 2010 on submission of their proposal and accepted by DPW on 13 December 2010.

(b)     The SCM process followed in the appointment of Momacha Trading CC was in contravention of the prevailing prescripts in view of the following:

(i)        The revised procurement instruction issued 15 June 2010, which supports the procurement of a contractor for the maintenance and servicing of buildings at Sani Pass and Qacha’s Nek ports of entry indicates that the estimated value of the project was R6 million. However, the procurement strategy submitted to the NBAC for approval and the scoring model utilised by the BEC to evaluate the bids, indicates that the pre-tender estimate of the project was R9 967 550,00. Another revised procurement instruction was not issued to indicate that the scope of work changed or that additional budget is required and available. It could not be established from the documentation on the tender file as to why the tender estimate was changed and on which ground(s) and from which budget the additional costs would be defrayed.

(ii)       The tender was advertised in the government tender bulletin as required. However, no evidence was provided that the tender was also advertised on the CIDB website as required in terms of the CIDB – Standard for Uniformity in Construction Procurement – January 2009, paragraph 4.2.14.

(iii)      The tender document issued to the prospective bidders did not include the SBD 9: Certificate of independent bid determination that has to be included in all tender documents when inviting competitive bids in contravention of Practice Note 21 July 2010. Therefore, none of the bidders completed the document which exposes the DPW to the risk of bid rigging and the abuse of the SCM system.

(iv)     An original tax clearance certificate for Momacha as required by the Preferential Procurement Regulations, section 16 could not be found on the tender file submitted to the AGSA for review.

(v)      The project description for the Sani Pass and Qacha’s Nek ports of entry is “Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure installation”. It is evident from the project description and specifications that the contractor appointed for the project should have experience and skills in civil, mechanical, electrical infrastructure and installations. The procurement strategy dated 3 September 2010 required a CIDB grading designation of 6CE or 6GB or 6CE PE or 6GB PE, if it is an emerging enterprise. As per the definition provided in the CIDB Regulation on classes of construction works, the grading designation(s) for projects which includes civil, mechanical, electrical works should include CE, EB/EP and ME grading. A GB designation only includes general building works which do not require specialised skills and experience as is the case with contracts that include civil, electrical or mechanical works, which is of a specialised nature.

Therefore, the grading designation stated in the tender invitation was incorrect. This above points to inadequate planning by the DPW in assessing the nature and extent of the project and also constitutes non-adherence to the CIDB prescripts. As a result of the aforementioned the bid specifications did not promote competition amongst prospective service providers.

(vi)    In a report issued by Ukhukhula Consulting Engineers (Pty) Ltd on 29 November 2010, it was indicated that they did a risk assessment based on the quality of previous work, the contractor’s contractual commitment, the tendered rate in the bill of quantities and the CIDB registration to determine if the appointment of Momacha holds any risks for the DPW.  The consultants reported as follows:

1.                **Quality of previous work:** The quality ratings received from references on the current and completed projects were overall good.
2.                **Contractual commitment:** Feedback received from references for on current and completed projects were good and all the references recommended the contractor.
3.                **Commercial:** The tender price is 17.41% lower than the pre-tender estimate. Arithmetical errors were found in the bill of quantities amounting to R16 943. Overall, the prices are imbalanced. The prices tendered for maintenance and servicing is of great concern as it is impossible to perform the maintenance and services for the prices tendered. Therefore, there is a commercial risk which includes the risk that the contractor can abandon the site or alternatively not perform the maintenance or servicing at all.
4.                **CIDB registration:** The bidder satisfies the CIDB registration criteria.

It was concluded that Momacha has successfully completed construction projects and positive feedback was received from all the references and there is no technical risk for DPW. However, the appointment of Momacha is considered as a commercial risk. DPW faces the risk that crucial essential services will not be delivered to the ports of entry, resulting in the ports of entry not being able to operate at all. The report was considered by the BEC on 29 December 2010 and the risks were discussed. It was resolved that the contractor needs to balance the rates.

However, no evidence could be found that Momacha was informed by the DPW that their prices is not balanced according to the risk assessment conducted and that they had to re-visit their rates and re-submit an amended bill of quantities to indicate how the prices were balanced.

(vii)   A confirmation was received from Momacha on 7 December 2010, confirming that they will be able to render the required services as per the bid offer, which addressed the condition set by the NBAC.

(c)      The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. It is also a direct result of the BEC and NBAC not acting in accordance with their mandate, role and functions to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      Management must ensure that the department complies with the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(c)      The CIDB Regulations should be used in determining the appropriate class of construction work and grading level required for a project, taking into account the nature and extent of the work and the level of complexity.

(d)      Management should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury and include the prescribed documentation to ensure that DPW is not exposed to risks.

(e)      The BECs and BACs must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations and act in the best interest of the department.

(f)       Corrective action should be considered against the members of the BEC and NBAC for

their failure to fulfil their mandate, role and functions and to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts.

(g)     Management must ensure that documentation that relates to the SCM is properly filed on the tender files for audit purposes e.g. tender advertisements that was published on the CIDB website and original tax clearance certificates.

**Management response**

(a)     I am not in agreement with the finding as the bid was advertised on CIDB. The advert is attached.

(b)     I am in agreement with the finding. The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official before they are printed.

(c)     The TCC was received valid and original at the time of closure. The TCC is available on the pink file. A copy is herewith attached.

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| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official by use of a checklist before documents are printed for the public. | | |
| 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 | D: SCM | | |
| Estimated completion date of corrective action: | Checklist for tender document quality assurance was implemented on 1 April 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 | n/a | | |

Name:  Eulala Kruger

Position:  ACD: SCM

Date: 29/5/2012

**Auditor’s conclusion**

(a)     No response was received on (i). The finding is unresolved and will be reported.

(b)     The response is noted. However, the AGSA disagree with the response, as the evidence provided is a printout of the i-Tender: Register of projects where the project was registered on the CIDB database after the award had already been made to Momacha. The printout states that the tender was advertised on i-tender, however, the “CIDB – Tender notice and invitation to tender” printout was not provided to the AGSA for review.

(c)     The DPW is in agreement with the finding. The finding is unresolved and will be reported.

(d)     The response is noted. The AGSA re-visited the evidence on the tender file on 30 May 2012 and disagree with the response. The original tax clearance certificate is not on the file. The same copy that was attached to the response is also the copy that is on the tender file. The finding is unresolved and will be reported.

(d)     No response was received on (v), (vi) and (vii). The findings are unresolved and will be reported.

1. **COAF 91 - Deviations with the Supply Chain Management Practices: Multi-Net Systems (Pty) Ltd (Multi-Net) (Tender number H10/024 - Beitbridge Port of Entry: 36 months - Maintenance and Servicing of Buildings, Civil, Mechanical and Electrical Infrastructure and Installations)**

**Audit finding**

1. PFMA, section 38(2) states that: “*An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.”*
2. National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(c)Construction Industry Development Board Regulations, 2004, section 18(1A), (1) and (2) states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract for the public sector of which the value exceeds R200 000.00 must be registered in accordance with this par. An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single construction works contract, of which the contract value exceeds a value determined by the Minister by notice in the Gazette. The CIDB must, within 30 working days from receipt of the duly completed application, register the project concerned and supply the employer with a receipt of registration.”*

*(e)*Construction Industry Development Board Regulations, 2004 – Schedule 3 defines classes of construction works as follows:

*-        “Civil engineering works (CE): Construction works that are primary concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration or dismantling of building and engineering infrastructure;*

1. -           *Electrical engineering (Infrastructure)(EP): Construction works that are primary concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure (a) relating to the generation, transmission and distribution of electricity, or (b) which cannot be classified as EB;*
2. -           *Electrical engineering (Buildings)(EB): Construction works that are primary concerned with the installation, extension, modifications or repair of electrical installation in or on any premises used for the transmission of electricity from a point of control to a point of consumption, including any article forming part of such an installation;*
3. -           *General building works (GB): Construction works that are (a) primarily concerned with the development, extension, installation, renewal, renovations, alteration or dismantling of a permanent shelter for its occupants or contents, or (b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works;*
4. -           *Mechanical engineering works (ME): Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and material handling.”*

During the review of the appointment of Multi-Net the following was noted:

1. In a procurement instruction dated 14 June 2010 (Ref: WCS No. 047931) issued by Key Accounts Management to Special and Major Projects, it was indicated that the Beitbridge is the land port of entry bordering Zimbabwe and South Africa and that the current RAMP contract will expire on 18 December 2010. The RAMP contract valued at R46,7 million had addressed the serious state of disrepair at the port of entry including buildings, fencing, roads, services, heating and air-conditioning, fire-fighting equipment, lighting, refrigeration and incinerator. It was requested that service providers are procured to ensure continuation of the maintenance contract and to prevent deterioration of facilities at the port of entry. The maintenance contract was estimated at R5 million which would be defrayed from the DPW Capital Budget for Land Ports of Entry.
2. The PA-01: Request for approval of procurement strategy for the project – Beitbridge port of entry: Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation, was compiled by the project manager, GK Lukhele on 4 October 2010 and supported by T Phiri on the same day. In the strategy it was indicated that the estimated value of the services was R20 076 459,00 and the procurement procedure to be followed was the “Open Procedure”. It was further indicated that tender will be advertisement period for two and a half weeks (2 ½). The required CIDB contract grading was 7CE or higher and 6CE PE or higher, if it is an emerging enterprise. The Special Bid Adjudication Committee (SBAC) approved the strategy on 6 October 2010. The tender was advertised on 22 October 2010 with the closing date of 10 November 2010 at 11:00.
3. The PA-13: Register for receiving bids/tenders compiled and signed-off by SCM on 17 November 2010 indicated that in total seven (7) bids were received. The bids were evaluated on price and preference points. The BEC considered the results of the evaluation on 18 November 2010 and recommended that a risk assessment be conducted on the highest scoring bidder, Multi-Net. A report on the risk assessment conducted by Virtual Consulting Engineers (Pty) Ltd was submitted to the DPW on 22 November 2010. The risk assessment was considered by the BEC on 24 November 2010.
4. Based on the risk assessment conducted, the BEC recommended to the NBAC, the award of the contract to Multi-Net for an amount of R16 709 325,89 on 26 November 2010. The NBAC did not approve and referred the tender to the SBAC for approval on 1 December 2010. The SBAC approved the award on 2 December 2010 subject to the risk assessment being signed-off by the consultant. In a letter dated 13 December 2010, Multi-Net was informed that their bid for “Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installation” at Beitbridge port of entry was accepted for an amount of R16 709 325,89. The DPW-07 - Form of offer and acceptance was signed by Multi-Net on 10 November 2010 on submission of their proposal and accepted by DPW on 13 December 2010.

The SCM process followed in the appointment of Multi-Net was in contravention of the prevailing prescripts in view of the following:

1. The procurement instruction issued which supports the procurement of a contractor for the maintenance of Beitbridge port of entry indicates that the estimated value of the project was R5 million. However, the procurement strategy submitted to the SBAC for approval and the scoring model utilised by the BEC to evaluate the bids, indicates that the pre-tender estimate of the project was R20 076 459,00. A revised procurement instruction was not issued to indicate that the scope of work changed or that additional budget is required and available. The tender was awarded for R16 709 325,89. It could not be established from the documentation on the tender file as to why the tender estimate was changed and on which ground(s) and from which budget the additional costs would be defrayed. Furthermore, committing the department to an amount not budgeted/ appropriated for is a contravention of the PFMA, section 38(2).
2. The tender document issued to the prospective bidders did not include the SBD 9: Certificate of independent bid determination that has to be included in all tender documents when inviting competitive bids in contravention of Practice Note 21 July 2010. Therefore, none of the bidders completed the document which exposes the DPW to the risk of bid rigging and the abuse of the SCM system.
3. In the PA-13: Register for receiving bids/tenders and PA-20: Scoring model, it was indicated that seven (7) bids were received and evaluated. However, in the BEC minutes dated 18 November 2010, it was stated that four (4) bids were received and scrutinised/ verified by the BEC for responsiveness. It could not be established from the minutes which bids were evaluated and why the other three (3) bids were not considered, as none of the bidders were disqualified in the preliminary evaluations.
4. The tender was awarded to Multi-Net for an amount of R16 709 325,89 and therefore the project had to be registered at the CIDB. No evidence could be found that the DPW applied to the CIDB to register the project. The AGSA confirmed on the CIDB website on 22 May 2012 that the project is still not registered as a current project in contravention of the CIDB regulations, section 18(1A),(1) and (2).
5. The project description for the Beitbridge ports of entry is “Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure installation”. It is evident from the project description and specifications that the contractor appointed for the project should have experience and skills in civil, mechanical, electrical infrastructure and installations. The procurement strategy dated 4 October 2010 required a CIDB grading designation of 7CE or higher and 6CE PE or higher, if it is an emerging enterprise. As per the definition provided in the CIDB Regulations on classes of construction works, the grading designation(s) for projects which includes civil, mechanical, electrical works should include CE, EB/EP and ME grading. A CE designation only includes civil construction works that are primarily concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration or dismantling of building and engineering infrastructure and do not require specialised  skills and experience in construction relating to electricity and mechanical works.

Therefore, the grading designation stated in the tender invitation was incomplete. This above points to inadequate planning by the DPW in assessing the nature and extent of the project and also constitutes non-adherence to the CIDB prescripts. As a result of the aforementioned the bid specifications did not promote competition amongst prospective service providers.

1. In the appointment letter dated 13 December 2010 issued to Multi-Net, reference is made to the submission date of their bid as 10 August 2010, which is approximately two (2) months before the bid was advertised. Multi-Net submitted their bid on 10 November 2010 and not 10 August 2010.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. It is also a direct result of the BEC and SBAC not acting in accordance with their mandate, role and functions to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure and unauthorised expenditure, if the department commits to an amount not budgeted/ appropriated for.

These deficiencies are further compounded by a lack in management controls to ensure that documentation is properly filed and signed. Weaknesses in the internal control system can lead to litigation if the dates are questioned during a dispute raised by an unsatisfied bidder.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      Management must ensure that the department complies with the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(c)      The CIDB Regulations should be used in determining the appropriate class of construction work and grading level required for a project, taking into account the nature and extent of the work and the level of complexity

(d)      Management should ensure that bid documents issued to prospective bidders are in line with the prescripts of the National Treasury and include the prescribed documentation to ensure that DPW is not exposed to risks.

(e)      The BECs and BACs must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations and act in the best interest of the department.

(f)       Corrective action should be considered against the members of the BEC and SBAC for their failure to fulfill their mandate, role and functions and to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts.

(g)     Management must ensure that documentation that relates to the SCM is properly filed on the tender files for audit purposes e.g. tender advertisements that was published on the CIDB website.

(h) Management controls should be implemented to ensure that internal and external documentation are correctly dated to ensure that procurement records reflect accurate and reliable information.

**Management response**

(b)     I am in agreement with the finding. The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official before they are printed.

(c)     The TCC was received valid and original at the time of closure. The TCC is available on the pink file. A copy is herewith attached.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The SBD 9 (PA29) was not attached. We will ensure that this will not be repeated in future. All tender documents are quality assured by a senior official by use of a checklist before documents are printed for the public. | | |
| 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 | D:SCM | | |
| Estimated completion date of corrective action: | Checklist for tender document quality assurance was implemented on 1 April 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 | n/a | | |

Name:  Eulala Kruger

Position:  ACD: SCM

Date: 29/5/2012

**Auditor’s conclusion**

1. No response was received on (a). The finding is unresolved and will be reported.
2. The DPW is in agreement with the finding. The finding is unresolved and will be reported.
3. No response was received on (c). The finding is unresolved and will be reported.
4. No response was received on (d). The finding is unresolved and will be reported.
5. No response was received on (e). The finding is unresolved and will be reported.
6. The DPW responded that a tax clearance certificate was included in file. However, the AGSA did not raise a finding on the tax clearance certificate and therefore the response is not applicable. The finding (f) raised related to an incorrect date that was indicated on the appointment letter. No response was received on this finding and the finding will be reported.
7. **COAF 93 - Deviations with the Supply Chain Management Prescripts: OPD Construction (Pty) Ltd (OPD)(Tender H11/10: Repairs to various potholes: Tshwane, South Region)**

**Audit finding**

Laws, rules and regulations

(a)      PFMA, section 38(2) states that: “*An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.”*

(b)      Treasury Regulation 16A6.4 states that “*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.”*

(c)     PN No. 8 of 2007/2008 paragraph 3.4.1 states that “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(d)      PN No. 8 of 2007/2008, paragraph 3.4.3 states that: “*Should it be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole provider, the accounting officer may procure the required goods and services by other means, such as price quotations or negotiations in accordance with TR16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate*”.

(e)      PN No. 6 of 2007/2008 paragraph 3.1 states that: *“With effect from the date on which this practice note takes effect, 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 R1 million (VAT included) were procured in terms of Treasury Regulation 16A6.4.”*

*(f)* Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.9 issued 24 March 2006 states that “*The Bid Adjudication Committee may also, if and when required to so, consider for approval the recommendation of the Bid Specification Committee in order to ensure that strategic sourcing principles were applied and that the market was properly researched and analyzed.”*

(g)     Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.10 issued 24 March 2006 states that *“In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides, practices notes and circulars.”*

(h)      DPW-Directive: Acquisition and disposal management, paragraph 18 states that *“The negotiated procedure is the least desirable of all acquisition procedures and the BAC may approve this procedure as a last resort. The reason for using the negotiated procedure must be motivated in the sourcing strategy for approval by the BAC.”*

During the review of the appointment of OPD, the following was noted:

(a)      In a memo dated 1 February 2011 from Mr Molotsi (CD: Professional Services) approval was requested to embark on a project for the repair to various types of potholes on main roads, access roads and arterial roads in various provinces. The request was approved by Mr Mabuza, DDG: Projects on the same day. The request for approval of funding for the project was considered and approved by the Planned Maintenance Budget Committee (PMBC) on 3 February 2011 subject to the National Treasury being informed. The estimated costs for the project was R191 900 000 which was to be defrayed from the 2010/2011, 2011/12 and 2012/13 budgets. A procurement instruction to procure the services of professional civil engineering firms for road condition assessments on priority roads in identified areas was issued on 4 February 2011 to the D: Special & Major Projects.

The PA-01: Request for approval of the procurement strategy for the project was compiled by the project manager, Ms Mohlopi on 21 February 2011 and supported by Mr Molotsi on the same day. In the strategy it was indicated that the procurement procedure proposed is the “Negotiated procedure”. The NBAC approved the procurement strategy on 22 February 2011. The estimated value of the tender was R3 000 000,00.

In an undated letter faxed on 24 February 2011 to OPD, it was indicated that their company is one of the nominated companies to participate in the “Repair to various potholes: Tshwane-South Region”. It was indicated that a compulsory briefing session was to be held on 24 February 2011 and their bid proposal must be submitted before 28 February 2011 at 11:00. The bid proposal of OPD was submitted on 25 February 2011.

A risk assessment was conducted by Aurecon SA (Pty) Ltd and a report on the risk assessment submitted to the DPW on 7 March 201. The risk assessment was considered by the BEC in a meeting on the same day. In the meeting, the BEC recommended that OPD be appointed subject to the service provider signing the certificate of independent bid determination. Based on the recommendation from the BEC, the PA-21: Tender evaluation report to the NBAC was submitted by Ms C Mohlopi on 7 March 2011 to the NBAC recommending the award of the contract to OPD for an amount of R11 586 078,78. The NBAC approved the award on the same day and the chairperson of the NBAC approved on 8 March 2011.

In a letter dated 10 March 2011, OPD was informed that they their bid dated 25 February 2011 for the repair to various potholes: Tshwane South Region for an amount of R11 586 078,78 (incl. VAT) was accepted. The DPW-07 – Form of offer and acceptance was signed by OPD on 25 February 2011 on the submission of their proposal and accepted by DPW on 10 March 2011.

(b)      The SCM process followed in the appointment of OPD was in contravention of the prevailing prescripts in view of the following:

(i)      The PA-01: Request for approval of the procurement strategy indicated that the estimated value of the bid was above R3 000 000,00 and therefore a competitive bidding process had to be followed in terms of PN No. 8 of 2007/2008. It was however noted that the DPW opted to follow the negotiated procedure. It is clearly stated in the PA-01 and DPW: Acquisition management directive that if a negotiated procedure is to be followed, it must be fully motivated. Furthermore, TR16A6.4 and PN No. 8 of 2007/2008 states that if goods and services are procured through negotiations, the reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate.

         No motivation was found to the NBAC on the tender file submitted to the AGSA for review, motivating the deviation from the normal SCM process in contravention of the prevailing prescripts.

(ii)     The NBAC approved the procurement strategy on 22 February 2011 without a motivation being attached to explain why the negotiated procedure is being selected in contravention of the DPW: Acquisition management directive and PN No. 8 of 2007/2008. Therefore, the NBAC acted in contravention with their mandate, role and function as set out in the Code of Conduct for BACs, as they approved the procurement strategy without ensuring that the sourcing strategy was justified and in line with the prevailing SCM prescripts.

         Furthermore, the value of the goods that were procured was above R1 million and therefore the deviation had to be reported to the National Treasury and the AGSA within 10 working days after the services were procured. The deviation was not reported to the National Treasury or the AGSA in contravention of PN 6 of 2007/2008, par 3.1.

(iii)    The PMBC approved the funding for the project on 3 February 2011 subject to the National Treasury being informed. No evidence could be found on the tender file submitted to the AGSA for review that the National Treasury was informed as instructed by the PMBC.

(iv)    In the letter faxed to OPD on 24 February 2011, it was indicated that there company was one of the nominated companies that was selected to participate in the tender. No evidence could be found that an invitation was forwarded to other service providers to participate.

                  Furthermore, it was noted from PA-21: Tender evaluation report to the NBAC that the BEC indicated to the NBAC that OPD was a sole provider. No evidence could be found that the market was tested for competition. Therefore, the AGSA is unable to conclude if a transparent and equitable pre-selection process was followed in nominating OPD to participate in the tender.

(v)     In the PA-01: Request for approval of the procurement strategy and PA-21: Tender evaluation report to the NBAC, it was indicated that the pre-tender estimate was R3 000 000. The tender was awarded for R11 586 078.78 to OPD. It could not be established from the documentation on the tender file as to why the tender estimate was changed and on which ground(s) and from which budget the additional costs would be defrayed. Furthermore, committing the department to an amount not budgeted/ appropriated for is a contravention of the PFMA, section 38(2).

(vi)    In a report issued by Aurecon on 7 March 2011, it was indicated that they scrutinised the bid document of OPD and identified various risks in appointing the bidder which amongst others included the following:

               **Technical risk:**

               **Meeting the technical specifications:** The unit prices were generally balanced;

               **Compliance with conditions of tender:** Most of the forms were completed and signed, however, critical supporting documentation required to evaluate the prospective bidder’s ability to initiate and complete the contract successfully was not provided;

               **Infrastructure and resources:** The tenderer’s plant listed in the tender is sufficient to execute the contract, but the availability of plant due to current workload is questionable;

               **Size of enterprise and workload:** The tenderer’s turnover for the previous financial year is unknown and the tenderer did not provide any information regarding current projects and therefore a conclusion cannot be drawn regarding the proposed contractor’s current obligations. However, from the completed schedule the indication is that the size of previous contracts are similar to this contract;

               **Previous experience:** The information submitted by the tenderer indicates that his experience is adequate and similar to the work required under this contract;

               **Financial ability:** Due to time constrains the financial standing of the tender was not assessed and no rating code can be provided.

               **Commercial risk:**

               **Quality of previous and current work:** The tender information provided by the tenderer is unsatisfactorily on the basis of their unknown financial status and experience. However the tenderer has listed experience in similar work and his pricing structure is generally balanced;

               **Comparison with pre-tender estimate:** No project budgets were provided to the consultant for review;

               **Reasonability of tender price:** The tenderer may be conditionally considered on condition that the tenderer will be supported on-site and advised by the consultant at an additional cost to the project;

In their recommendation, it was indicated that they cannot express a firm recommendation and proposed that DPW consider the following:

               The high level of management and training required for the project;

               The experience of the staff of the contractor as this information was not available;

               The provision of high level training – budget should be provided to allow for the required training and supervision.

In conclusion, the consultants indicated that the appointment of OPD poses a risk to the DPW with regards to the potential inability of OPD to successfully complete the project but added that the risk can be mitigated by the implementation of the recommendation especially the recommendation on the high level training that should be provided.

The BEC considered the risk assessment on 7 March 2011. However, only a few risks were addressed and resolution taken on. No evidence could be found that any of the resolutions taken were brought to the attention of the director of OPD. Furthermore, the BEC recommended OPD based on their opinion that OPD has the ability to execute the contract. The AGSA found the conclusion of the BEC to appoint OPD irrespective of the risks identified, to be a concern, as the risk assessment serves the purpose of pointing out the risks in appointing the contractor and to protect the interest of the DPW. If the BEC acknowledge the weaknesses and risks but indicate that they are not in agreement with the consultant’s conclusion, the risk assessment serves no purpose and can be seen as a fruitless exercise. The risks that were identified by the consultant with the appointment of OPD have a direct impact on the successful completion of the project. In appointing OPD, the DPW exposed itself to a financial risk which could result in fruitless and wasteful expenditure as defined in section 1 of the PFMA, if the contractor is unable to complete the project successfully in the tendered price or agreed contract period.

(viii)     The DPW-05: Contract data (GCC 2004) which is compiled in terms of “The General Conditions of Contract for Construction Works (GCC)” published by the South African Institute of Civil Engineering in 2004 and utilised by DPW for construction contracts as prescribed by the CIDB, provides in section 42.1 and 43.1 for the completion date of the work and penalty amount per day if contractor fail to complete the work in the set completion date.

The contract data document signed by DPW and OPD indicated in section 42.1 that the work had to be completed within six (6) months.  However, in section 43.1 DPW omitted to include the penalty amount per day, if the contractor failed to complete the work in the agreed completion period. This omission exposes DPW to the risk that should OPD fail to complete the project within the agreed time frame, the department will not be in a position to impose penalties. This may also result in OPD no complying with the time frame and the project exceeding the six (6) months and DPW having no legal remedy to enforce penalties.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations and the BEC recommending the contract to be awarded to OPD without weighing up the risks factors in appointing OPD. It is also a direct result of the BEC and NBAC not acting in accordance with their mandate, role and functions to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure; committing the department to an amount not budgeted/ appropriated for may result in unauthorised expenditure; and appointing contractors that poses a risk may result in DPW incurring fruitless and wasteful expenditure if contractor fail to perform.

Furthermore, if the BECs are not acting on the conclusions made in the risk assessments and only conducting these assessments because it is prescribed, the expenditure relating to the appointments of these consultants for the assessments could potentially also be classified as fruitless and wasteful expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Governance:**

The entity does not assess the likelihood and impact of risks identified.

The entity does not respond to the assessed risks by determining a risk strategy / action plan to manage identified risks.

**Recommendation**

(a)      Management must ensure that the department abides by the laws and regulations issued by the National Treasury and procedures issued by DPW management, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(b)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(c)      In approving deviations from the normal SCM process, management and NBAC should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers.

(d)      The DPW should implement effective measures to ensure that the BEC satisfy themselves during the evaluation process and before recommending the preferred bidder to the NBAC that the information provided in the bid documents are true and correct.

(e)      The BEC should consider risk assessment reports in a fair and unbiased manner to ensure that the DPW is not unnecessarily exposed to risks that was identified before the appointment was finalised. In future, the BEC should record their reasons and present it to NBAC for consideration and the BAC should scrutinise the reasons to verify if the reasons are valid and can be managed.

(f)       The BEC and BACs must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations.

(g)      Corrective action should be considered against the members of the BEC and NBAC for their failure to fulfill their mandate, role and functions and to ensure that the supply chain management process was fair and consistent and in line with the prevailing SCM prescripts.

(h)      Management must ensure that the information contained in the contract entered into with the contractor complies with the GCC (2004) prescribed by CIDB to ensure that DPW’s interest are protected sufficiently.

**Management response**

1. I am not in agreement with the findings. The procurement instruction was attached to the procurement strategy which specifically stated that the implementation of the repair program must start on 1 March 2011 in response to a call by National Government (See attached Procurement Instruction). Given the urgency of the project, it was impractical to invite competitive bids. The practical opinion was to deviate from the normal tender processes.
2. I am not in agreement with the findings. The Procurement instruction was attached to the procurement strategy which specifically stated that the implementation of the repair program must start on 1 March 2011 in response to a call by National Government (See attached Procurement Instruction). The procurement instruction was part of the procurement strategy. The NBAC therefore approved being aware of the reasons for the deviation and therefore did contradict DPW Acquisition Management Directive,
3. I am in agreement with the findings; the deviation was not reported to National Treasury and Auditor General however it will be reported.
4. I am not in agreement with the finding. The PA 21 does not state that OPD is a sole service provider. However OPD was indeed one of the few nominated service providers for the repair program in Tshwane. The department negotiated with them for the Tshwane South Region. The other service providers were nominated to enter into negotiations with them for other regions within Tshwane (Also see project manager’s response)

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| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | All bid documents will undergo quality assurance before they are sold. The department has implemented a checklist that will assist in the correct compilation of the tender documents | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | No |
| If yes, what corrections will be made to the population? | The department has implemented a checklist that will assist in the correct compilation of the tender document. | | |
| 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 | D:SCM | | |
| Estimated completion date of corrective action: | N/a | | |
| 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 | N/a | | |

(For part (v), (vii) and (vii) the project manager responded as follows:

We concur with the AG findings that negotiated procedure for the appointment of the Contractor OPD Construction (Pty) Ltd was used. The project directorate had advanced reasons to the Bid Evaluation Committee that hte appointment of contractors is linked to the planned launch of the program between the minister of public works and Executive Mayor of Tshwane .

The project as conceived was on pilot bases following the announcement by the minister of Public Works at Minmec Meeting whereby indication was made that Public Works would intervene to repair potholes in municipal areas to be selected.

We proposed that a negotiated procedure as funds were available for the remainder of the financial year and must be committed or expended before the end of the financial year. City of Tshwane has identified five regions for execution of this program and we therefore proposed to negotiatwith one contractor per region mainly due to time constraints and manageable size of beneficiaries to be involved on the project.

The selection of OPD Construction (Pty) Ltd was the competency of the Procurement administration as well as the responsibility to inform National Treasury about the deviation. The project directorate cannot confirm if the Procurement Office had informed National Treasury.

At the time the project was planned, the department of Public Works has based their estimate on the potential hours each beneficiary would work per month over the specific areas. However when engineers conducted the the conditions survey based on the streets provided by the City of Tshwane the quantities of the work increased. The pricing of the contractor was based on the quantities prepared by the engineers.

In accordance to the PA 13, the Procurement Administration had declared the bidder responsive in terms of the administrative process of check of documents. The findings by the Consulting Engineers (Risk Assessment) was responded to by the Evaluation Committee amongst the reasons was that OPD Construction Pty Ltd CIDB grading was a 6CE PE. In terms of the project plan DPW together with CSIR and EPWP was to offer training to all beneficiaries (to be selected by DPW) on procedure to repair potholes.

In terms of the management of the quality of works the engineer responsibility was further to act as Site Engineer to monitor the quality of work of the contractor to the satisfaction of the city of Tshwane design standards and of the roads.

The responsibility to register projects with the CIDB is the competency Procurement Administration. It is the conclusion of the directorate that thorough quality controls employed by the project manager and engineers (recommended by engineer risk report) the required quality of work was achieved and the project was concluded as such.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The project directorate will abide by the guideline of the Procurement Adminstration when effecting the procurement process | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| Uncertain | | Uncertain |
| If yes, what corrections will be made to the population? | The project directorate will be guided by the compliance directorate | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | Corrective measures will include continuous training and compliance to the updated procurement evaluation | | |
| Position of official responsible to take corrective action | Head of projects | | |
| Estimated completion date of corrective action: | Ongoing, depended of the circumstances of the project need of the client in particular when applying for negotiation procedure | | |
| 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:

Position:

Date:

**Auditor’s conclusion**

Management comments were noted. However there was no indication of the urgency of the matter on the procurement documents. The fact that the nomination process was used due to that the funds were available does not constitute a valid reason to deviate from the appropriate procurement process. There was no instruction of urgency which was received from the City of Tshwane there was no evidence provided that the department invited other suppliers in the nomination process thus the process was unfair and inequitable. The tender was awarded to the contractor who charged excessively above the estimate compiled by the quantity surveyors of the department. Thus the finding remains valid.

Managements’ response did not address parts (ii), (iii), (iv), (v), (vii) and (viii). The CIDB score does not mitigate the risks of the supplier’s risks associated with the past supply chain management practices, but only weighs the capacity of the supplier. The department continued with the award to the high risk supplier, irrespective of the criteria in the Procurement strategy which indicated that the supplier needed to pass the independent risk assessment of the client. Thus there was inconsistency in the evaluation process and the internal controls to mitigate technical and commercial risk of the contracts, the finding remains.

1. **COAF 94 - Deviations with the Supply Chain Management Prescripts: Reabetswe Projects CC (Reabetswe) Tender H11/013: Repairs to various potholes: Tshwane, East Region**

**Audit finding**

Laws, rules and regulations

(a)      PFMA, section 38(2) states that: “*An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.”*

(b)      Treasury Regulation 16A6.4 states that, “*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.”*

(c)      Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(d)      National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that: “*Should it be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole provider, the accounting officer may procure the required goods and services by other means, such as price quotations or negotiations in accordance with TR16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate*”.

(e)      Practice note 6 of 2007/2008 paragraph 3.1 states that: *“With effect from the date on which this practice note takes effect, 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.”*

(f)       National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(g)      National Practice Note Number 4 of 2006 dated 30 March 2006, par 3 states that, “*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 supply chain management system*

(h)      Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.9 issued 24 March 2006 states that “*The Bid Adjudication Committee may also, if and when required to so, consider for approval the recommendation of the Bid Specification Committee in order to ensure that strategic sourcing principles were applied and that the market was properly researched and analyzed.”*

(i)        Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.10 issued 24 March 2006 states that *“In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides, practices notes and circulars.”*

(j)        National Treasury issued Code of Conduct for Bid Adjudication Committees dated 24 March 2006, paragraph 2.5 states that, “*The Bid adjudication committee must ensure that all necessary bid documents have been submitted”.*

(k)      DPW-Directive: Acquisition and disposal management, paragraph 18 (table 1) states that *“The negotiated procedure is the least desirable of all acquisition procedures and the BAC may approve this procedure as a last resort. The reason for using the negotiated procedure must be motivated in the sourcing strategy for approval by the BAC.”*

(l)        DPW-Directive: Acquisition and disposal management, paragraph 188 states that, “*No official may participate in a BEC meeting unless that official has signed a declaration of secrecy and confidentiality, declaration of interest and code of conduct.”*

1. Construction Industry Development Board Regulations, 2004, section 17states that: “*A contractor registered in a contractor grading designation indicated in column 1 of the table below, is considered to be capable of undertaking a contract in the range of tender values indicated in the class of the construction works to which the category of registration of that contractor relates.”*

| ***Contractor Grading Designation*** | ***Less than or equal to (R)*** |
| --- | --- |
| *1(class of construction works)* | *200 000* |
| *2(class of construction works)* | *650 000* |
| *3(class of construction works)* | *2 000 000* |
| *4(class of construction works)* | *4 000 000* |
| *5(class of construction works)* | *6 500 000* |
| *6(class of construction works)* | *13 000 000* |
| *7(class of construction works)* | *40 000 000* |
| *8(class of construction works)* | *130 000 000* |
| *9(class of construction works)* | *No Limit* |

During the review of the appointment of Reabetswe, the following was noted:

1. (a)      In a memo dated 1 February 2011 from Mr Molotsi (CD: Professional Services) approval was requested to embark on a project for the repair to various types of potholes on main roads, access roads and arterial roads in various provinces. The request was approved by Mr Mabuza, DDG: Projects on the same day. The request for approval of funding for the project was considered and approved by the Planned Maintenance Budget Committee (PMBC) on 3 February 2011 subject to the National Treasury (NT) being informed. The estimated costs for the project was R191 900 000 which was to be defrayed from the 2010/2011, 2011/12 and 2012/13 budgets. A procurement instruction to procure the services of professional civil engineering firms for road condition assessments on priority roads in identified areas was issued on 4 February 2011 to the D: Special & Major Project.

The PA-01: Request for approval of the procurement strategy for the project was compiled by the project manager, Ms Mohlopi on 21 February 2011 and supported by Mr Molotsi on the same day. In the strategy it was indicated that the procurement procedure proposed is the “Negotiated procedure”. The NBAC approved the procurement strategy on 22 February 2011. The estimated value of the tender was R3 000 000.00.

In an undated letter to Reabetswe, it was indicated that their company is one of the nominated companies to participate in the “Repair to various potholes: Tshwane-East Region”. It was indicated that a compulsory briefing session was to be held on 24 February 2011 and their bid proposal must be submitted before 28 February 2011 at 11:00. The bid proposal of Reabetswe was submitted on 28 February 2011.

In a meeting held on 7 March 2011, the BEC recommended that Reabetswe be appointed subject to the service provider signing the certificate of independent bid determination. Based on the recommendation from the BEC, the PA-21: Tender evaluation report to the NBAC was submitted by Ms C Mohlopi on 7 March 2011 to the NBAC recommending the award of the contract to Reabetswe for an amount of R11 208 722,25. The NBAC approved the award on 08 March 2011.

In a letter dated 17 March 2011, Reabetswe was informed that they their bid dated 28 February 2011 for the repair to various potholes: Tshwane East Region for an amount of R11 208 722,25 (incl. VAT) was accepted. The DPW-07 – Form of offer and acceptance was signed by Reabetswe on 28 February 2011 on the submission of their proposal and accepted by DPW on 17 March 2011.

The SCM process followed in the appointment of Reabetswe was in contravention of the prevailing prescripts in view of the following:

(i)      The PA-01: Request for approval of the procurement strategy indicated that the estimated value of the bid was above R500 000 and therefore a competitive bidding process had to be followed. It was however noted that the DPW opted to follow the negotiated procedure. It is clearly stated in the PA-01 that if a negotiated procedure is to be followed, it must be fully motivated. Furthermore, TR16A6.4 and PN 8 of 2007/2008 states that if goods and services are procured through negotiations, the reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer or his/her delegate.

         No motivation was found to the BAC on the tender file submitted to the AGSA for review, motivating the deviation from the normal SCM process in contravention of PN 8 of 2007/2008.

(ii)     The NBAC approved the procurement strategy on 22 February 2011 without a motivation being attached to explain why the negotiated procedure is being selected in contravention of the DPW: Acquisition management directive and PN No. 8 of 2007/2008. Therefore, the NBAC acted in contravention with their mandate, role and function as set out in the Code of Conduct for BACs, as they approved the procurement strategy without ensuring that the sourcing strategy was justified and in line with the prevailing SCM prescripts.

         Furthermore, the value of the goods that were procured was above R1 million and therefore the deviation had to be reported to the National Treasury and the AGSA within 10 working days after the services were procured. The deviation was not reported to the National Treasury or the AGSA in contravention of PN No. 6 of 2007/2008, par 3.1.

(iii)    The PMBC approved the funding for the project on 3 February 2011 subject to the National Treasury being informed. No evidence could be found on the tender file submitted to the AGSA for review that the NT was informed as instructed by the PMBC.

(iv)    In the undated letter to Reabetswe it was indicated that there company was one of the nominated companies that was selected to participate in the tender. No evidence could be found that an invitation was forwarded to other service providers to participate.

               Furthermore, it was noted from PA-21: Tender evaluation report to the NBAC that the BEC indicated to the NBAC that Reabetswe was a sole provider. No evidence could be found that the market was tested for competition. Therefore, the AGSA is unable to conclude if a transparent and equitable pre-selection process was followed in nominating Reabetswe to participate in the tender.

      (v)    In the PA-01: Request for approval of procurement strategy and PA-21: Tender evaluation report to the NBAC, it was indicated that the pre-tender estimated was R3 000 000. However, the tender was awarded for R11 208 722,25 to Reabetswe. It could not be established from the documentation on the tender file as to why the tender estimate was changed and on which ground(s) and from which budget the additional costs would be defrayed. Furthermore, committing the department to an amount not budgeted/ appropriated for is a contravention of the PFMA, section 38(2).

(vi)    In the BEC meeting held on 7 March 2011, the BEC recommend the appointment of Reabetswe subject to the contractor signing the Certificate of independent bid determination. In terms of Practice Note issued 21 July 2010, paragraph 3.1.2, 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.

The tender document issued to the prospective bidder (Reabetswe) did not include the SBD 9: Certificate of independent bid determination and therefore the DPW had to forward the document to Reabetswe. No evidence could be found on the tender file reviewed by the AGSA that the DPW requested Reabetswe to complete the certificate or that Reabetswe completed the document before the award was finalised. Failure to complete the document exposes the DPW to the risk of bid rigging and the abuse of the SCM system.

(vii)   It was indicated on the PA-09 (EC): List of returnable documentation issued to Reabetswe that the tender document includes a PA-11.1 (EC): Declaration of interest and tenderer’s past supply chain management practices. The bidder was required to complete and submit all the documents listed on the PA-09. It was however noted that the tender document issued to Reabetswe only included a PA-11: Declaration of interest. Therefore, Reabetswe did not declare their past supply chain management practices. This is in contravention of PN no. 4 of 2006, paragraph 3 which exposes DPW to the risk of abuse of the SCM system.

(viii)  The required CIDB grading for the contract as per the procurement strategy document was 4CE or higher and 3CE PE or higher, for potential emerging enterprises. In terms of the CIDB regulations, section 17, contractors with a 3 - class of construction designation is considered to be capable of undertaking a contract less than or equal to R2 million and a 4 - class of construction designation is considered to be capable of undertaking a contract less than or equal to R4 million.

In the minutes of the BEC meeting held on 7 March 2011, it was stated under Technical Risk that “*By virtue of been on Grade 6CE PE, the bidder should be able to successfully execute the project. Equipments and skilled labour are the requirements for grading of the bidder”.*

However, a printout from the CIDB database dated 22 February 2011 indicates that Reabetswe is register as a 5CE PE and 5GB PE. In terms of the CIDB regulations, section 17, contractors with a 5 - class of construction designation is considered to be capable of undertaking a contract less than or equal to R6,5 million. The value of the contract awarded to Reabetswe amounted to R11 208 722,25 which raises the question if Reabetswe has the capability to execute a contract of this magnitude. Furthermore, the BEC recommended the contract to Reabetswe based on incorrect information. Had the correct information been used, the outcome could have differed.

         (x)     In contravention the DPW-Directive: Acquisition and disposal management, paragraph 188, two officials “Mr DH Papo” and “Ms N Jodo”, present in the BEC meeting held on 7 March 2011, did not sign the PA-18.1: Declaration of interest and confidentiality form.

         (xi)    In the minutes of the BEC meeting held on 7 March 2011, reference is made to a report where the commercial and technical risks in appointing Reabetswe were analysed. The said report was not provided to the AGSA for review which constitute a limitation of scope.

(xii)      The DPW-05: Contract data (GCC 2004) which is compiled in terms of “The General Conditions of Contract for Construction Works (GCC)” published by the South African Institute of Civil Engineering in 2004 and utilised by DPW for construction contracts as prescribed by the CIDB, provides in section 42.1 and 43.1 for the completion date of the work and penalty amount per day, if a contractor fail to complete the work in the set completion date.

The contract data document signed by DPW and Reabetswe indicated in section 42.1 that the work had to be completed within six (6) months. However, in section 43.1 DPW omitted to include the penalty amount per day, if the contractor failed to complete the work in the agreed completion period. This omission exposes DPW to the risk that should Reabetswe fail to complete the project within the agreed time frame, the department will not be in a position to impose penalties. This may also result in Reabetswe no complying with the time frame and the project exceeding the six (6) months and DPW having no legal remedy to enforce penalties.

(c)          The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and the BEC recommending the contract to be awarded to Reabetswe without verifying that all the prescribed documentation was submitted and ensuring that their recommendation is based on accurate information. It is also a direct result of the BAC not acting in accordance with their mandate, role and functions to ensure that the SCM was fair and consistent and in line with the prevailing SCM prescripts.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      Management must ensure that the department abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(b)      The DPW should implement effective measures to ensure compliance with the requirement that bids may not be considered by the DPW, if all the required documentation has not been submitted by the bidders. Furthermore, the DPW should ensure that bid documents issued to bidders comply with the requirements of NT.

(c)      In approving deviations from the normal SCM process, management and BAC should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers.

(d)      The DPW should implement effective measures to ensure that the BEC satisfy themselves during the evaluation process and before recommending the preferred bidder to the BAC that the information provided in the bid documents are true, correct and complete.

(e)      The BAC must be familiar with and adhere to all relevant SCM legislation, policies, guides, practice notes and circular to ensure that they meet their obligations. Furthermore, the BAC should ensure that before an award is approved that all the pre-conditions for the tender e.g. notifications to NT are complied with.

(f)       Corrective action should be considered against the members of the BEC and BAC for their failure to fulfill their mandate, role and functions and to ensure that the supply chain management process was fair and consistent and in line with the prevailing SCM prescripts.

(g)      The DPW should consider corrective action against the BEC for misleading the BAC in stating that the bidder had a 6CE PE grading instead of a 5CE PE grading.

(h)      Every official who attend a BEC meetings must sign the declaration of interest and confidentiality form. The DPW should enforce this principle to ensure that all members including observers or officials who were initially not appointed members of the BEC but attend the BEC evaluation meeting, sign the form.

**Management response**

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

We concur with AG findings that negotiated procedure for the Appointment of the Contractor Reabetswe Projects cc was used.  The project directorate had advanced reasons to the Bid Evaluation Committee that the appointment of Contractors is linked to the planned launch of the program between the Minister of Public Works and the Executive Mayor of City of Tshwane.

The project as conceived was on pilot bases following the announcement by the Minister of Public Works at the Minmec Meeting whereby indication was made that Public Works would intervene to repair potholes in municipal areas to be selected.

We proposed negotiated procedure as funds were available for the remainder of ht efinancial year and must be committed or expended before end of this financial year.  City of Tshwane has identified five regions for execution of this program and we therefore propse to negotiate with one contractor per region mainly due to time contrains and manageable size of beneficiaries to be involved on the project.

The selection of Reabetswe Projects cc was the competency of the Procurement Administration, as well the responsibility to inform the National Treasury about the deviation.  The project directorate cannot confirm if the Procurement Office had informed National Treasury.

At the time the project was planned, the Department of Public Works had based their estimate on the potential hours each beneficiary would work per month over the specific areas.  However when the Engineers conducted the conditions survey based on the streets provided by City of Tshwane the quantities of the work increased.  The pricing of the contractor was based on the quantities prepared by the engineers.

In accordance to the PA 13, the Procurement Administration had declared the Bidder Responsive in terms of administrative process of check the documents.  The findings by the Consulting Engineers (Risk Assessment) was responded by the Evaluation Committee amongst the reasons was that Reabetswe Projects cc CIDB grading was 6CE PE.  In terms of the project plan DPW together with CSIR and EPWP was to offer training to all beneficiaries (to be selected by DPW) on procedure to repair potholes.

In terms of management of quality of works the Engineer responsibility was further to act as Site Engineer to monitor quality of the contractor to the satisfaction of the City of Tshwane design standards of the roads.

The responsibility to register projects with CIDB is the competency of Procurement Administration.

It is the conclusion of the directorate that through quality controls employed by the project manager and engineers (recommended by the engineer risk report) the required quality of work was achieved and the project was concluded as such.

Name: Makgwadi Mabuso

Position: D: PMS

Date: 8/6/2012

**Auditor’s conclusion**

Management comments were noted. However there was no indication of the urgency of the matter on the procurement documents. The fact that the nomination process was used due to that the funds were available does not constitute a valid reason to deviate from the appropriate procurement process. There was no instruction of urgency which was received from the City of Tshwane. There was no evidence provided that the department invited other suppliers in the nomination process thus the process was unfair and inequitable. The tender was awarded to the contractor who charged excessively above the estimate compiled by the quantity surveyors of the department. Thus the finding remains valid.

The CIDB score does not mitigate the risks of the supplier’s risks associated with the past supply chain management practices, but only weighs the capacity of the supplier. The department continued with the award to the high risk supplier, irrespective of the criteria in the Procurement strategy which indicated that the supplier needed to pass the independent risk assessment of the client. Thus there was inconsistency in the evaluation process and the internal controls to mitigate technical and commercial risk of the contracts, the finding remains valid.

1. **COAF 118 - Deviations with the Supply Chain Management Prescripts: Sizwe Ntsaluba VSP Services (Pty) Ltd (Tender H10/047): Provision of financial management assistance for DPW**

**Audit finding**

Laws, rules and regulations

(a)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)      National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that, *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.*

(c)   National Treasury Practice Note 6 of 2007/08, par. 2.3 states that: “*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”*

(d)  National Treasury Practice Note 6 of 2007/2008 par.2.5 states that: “*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*”

(e)    National Treasury Practice Note 3 of 2003 par 10.5.1 states that: “*Single-source selection of consultants does not provide the benefits of competition in regard to qualify and cost and lacks transparency in selection and could encourage unacceptable practices.  Therefore, single-source selection should be used only in exceptional cases.  The justification for single-source selection should be examined in the context of the overall interests of the client and the project.*

(f)     National Treasury Practice Note 3 of 2003 par 10.5.2 states that: “*Single-source selection may be appropriate only if it presents a clear advantage over competition: for tasks that represent a natural continuation of previous work carried out by the firm; where a rapid selection is essential (for example, in an emergency operation); for very small assignments; or when only one firm is qualified or has experience of experience of exceptional worth for the assignment.”*

During the review of the appointment of SizweNtsaluba VSP services (Pty) Ltd, the following were noted:

1. A bid specification and evaluation committee (BSC/BEC) as stated on PA-25, which was approved by Trevor Tabane, the Head of Projects on 30 November 2010 issued a procurement strategy on the same day to the National Bid Adjudication Committee (NBAC) for approval.  The procurement strategy stated that the negotiated procedure with SizweNtsaluba would be used as a procurement method.   Further method 1 (financial offer) was selected as the evaluation method along with the 90/10 preference point system.  No indication was made o f the HDI points and points for specific goals that would be allocated if applicable.  A meeting was also held on 30 November 2010 by the BSC/BEC. The chairperson gave a background on the financial management support that the department requires in pursuit of a clean audit. She also reported that the Auditor-General South Africa had raised a concern that the Department had not done its Interim Financial Statements.  The chairperson also informed the committee that she had written a report to the Director General articulating the need for the financial support and the sourcing strategy that will be embarked on, which the DG has supported.  The procurement strategy was supported by 5 members of the NBAC and approved by the chairperson of the NBAC on 1 December 2010.
2. A further meeting was held by the BSC/BEC on 6 December 2010.  The meeting was attended by 4 of the members of the BSC/BEC and representatives of SizweNtsaluba VSP services (Pty) Ltd.  PA-18 was circulated to BSC members, no interest was said to have been declared.  The representatives of SizweNtsaluba VSP services (Pty) Ltd made a presentation of their proposal and the committee was satisfied with the proposal submitted.  It was concluded that Tina Mkhulise, the procurement official was to submit all the tender documents for adjudication on 7 December 2010.
3. A bid evaluation report to the NBAC (PA-21) dated 6 December 2010 recommending the awarding of the tender to SizweNtsaluba VSP (Pty) Ltd, was submitted by the BEC.
4. The NBAC approved the awarding to the tender for the provision of financial management support for DPW on 7 December 2010.
5. A letter of offer signed by the deputy director of legislative drafting and contract administration was issued to Sizwe Ntsaluba Consulting for the provision of financial management assistance to the department of public works for the amount of R5 987 565,92.

The SCM process followed in the appointment of SizweNtsaluba VSP (Pty) Ltd was in contravention of the prevailing prescripts in view of the following:

1. Although as stated in the terms of reference (TOR) that is was detrimental at the stage that the department was in terms of its recording keeping, to bring on board a new service provider who will spend time trying to understand the accounts as opposed to implementing corrective measures, this motivation for deviating from the competitive bidding process is not sufficient for it to constitute an emergency in light of National Treasury Practice Note 6 of 2007/08, par. 2.3.  Further despite the fact that the director general approved the source strategy, the single source selection of a consultant in contravention of National Treasury Practice Note 3 of 2003 par 10.5.1 & 10.5.2, reason being that the assignment is not a continuation of previous work performed, it is a new assignment that SizweNtsaluba VSP services (Pty) Ltd  would be entering, as per the TOR the scope is of high level suggesting that it is not a small assignment and  SizweNtsaluba VSP (Pty) Ltd is not the sole provider of financial management support services.
2. Although the motivation for the negotiated procedure, a deviation from the competitive bidding process, stated that the stage at which the department was in at was in terms of its financial record keeping, and that it was detrimental that a contract be entered with a new service provider for financial management support, this does not constitute an urgency in the form of an emergency as per National Treasury Regulation 16A.6.3 par (c).
3. A record of the contract entered into with the SizweNtsaluba VSP service (Pty) Ltd was not included in the bid file which is in contravention with PN 1 of 2003 paragraph 2.3.

The PMTE is in contravention of the prevailing prescripts in view of the following:

(a)  The PMTE deviated from the competitive bidding process, however sufficient reasons for the deviation from not inviting competitive bids was not adequately documented before approval by the bid adjudication committee as the procurement strategy and need assessment were not included in the contract file.

(b)  The PMTE does not have proper controls in place over filing of procurement documentation as the contract signed by both parties and need assessment were not in the contract file.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations as competitive bidding process was not followed.

Signed contract by both parties (Department of Public Works and Sizwe Ntsaluba) not on procurement file will constitutes a limitation of scope as will be unable to perform the planned audit procedures.

Non compliance with TR16A6.4,Practice note 6 of 2007/08 and Practice note 8 of 2007/2008 will lead to the incurrence of irregular expenditure of total amount paid and tested of R4 560 000.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.

(b)  Supply Chain Management officials should ensure that procurement file that is captured at registry/legal service have all relevant supporting documents such as needs assessment and contract signed by both parties

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 24/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 183: Deviations with the Supply Chain Management Prescripts: Appointment for professional services of PHASE III Bryntirion Estates-Refurbishment of Mahlamba-Ndlopfu**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure”**means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Practice Note 8 of 2007/2008 states that: *“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 6 of 2007/2008 paragraph 3.1 requires that, “*With effect from the date on which this practice note takes effect, 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.”*

During the audit of PHASE III, Bryntirion Estates-Refurbishment of Mahlamba-Ndlopfu, the following was noted:

(a)  The Presidency requested per letter dated 16 April 2007 new and additional interior and exterior work and other services for the Mahlamba Ndlopfu residence, continuing from the refurbishment project that began in 2005. The New Phase requirements were prepared by the quantity surveyors (dated 29 June 2007) of all the internal and external requirements per room to arrive at the estimate of R13 781 413,00. The internal procurement instruction dated 19 December 2007 directed to the Directorate-Projects and Maintenance stated that the refurbishment was a matter of urgency and funding would be sourced from Capital Budget expenditure.

(b)  Per internal memo dated 7 April 2008, the project manager requested the NBAC to appoint the same consultants that were initially appointed in PHASE II of the same project, due to the Mahlamba Ndlopfhu being a highly sensitive area for security reasons as the President occupies the residence. It was further indicated that these consultants knew the requirements and that the consultant team was instructed by the previous project manager and the previous DG to commence with the upgrading of the areas being identified by the Household which could not be done as part of Phase I. The motivation stated that consultants had already done the investigation that would be necessary for the developments of the upgrade of Mahlamba Ndlopfu.

(c)  The project manager indicated that the Presidency required the shortest possible route to be followed to provide them with the upgrading of the residence. The project manager further stated that there would be no need for the consultant team to do the investigations because they knew what the Household personnel required and would assist with the minimum changes to the design which had already been approved by the department's Sketch Plan Committee.

(d)  The estimated cost of Phase III was R37 000 000,00. The fees would only be calculated on the amount that it would cost for the upgrading of all the work necessary and identified by the Household. The consultant team would be appointed on the standard percentage basis that is currently applied by the department. The consultants were to provide letters in which they gave their discounted percentages.

The summary of the discounts offered was as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Consultant** | **Date of appointment letter** | **Description of the services** | **Discount offered by the consultant** |
| PSW Consulting Engineers | 2008/08/19 | Mechanical Consulting engineer (Air Conditioning, Ventilation, Refrigeration, Fire prevention installation, Fire detection, alarm system,) | 5% |
| Remmers& Schutte Architects | 2008/08/19 | Architectural service -Refurbishment, alterations, and new works not completed by the existing contractor. | 17.5 % |
| Quantispes Quantity Surveying Services | 2008/08/19 | Quantity Surveying Services | 7.5% |
| DNMZ Consulting Engineers CC | 2008/08/19 | Civil engineering services | 0% |
| D.J.J Conradie & Partners CC | 2008/08/19 | Electrical Engineering Services | 10% |
| Golder Associates Africa (Pty) Ltd | 2009/11/24 | Landscape Architectural Services | 12% |

(e)  On 15 April 2008, the Bid Adjudication Committee approved the decision to award the contracts to the above mentioned consultants. The approval stated that the BAC was supporting the decision of the DG who had already approved the re-appointment of the consultant firms.

During the review of the award of the contracts for the consultants for the Refurbishment for Mahlamba Ndlopfu estates, the following was identified.

(a)  The project manager informed the suppliers of their re-appointment for the Phase III of the project. The following suppliers did not submit their signed letter of acceptance to the department indicating that they acknowledge the appointment:

(i)            DNMZ Consulting Engineers CC

(ii)           D.J.J Conradie & Partners CC

(b)  The following suppliers did not submit their valid tax clearance certificate upon re-appointment, even though the one which was originally submitted for the appointment on Phase I had expired:

(i)      Remmers& Schutte Architects

(ii)     DNMZ Consulting Engineers CC

(iii)    D.J.J Conradie & Partners CC

The project manager indicated that the consultants did not provide the information and there was no follow up to enquire about the non submission of the above mentioned documentation.

(c)  The estimate for the consultants contract was for R13 781 413,00 and the procurement process was a “Nomination” method, thus the deviation from the normal procurement process should have been reported to the AGSA and National Treasury within 10 days; however no such evidence of the reporting could be provided/obtained. This constitutes non compliance with Practice Note 6 of 2007/2008.

The deviations listed above are a reflection that the internal controls to ensure that the rules and regulations are complied with, are not effective within the department.

The above results in non compliance with the laws, rules and regulations as listed above and as a result irregular expenditure of R1 108 634,23 (previous years’ expenditure) will be incurred due to the three suppliers not submitting their valid tax clearance certificates. This irregular should be disclosed in the books of the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular expenditure of PMTE.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  The official responsible for the procurement of goods and services must ensure that all the suppliers had submitted all the necessary documents to comply with the laws and regulations and to provide evidence of the awards.

(b)  The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular or fruitless and wasteful expenditure.

(c)  The department must keep a complete record of all the contracts including for professional services where the competitive procurement process was not followed and ensure that the appropriate reporting was made to the AGSA and National Treasury.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 24/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 256 - Irregular Expenditure – Prior Year irregular expenditure findings**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (a)(i) of the PFMA states the following: “*The accounting officer for a department, trading entity or constitutional institution must ensure that the department, trading entity or constitutional institution has and maintains an effective, efficient and transparent systems of internal control.”*

(c)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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...”*

During the review of the irregular expenditure findings from the prior year the following was noted:

(a)    The Irregular expenditure findings from the prior year were analysed in terms of inspecting the BAS and PMIS (Lease payments) to establish whether any payments were made for the specific item in the current year. If the specific item was marked as irregular in the previous year any further payments which were made in the current year would constitute irregular expenditure in the new year. In certain instances we were unable to obtain the WCS number hence the total payments made to the supplier has been included as the possible irregular expenditure amount. It was ascertained that the following items have not been included as irregular expenditure in the current year (2011/2012) irregular expenditure register and therefore irregular expenditure is understated by these amounts.

# 

# Variation orders not approved in terms of the Supply Chain Management delegations (HO)

| **Project (WCS number)** | **Supplier** | **Payments**  **R** | **Date** |
| --- | --- | --- | --- |
| 042571 | Otis Ltd | 123 650.84 | 2011/07/29 |
| **TOTAL** |  | 123 650.84 |  |

**2a). Variation order not approved**

| **Project (WCS number)** | **Supplier** | **Payments**  **R** | **Date** |
| --- | --- | --- | --- |
| H05/054 | M Mokgawa Mtshali & Associates | 450 754,02 | 2011/07/12 |
| **TOTAL** |  | * 1. **4,02** |  |

# 3. SBD 4 has not been submitted with the bid documentation

|  |  |  |
| --- | --- | --- |
| **Tender number** | **Supplier** | **Payments**  **R** |
| H09/062 | Botes en Kennedy Manyano (Pty) Ltd | 19 017 393 .28 |
| **Total** |  | 19 017 393 .28 |

# 4. Payments made on lease that expired (PTA)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Date of discovery** | **Building Name or Landlord** | **File Number** | **Incident Description** | **Current Year Payments**  **R** |
| 13-Apr-11 | SENTECH (PTY) LTD | 6029/6026 | Lease expired on November 2010 | 12 352,22 |
| 13-Apr-11 | PIC PROPERTY MANAGEMENT | 6029/6703 | Lease expired on Dec 31 2010 | 8 582 222,61 |
| 13-Apr-11 | DOUBLE RING TRADING 156 PTY LT | 6029/0187 | lease expired in June 2010 | 2 873 612,62 |
| **Total** |  |  |  | * 1. **68 187.45** |

# 5. Contract extended without requesting new bids/quotations (PTA)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **NO** | **SUPPLIER NAME** | **Amount approved for extension** | **Expiry of contract** | **Current Year Payments**  **R** |
| 1 | TSANGOANE MANAGEMENT SOLUTION (security services) | R18 000,00 | Not provided | 178 850,00 |
| 2 | STEINER HYGIENE (Hygiene services) | R136 056,00 | 31 May 2010 | 15 737,00 |
| 3 | MATEBELLA CLEANING and CATERING (hygiene services) | R2 880,70 | 31 March 2010 | 224 002,85 |
| 4 | MARENA NALEDI BUSINESS ENTERPRISE (hygiene services) | R19 671,84 | 30 April 2010 | 1 159 413,22 |
|  | **Total** |  |  | * 1. **578 003.07** |

# 6. No proof that lessor is registered for VAT (PTA)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Date** | **Item Description** | **Amount**  **R** | **Lease no:** | **Lessor** |
| 2010/04/28 | RENTAL LEASE | 49,383,021.08 | 6029/0157 | ENCHA PROPERTIES PTY LTD TRUST |
| 2010/06/29 | RENTAL LEASE | 214,106.60 | 6007/0206 | SCHOEN JS |
| 2010/06/29 | RENTAL LEASE | 20,081,995.62 | 6029/1554 | SUMMERMANIA SEVEN (PTY) LTD |
| 2010/07/26 | RENTAL LEASE | 17,833,373.85 | 6029/6679 | REDEFINE PROPERTIES LIMITED |
| 2010/07/26 | RENTAL LEASE | 21,084,735.02 | 6029/6270 | DOMAYNE PROPERTY MANAGERS |
| 2010/08/26 | RENTAL LEASE | 30,906,838.48 | 6029/0231 | REDEFINE PROPERTIES LIMITED |
| 2010/09/28 | RENTAL LEASE | 29,000,159.18 | 6029/6236 | REDEFINE PROPERTIES LIMITED |
| 2011/01/04 | RENTAL LEASE | 3,276,736.26 | 6029/6542 | MANAKA PROPERTY INVESTMENT |
| 2011/01/04 | RENTAL LEASE | 3,800,968.28 | 6029/6711 | CITY PROPERTY ADMINISTRATION |
| 2011/01/26 | RENTAL LEASE | 10,422,859.20 | 6029/4580 | REDEFINE PROPERTIES LIMITED |
| 2011/01/26 | RENTAL LEASE | 11,578,692.59 | 6029/6563 | OLD MUTUAL PROPERTIES |
| 2011/02/22 | RENTAL LEASE | 2,301,597.72 | 6029/6171 | NEW HEIGHTS 326 PTY LTD |
|  | **TOTAL** | * 1. **85 083.88** |  |  |

# 7. Lease that are up for renewal not identified 6 months prior to expiry. (PTA)

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Building** | **File No** | **Payments (Current year)** |
| 1 | 202 Essellen | 6029/6610 | 962,670.84 |
| 2 | ABSA Building | 6029/6677 | 1,563,455.75 |
| 3 | Provisus Building | 6029/0618 | 206,285.19 |
| 4 | Prodinsa Building | 6029/6619 | 14,438,575.74 |
| 5 | Soshanguve Building | 6029/6237 | 39,501.00 |
| 6 | Pieter De Bruin | 6029/7001 | 660,960.00 |
| Total |  |  | * 1. **71 448.52** |

# 8. Disclosure of designated employees’ interests

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **SUPPLIER NAME** | **SUPPLIER NO** | **ENTITY TYPE** | **ENTITY REGISTRATION** | **PAYMENTS BETWEEN 1 SEPTEMBER AND  31 MARCH 2011 (Period for which employee was employed at DPW)** | **TOTAL PAYMENTS MADE TO HHO CONSULTING** |
| HHO Consulting Engineers | 286870 | Private Company | 1995/011805/07 | R105 879,89 | R1 957 412,35 |

The employee is a director of the company as indicated in the table above. However, he failed to disclose his interest in the supplier.  The employee was appointed on 1 March 2010 but the interest in HHO Consulting Engineers was not disclosed by the employee in financial interest form and the employee signed the form on 27 August 2010.The employee has however resigned on 17 June 2011, therefore amounts paid to the supplier while the employee was employed amounted to R486 075,12.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FIRSTNAMES** | **SURNAME** | **MEMBER STATUS** | **JOB TITLE** | **PERSONNEL NUMBER** | **APPOINTMENT DATE** |
| Asraf Mohamed | Adam | Active | Chief Operations Officer | 23523115 | 01/03/2010 |

The above deviations occurred as a result of the following:

(a)  Management has not implemented the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that all irregular expenditure was in fact disclosed as such in the current year.

The above deviations constitute non compliance with the applicable laws, rules and regulations as listed above and as a result the irregular expenditure disclosure note is understated by the current year payments made on the above irregular expenditure findings from the prior year management report.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

Furthermore the accounting officer has not communicated policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities.

## Financial and performance management:

The entity did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    Management must ensure that all policies and procedures are clearly communicated and understood by all staff members. Additional controls should be implemented to ensure that the correct authority condones the irregular expenditure.

(b)    If a contract has been identified as irregular in a particular year, all subsequent payments which are made on the contract will be regarded as irregular. The entity must include all such payments as irregular in the Irregular expenditure registers as well as the disclosure thereof in the financial statements.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 24/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 141 - Deviations with the Supply Chain Management Practices: Summermania Seven (Pty) Ltd, Water Affairs, Zamadaka building (6029/0134)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following, *”Irregular expenditure  means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

*(a)    this Act; or*

*(b)    The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that, *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(c)  National Treasury Practice note 8 of 2007/2008 paragraph 3.4.3 states that, “*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*.”

(d)  Practice note 6 of 2007/2008, paragraph 3.1 states that, “*With effect from the date on which*

*this practice note takes effect, 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.”*

(e)  Paragraph 40(1)(a) of the PFMA stipulates that*, “ 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 the prescribed norms and standards”.*

During the review of the renewal of the lease for 10 383 square meters (m2) and 32 parking bays at the Zwamadaka Building for the Department of Water Affairs, the following was noted:

(a)  The renewed lease for 10 383 m2 and 32 parking bays commenced on 1 July 2005 and terminated on 30 June 2008.

(b)  A submission was made to the Regional bid adjudication committee for the renewal of the building from 1 August 2008 to 31 July 2009 on a month to month basis.  No approval for the above could be found on file.

(c)  In 2009 an attempt was made to renew the lease for nine years and eleven months from 1 July 2009.  The acceptance of offer dated 17 July 2009 indicated that the Regional Bid Adjudication Committee had recommended that the lease be renewed for 9 years and 11 months commencing on date of occupation.  It was also noted that the lease agreement will only be signed subject to the landlord confirming an amount of R450/m2 towards tenant installations and surrendering the allowance to the Department of Public Works as it will be specified in schedule two of the lease agreement. No approval or signed lease agreement/schedule could be found on file or obtained from the PMTE.  No approval of the above renewal could be found on file.

(d)  In an internal memorandum addressed to the Chief Financial Officer on 29 March 2010 aiming to obtain the Acting DG's approval for the renewal of properties on the same terms and conditions as the expired lease (1 July 2005 to 30 June 2008) for a period of one year from 1 November 2009 to 30 October 2010. The following was discussed in the memo, “*These leases have expired and a client is still in occupation of the accommodation. Due to the fact that consensus cannot be reached with the lessor on issues like defects; maintenance, rental or other disputes, or lack of clarity from the client and failure from a client department to provide a revised needs assessment timeously...The lease has to continue on a monthly basis (not exceeding a year) pending outcome… The lease therefore has to continue on a monthly basis (not exceeding one year) pending outcome. Expo Facto submissions will be prepared for the period from 1 November 2009 until date of approval*”.  The acting Director-General approved the renewal on 29 March 2010.  Thus the submission and approval of the renewal of the lease on a month to month basis was done subsequent to the commencement of the period for which approval was requested.

(e)  As per the approval by the Regional Bid Adjudication Committee on 28 February 2010 the request was approved subject to funds being cleared by acquisitions.

(f)   During 2011 another attempt to renew the lease was made. As per the procurement instruction supported and signed by the acting COO on 15 July 2011 the following was stated, “*The Department of Water Affairs (DWA) is currently accommodated at the Zwamadaka building in Pretoria. The current lease agreement has expired and the client has requested that DPW should start with the process of renewal the lease immediately and ensure that the landlord undertake commitment with regards to maintenance of the building. The client has requested that lease be renewed for 5 years*.”

(g)  As per PA-01.1(LS) *Request for approval of the procurement strategy for a negotiated procedure* dated 13 July 2011 the motivation for negotiated procedure was as follows:“

(i)    Accommodation required is of a huge magnitude.

(ii)   A specific locality is imperative. It was further noted that the DWA Head Office buildings are located next to each other and that cost relocation, will not be financially viable.

(iii)  Furthermore the leases have been on a month to month basis and the department would like to renew the lease for five years.

(h)  Approval was obtained by the Special national bid adjudication committee on 15 July 2011 to negotiate at the current rental until such time that the building had been repaired and maintained to a level that justified a revised market related rental.

(i)    No final approval or signed lease agreement for any of the leases listed above post the termination of the lease on 30 June 2008 could be found on file or provided by the PMTE for the above mentioned lease .  The lease has thus been running on a month to month basis since the termination date of 30 June 2008.  This was confirmed through discussions with Property Management officials and per data on PMIS.

(j)    The above deviations from the competitive bidding process were not reported to the National Treasury and the AGSA within 10 working days.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations.

(b)  Poor planning as processes to renew the lease did not commence well in advance prior to the termination of the lease to thus ensure that the lease is renewed in terms of the lease contract or new accommodation identified and procured before the termination date thus resulting in the lease running on a month to month/ongoing basis.

(c)  The property management officials did not take appropriate steps to have signed lease agreements in place from 1 July 2008 to date as the lease renewal was on month to month base.  Not all months relating to the month to month period were approved by the accounting officer.

(d)  The PMTE does not have proper controls in place over filing of procurement and lease documentation as approval for renewal of lease on 1 July 2008 and 1 November 2009 to 30 October 2010 were not included in the contract files submitted for audit purpose.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result the expenditure incurred is classified as irregular expenditure.  Expenditure incurred for the 2011-12 financial year amounted to R8 940 310,10 and expenditure incurred from 1 July 2010 up until 31 March 2011 totalled R11 743 719,61.  Only one payment for October month totalling R674 231,53 was included in the irregular expenditure register, thus the irregular expenditure disclosure note is understated by R20 009 798,18.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)  Management should identify contracts nearing their termination date well in advance (more than six months) to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring that market related rentals are obtained and that new lease agreements are entered into timeously to prevent ongoing month to month leases.

(b)    The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.

(c)  Management should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the procurement.  Should this not be possible, regular follow up should be made to ensure that the lease agreement is signed timeously.

(d)  Management should develop a checklist for filing to ensure that all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(e)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(f)     The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

a)    I am [not] in agreement with the finding for the following reasons:

Supply Chain Management prescripts make provision for deviation of a competitive process, therefore the process to embark on a negotiated process was approved by the delegated authority.

 Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

The project leader presented the submission to the relevant BAC after receiving an approved Procurement Instruction from KAM: Head Office

Name: S Kutu

Position: Acting D: Property

Date: 26/7/2012

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

The Department is in possession of a standard lease agreement that the Landlord is not in agreement of the contents thereof.

 Name:  S Kutu

Position: Acting D: Property

Date: 26/07/2012

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

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| --- | --- | --- | --- |
| 1. **2.    *DESCRIPTION*** | ***RESPONSE*** | | |
| *Corrective action to be taken:* | SCM will ensure that all proper documents relating to bid advertisements and signed contracts are properly attached and filed at Legal Services | | |
| *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* | D: Finance & SCM | | |
| *Estimated completion date of 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

**Auditor’s conclusion**

(a)  Management comments are noted however Supply Chain Management prescripts make provision for deviation of a competitive process in cases of emergency or procurement available from the sole supplier. The finding is unresolved and will be included in the final management report

(b)  Management comments are noted however the comment does not address the finding. The finding is not resolved and will be included in the final management report.

(c)  Management comments are noted however the lease agreement was not provided/submitted with management comments. The finding is not resolved and will be included in the final management report.

(d)  Management agrees with the finding. The finding will be included in the final management report.

1. **COAF 166 - Deviations with the Supply Chain Management Practices: Redefine (Pty) Ltd/Isivuno Apex Properties Shorburg Building (6029/5387)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Treasury regulation 16A6.4 states that, “*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.”*

(c)    SCM Practice note 4 of 2006 states that, “*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.”*

(d)   Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(e)  Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(g)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(h)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(i)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of the lease for the Shorburg building for additional accommodation for the South African Police Services (SAPS), the following was noted:

(a)    The Shorburg building was leased from 1 July 1996 to 30 June 2001 for the Department of Constitutional Development for 3 275 square meters (m2) office (additional office space was leased from 1 January 1997, thus total office space leased totaled 3 567m2) and 40 parking bays at an escalation rate of 10%.  It was noted as per letter dated 30 April 1996 that the then Director General of the Department of Public Works requested approval from the State Tender Board for exemption from the tender procedures to negotiate with the lessor of the Shorburg building for the additional accommodation needed by the Department of Constitutional Development.  Thus, an open tender process was not initially followed to procure the building as the exemption to follow the open tender process was approved by State Tender Board in 1996.

(b)    As per letter dated 4 February 1998 it was indicated that the Department of Constitutional Development had vacated the building on 29 January 1998 and moved to the Wheat Board Building.  It was further indicated that Head Office had allocated the accommodation to the SAPS training division.  Subsequent to the inception of the lease, the lease had been renewed for five years commencing on 1 July 2001, renewed for three years commencing on 1 July 2006 (6 302m2 and 65 parking bays) and again renewed for five years commencing on 1 July 2009 (6 919m2 and 73 parking bays, commencement rental of R510 708.60 at escalation rate of 8%) with additional square meters and parking bays being requested and added to the applicable lease agreements during these periods. No evidence of approvals could be found on the lease file for the renewals listed above.  Thus non compliance with PN 8 of 2007/08.

(c)    The signed lease agreement relating to the lease commencing 1 July 2009 for five years could not be obtained/found on the lease file.  Only an unsigned version was included in the file.  The letter of acceptance to the landlord dated 17 August 2009 was signed by the acting Regional manager for the renewal of the lease agreement for five years.

(d)    As per PA-12 *Approval by Bid Adjudication Committee* dated 8 June 2011, the additional accommodation for Human Resources Development: Sport and Recreation of 824,6m2 and 14 parking bays were approved for period of two years commencing 1 July 2011.  The bid committee indicated that irregular expenditure should be declared for the month of 1 January to June 2011 as the client department started utilizing additional accommodation before the procurement was approved byBid Adjudication Committee.

(e)    The addendum to the lease agreement (lease period two years commencing 1 July 2011, escalation rate of 8%). was only *s*igned by the DPW and the landlord on 14 March 2012 and 18 May 2012 respectively.  Thus after the commencement date of the addendum.

(f)     The deviation as approved by the Bid Adjudication Committee was not reported to the National Treasury and the AGSA within 10 working days as the contract was awarded on 8 June 2011 and the AGSA was informed on 7 June 2012.

(g)    The following information relating to the above lease could not be obtained:

(i)      SBD 4 and 8 or equivalent as used by the entity

(ii)     Original valid tax clearance certificate (only a copy was included in the lease file).

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Management did not take appropriate action and perform sufficient follow up to ensure that the new lease agreement is approved and signed by both parties prior to the commencement date of the lease.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as various documents as listed above could not be obtained/found on file.

The above deviations constitute non compliance with the applicable laws, rules and regulations and practice note as listed above and as a result expenditure for the period 1 October 2009 to 31 March 2011 amounting to R9 703 227.06 and for the period 1 April 2011 to 31 March 2012 amounting to R7 433 812.85 incurred in relation to the contract should be classified as irregular expenditure.  The irregular expenditure disclosure note is understated by the above amount.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurement above R500 000 in cases where it is impractical, such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(b)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(c)  Property Management officials should ensure that lease agreements are signed by both parties immediately after the National/Regional bid adjudication committee has approved the lease renewal.

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(e)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 02/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported on.

1. **COAF 169 - Deviations with the Supply Chain Management Practices: INA Building, South African National Defence Force (SANDF), City Property (6029/0078)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 16A6.4 states that, “*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)   SCM Practice note 4 of 2006 states that, “*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 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(g)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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*.” [Due to the time frames listed below SCM PN 1 of 2003 would have been applicable requiring the SBD 4]

(h)  Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the processes followed for the procurement of the lease of 3 925 square meters (m2) at the INA Building for the Department of Defence (DOD), the following was noted:

(a)    The second internal memo recommended by the Deputy Director: Property Management on 17 April 2008 was issued to obtain the Bid Committee’s approval to renew the properties attached in the annexure (one lease being for the INA Building, escalation rate 8% and monthly rentals of R122 892,12 on the same conditions as the expired lease for period of one year).  No lease agreement for the previous lease entered into on 1 June 2007 could be found on file.  Per the PA-12 *Approval by Regional Bid Adjudication Committee* dated 18 April 2008 it was indicated that the approval was recommended to Director General; however no supporting documents were included in the file indicating that Director General had approved the renewal of lease agreement for the INA building.

(b)    Ex-post Facto approval was obtained per PA-12 *Approval by the Regional Bid Adjudication Committee* dated 27 August 2008 for renewal of the lease from 1 August 2008 to 31 July 2009 at a rate of R122 892,12 per month.  The lease agreement signed on 17 June 2008 was for a one year renewal from 1 June 2008 to 31 May 2009 at a rate of R156 607,50(VAT incl.) per month, pro rata 78.52%.  No reasons were documented on file for the difference between the commencement and termination dates as well as the rates approved and those as per the contract (difference of R33 715,38 per month).

(c)    Per Internal memo dated 27 May 2009approval was sought to pay rental amounting to R156 607,50 on a month to month basis for the INA building as of 1 June 2009 to 31 March 2010 to City Property as the lease was expiring on 31 May 2009.  Per PA-12 the Regional Bid Adjudication Committee approved the internal memo on 3 June 2009 subject to Property Management engaging the client for a two year contract and considering a 10% increase; however the lease is currently still running on month to month basis at monthly rental of R156 607,50 as there is no valid signed lease agreement in place.

(d)    As per PA-01 *Request for approval of the procurement strategy for a negotiated procedure* dated 21 September 2009 and PA-12 *Approval by National Bid Adjudication Committee* dated 30 October 2009 it wasindicated that the lease agreement had expired end May 2009 and that the Regional Bid Committee had approved that the lease be renewed for a period of 10 months (1 June 2009 to 31 March 2010) whilst the client was still indecisive and avoid audit queries.   The client had indicated that the lease be renew for period of 10 years; however the landlord has no BEE status.  The client department indicated that the building complies with their needs and is utilized as a storage space for DOD’s archives.  The client department confirm that the funds are available and rent will be recovered from the DOD’s lease budget.  The National Bid Adjudication Committeeapproved the renewal of lease agreement subject to the following:  the 10 year lease not being recommended; to negotiate the lease period for three to five years and that alternative accommodation must be according to the BEE strategy.

(e)    Furthermore, the document to the Regional Tender Committee authorised by the Acting Director: Property Management on 5 November 2009, it was indicated that the landlord had spent an amount of R1,4million for the upgrading of the building (quotation amounted to R1 215 520,89 as per letter dated 18 March 2008).  No evidence could be found on file that the upgrade had been done or what the new grading of the building was subsequent to the work being done.  It was also recommended that the submission be approved for a total amount of R201 352,50 per month for a period of two years commencing on 1 June 2009 with an escalation rate of 10%.  No supporting documentation was included in the lease file/could be provided by the officials of PMTE indicating that the submission was approved by the Bid Adjudication Committee.  There is also no valid signed lease contract for the INA building and the lease has been running on month to month basis since 1 June 2009 at rentals of R156 607,50 (VAT incl.) per month.

(f)     The following information relating to the above lease could not be obtained:

(i)      Previous lease agreements before 1 June 2008 and letter of submission

(ii)     SBD 4, 8 or equivalent documents as used by the entity

(iii)    Original  tax clearance(only copy was included in the file from Centpret Properties(Pty)Ltd (expiry date 20 March 2010))

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning as the lease had expired in May 2009 and has subsequently been running on a month to month basis for about three years to date.  Sufficient action and follow up was not performed to ensure that the lease agreement relating to the period 1 June 2009 is in place, thus avoiding leases on a month to month basis.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to the following is classified as irregular expenditure for the following financial years:

(a)  2009-2010: R1 017 948,75

(ii)   2010-2011:  R1 252 860,00 (the amount included in the irregular expenditure register for three months has been deducted from this amount)

(iii)  2011-2012:  R1 879 290,00

The irregular expenditure disclosure note is thus understated by the above mentioned amounts.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Financial and performance management:**

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)  Management should identify contracts nearing their termination date well in advance (more than six months) to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring that new lease agreements are entered into timeously to prevent ongoing month to month leases.

(b)    The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and appropriately approved.

(c)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  This should also include evidence of the grading of the building.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(d)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 13/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported on.

1. **COAF 174 - Deviations with the Supply Chain Management Practices: Khulemani Mangisita (Pty) Ltd, Department of Defence, Boulevard Academy 186 Struben Street (6029/6050)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 16A.6.1 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.”*

(d)  Treasury regulation 16A6.4 states that, “*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.”*

(e)    SCM Practice note 4 of 2006 states that, “*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.”*

(f)    Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(h)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(i)    Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(j)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of the lease of 6 775 square meters (m2) and 80 parking bays for the Boulevard Academy, 186 Struben Street for the Department of Defence, the following was noted:

(a)    The Department of Correctional Services submitted their needs assessment for the hiring of a training college.  The DPW went out on tender (tender no. 2000/082) and the tendered buildings were viewed by the DCS.  A submission was made to the state tender board to approve the lease of the Boulevard Building as requested by the DCS.  The contract was signed in January 2011 for five years.  DCS then requested that the commencement date be moved to 1 April 2001 and eventually indicated that they were against the hiring of the building.  National Treasury intervened due to allegations of irregular processes followed in the awarding of the lease contract.  The landlord denied such allegations.  The DPW was unable to cancel the lease.  The DPW subsequently found the Department of Defence (DOD) as an alternative tenant to occupy the building with effect from 1 October 2003 until termination of the lease on 31 March 2006.  DOD requested that the lease be extended for another year, thus with a termination date of 31 March 2007.  The lease continued on a month to month basis thereafter.

(b)    As per PA-01.1(LS) *Request for approval of the procurement strategy for a negotiated procedure* dated 15 March 2012 it was indicated that the Department of Defence (DOD) is currently accommodated in the Boulevard Building and that the building had been sold by Brugail Investment (Pty) Ltd to Khumela Masingita Holding (Pty) Ltd (100% BEE landlord) on 24 February 2010 who has submitted an offer for the department to lease the Boulevard Building for nine years and 11 months.

(c)    The deviation was recommended to Director General for approval by the National Bid Adjudication Committee on 21 October 2010.  Per internal memorandum to the Director General it was indicated that the client requested for a longer lease period as this would enable the landlord to implement major upgrades.  It was further indicated that the new owner of the building was only willing to purchase the building on condition that the DOD confirmed the availability of funds for nine years and 11 months.  The current owner refused to sign the offer with DPW due to it only being for two years and therefore he was willing to sell his property.  The Acting Director General approved the lease on 17 December 2010.  The reasons for the deviation did not constitute an emergency, urgency or sole provider and is thus not in line with the principles of SCM.  Per the previous lease agreement, the renewal period was marked as not applicable and thus the renewal was not exercised in terms of the previous lease contract.  The lease was signed by both parties on 8 and 14 July 2011 respectively for 6 775m2 and 80 parking bays at a 9% escalation rate, commencement date of 1 September 2011 with a commencement rental of R838 877,55 (VAT incl.).

(d)    The previous lease agreement entered into for two years expired on 31 December 2009.  No subsequent lease agreement was entered into other than the one referred to above and thus the lease was running on month to month basis from 1 January 2010 to 30 August 2011.

1. Per comparison of the two lease agreements it was noted that the rental increased by 58% (2011 equivalent of previous lease agreement escalated by 9,5% totaled R529 840,15 against the new lease amount of R838 877,55)

|  |  |  |
| --- | --- | --- |
|  | **Previous lease agreement**  **01/01/2007 – 31/12/2009**  **R (incl. VAT)** | **New lease agreement**  **01/09/2011 – 31/08/2021**  **R (incl. VAT)** |
| Office | 424 792,50 | 695 115,00 |
| Parking | 17 100 | 41 040,00 |
| Operating cost |  | 102 722,55 |
| **Total** | **441 892,50** | **838 877,55** |
| Escalation rate | 9,5% | 9% |
| Lease term | 2years | 9years 11 months |

(f)   Although the deviation from the competitive bidding process was approved by the DG on 17 December 2010 the deviation was reported to the National Treasury and the AGSA on 7 June 2012, thus not within 10 working days as per the requirements of the practice note.

(g)    The following information for the new supplier relating to the above lease could not be obtained/found on file:

(i)      SBD 4 and 8 or equivalent as used by the entity

(ii)     Valid tax clearance certificate (only copy of tax clearance certificate with expiry date of 1 September 2010 was found on file).

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning as the lease had expired in December 2009 and subsequently ran on a month to month basis from 1 January 2010 to 31 August 2011 before the new lease commenced on 1 September 2011.

(c)  Management not conducting successful negotiations with the landlord as the rental for the new lease entered into increased by 58%.  This results in the entity paying more for the lease than required.

(d)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred from 1 January 2010 to 31 August 2011 is classified as irregular expenditure.  The irregular expenditure note in the annual financial statements is thus understated by the following amounts:

(i)    2009-2010 financial year: R2 476 365.04

(ii)   2010-2011 financial year: R9 028 251.38

(iii)  2011-2012 financial year: R3 426 973.60

**Internal control deficiency**

|  |
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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)  Management should identify contracts nearing their termination date well in advance (more than six months) to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring that market related rentals are obtained and that new lease agreements are entered into timeously to prevent ongoing month to month leases

(b)    The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and appropriately approved.

(c)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(d)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported on.

1. **COAF 181 - Procurement in terms of TR 16A6.4 not reported to AGSA and National Treasury within 10 working days**

**Audit finding**

Laws, rules and Regulations:

(a)    Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

Per the deviations reported to the AGSA, the following non compliance with Practice Note 6 of 2007/2008 paragraph 3.1. was noted as the following deviations were not reported to the AGSA and to the National Treasury within the 10 working days from the date of award:

| **No.** | **Service description** | **Service provider** | **Tender number** | **Date awarded** | **Date signed by Chief Director: SCM** | **Date sent to National Treasury and Auditor-General** | **Contract amount**  **R** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | New accommodation for STATs SA | Acquarrelle Investnment | Not stated | 14/04/2011 | 31/05/2012 | 07/06/2012 | 2 404 645,47 |
| 2 | Alternative accommodation: Forum Building SAPS | Tiespro PTY LTD | H6029/7061 | 15/07/2011 | 31/05/2012 | 07/06/2012 | 43 341 621,89 |
| 3 | Sinoville centre-Renewal of lease agreement (SAPS) | Fortress Income 5 Pty Ltd | PC305328 | 27/09/2011 | 31/05/2012 | 07/06/2012 | 1 246 248,00 |
| 4 | STATS SA New office Accommodation-Grey town | Ayub Kharodia properties CC | Not stated | 05/09/2011 | 31/05/2012 | 07/06/2012 | 2 558 956,99 |
| 5 | Stats SA- New Office Accommodation: Manguza Medical Centre | Kays Avantegarde Properties CC | Not stated | 05/09/2011 | 31/05/2012 | 07/06/2012 | 2 519 366,00 |
| 6 | Department of Defence Voortrkker Gedini 224 Visagie Street- Renewal of a lease | New Heights 326 Pty Ltd | Not stated | 05/08/2011 | 31/05/2012 | 07/06/2012 | 115 412 589,11 |
| 7 | Department of Correctional Services- Westville prison- Repairs of boilers | Full Imput Trading | Not stated | 26/05/2011 | 31/05/2012 | 07/06/2012 | 7 444 469,04 |
| 8 | Defence- Boulevard Academy Building | Khulemani Masingita Pty Ltd | 6029/5380/1 | 21/10/2010 | 31/05/2012 | 07/06/2012 | 27 720 622,52 |
| 9 | Defence- Repairs and Maintenance of various buildings in Pretoria | Superfecta Trading CC | WCS 048509 | 22/06/2011 | 31/05/2012 | 07/06/2012 | 15 276 455,19 |
| 10 | Stat SA-lease and parking bays Gauteng district offices | Zambli 216 Pty Ltd | Not stated | 25/08/2011 | 31/05/2012 | 07/06/2012 | 4 240 800,00 |
| 11 | Parliament: Facilities management construction | DSVH Facilities Consortium | Not stated | 01/09/2011 | Not dated | 28/03/2012 | 9 977 748,00 |
| 12 | Internal and external upgrade Rondebosch GSE no 4 | Nolitha  Pty Ltd | CPT1035/11 | 30/09/2011 | Not dated | 28/03/2012 | 4 978 600,00 |
| 13 | Parliamentary Complex-interim security equipment maintenance contract | African strategic Asset Protection | WCS 049592 | 01/11/2011 | Not dated | 28/03/2012 | 3 884 589,40 |
| 14 | Kimberly DOD NC Commando: Replacement of Sewage pumps | GAO Electrical | KM20/11 | 24/10/2011 | Not dated | 28/03/2012 | 1 029 836,10 |
| 15 | St Helena Bay Harbour-Repairs and maintenance of buildings-consultant | WSP Africa Coastal Engineers Pty Ltd | WCS049104 | 28/04/2011 | Not dated | 28/03/2012 | 1 374 480,00 |
| 16 | Stats SA- Office Accommodation | Mrs Nelia Viljoen: Torette Gebou | Not stated | 12/04/2011 | Not dated | 28/03/2012 | 1 001 113,34 |
| 17 | Arts and Culture-Iziko Museum and national library | Secure Electronics | Not stated | 07/06/2011 | Not dated | 28/03/2012 | 8 946 959,50 |

As per discussion with the Assistant Director: Compliance and Inspectorate it was indicated that head office notifies the AGSA, however he indicated that no controls are available at regional level.  The department does not have proper control measures in place to ensure that the deviations are timeously reported to National Treasury and the AGSA

Similar findings were also reported in the 2010-11 financial year.

The aforementioned deviations result in the following:

(a)  Non compliance with Practice Note 6 of 2007/2008 and TR16A6.4.

(b)  The entity may not be aware of all deviations and may not assess whether they should be classified as irregular and therefore included in the irregular expenditure disclosure note.

**Internal control deficiency**

**Leadership:**

The oversight responsibility was not effectively exercised regarding financial and performance reporting and compliance and related internal controls

**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 responsibility for the submission of the information to National Treasury and the AGSA must be assigned to an official at head office.

(b)  Regional managers must be required to submit the information within five working to the responsible official as recommended in paragraph (a).

(c)  The responsible official should maintain a register tracking the deviation and the submission thereof to both National Treasury and the AGSA. Proof of submissions should be referenced to the mentioned register.

(d)  Reconciliations between the deviations reported by the regions and head office with the register should be performed to ensure the completeness of the register recommended in paragraph (c).

**Management response**

I am in agreement with the finding.  However, after the similar issues were raised in the previous year. The Department made the following changes as part of its audit intervention plan.

(a)  The Department centralised the submission of deviations to Head Office and there is an official who is assigned to carry this function as a control measure. The Department further implemented a central repository (Paper trail) which aims to track the regions that are not reporting, make necessary follow ups and update its information regularly.  The outcome of this exercise was a Departmental consolidated deviations register (which was submitted to AG in response to COAF 56) which serves as evidence of effectiveness of the control measures that are in place.

(b)  Prior to the implementation of Paper trail the Department had issued a circular to the regions to this effect emphasising the importance of complying with the Regulations in relation to Deviations. Follow ups were done with respective Regional Managers in writing to ensure adherence to reporting timeframes and the reporting requirements.

(c)  The Department is maintaining a register of deviations and updating it regularly, the delivery of these submissions to National Treasury is made by use of a delivery book where the receiver would sign their names clearly and in cases where the submission is posted the tracking number will be reflected on the register.

1. The reconciliation of deviations is in progress but it must be noted that the time frames of 10days have proven difficult to meet because of the size of the Department.

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| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The Department has made reasonable progress since the last audit. Compliance checks will be done in all regions during roadshows planned for this quarter. Further challenges will be collated and accordingly addressed. | | |
| 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 | n/a | | |
| Position of official responsible to take corrective action | n/a | | |
| Estimated completion date of corrective action: | n/a | | |
| 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: Acting CD:SCM

Date: 27/7/2012

**Auditor’s conclusion**

Management comment noted.  The non compliance will be reported in the management and auditor's report.  Follow up will be performed during the next audit cycle to determine whether the controls implemented by management have indeed been effectively implemented to ensure compliance with the applicable laws and regulations.

1. **COAF 187 - Deviations with the Supply Chain Management Practices: Sefako Consortium (Tender HP07/16: Golela Border post: Appointment of a firm to provide services for construction work)**

**Audit finding**

Laws, rules and regulations

(a)  Public Finance Management Act (PFMA) Chapter 5, section 40(1)(a) stipulates that, “*The accounting officer for the 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 the prescribed norms and standards.”*

(b)  The Preferential Procurement Policy Framework Act No 5 of 2000 Section 2 states that *“(f)The contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and*

*(g) 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.”*

(c)  Treasury Regulations 16A6.3 states that *“The accounting officer or accounting authority must ensure that- (c) 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;*

*(d) awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised”*

During the review of the appointment of Sefako Consortium, the following was noted:

(a)  The request for approval of the procurement strategy (PA – 01) for appointment of a firm to provide programme management services at Golela Border Post, approved by the Bid Adjudication Committee on 21 December 2007, indicated that the Open Procedure should be followed to tender for the contract estimated at R8 314 047,36.

(b)  On 21 December 2007 the request for the approval of procurement strategy for the foregoing project, was approved by the National Bid Adjudication committee (NBAC) with the advertisement period of four and half weeks and with an estimated value of R 8 314 047,36 (VAT included). The project was advertised from 1 February 2008 to 6 March 2008. The Bid Evaluation Report was submitted to the NBAC on 13 May 2008.  According to the report there were 13 firms that tendered for the Golela Border Post Project. The only responsive tenders received per bid evaluation report were as follows:

(i)  Virtual Buro (Pty) Ltd                          R 3,190,176.00

(ii) Sefako Consortium                             R 4,787,088.00

(c)  The highest points scoring tender per the bid evaluation report was Virtual Buro (Pty) Ltd with 91.94 points. Sefako Consortium came in second with 66.03 points.  The bid evaluation committee (BEC) however recommended the appointment of the second highest points scoring tenderer, their motivation being that the highest points scorer, Virtual Buro’s bid was R3 190 176,00 while the estimate was R 8,314,047.36. The bid price was considered too low compared to the estimate. The evaluation team concluded that the firm would not provide a good service given the tender amount. It should also be noted that each bidder would have to provide a team consisting of other professionals e.g. engineers, architects, projects managers, quantity surveyors etc over the two year period and though only intellectual capital is involved it is unrealistic to expect the full team in terms of the stipulated hours for the entire duration of the project.

(d)  The recommended bidder was Sefako Consortium; with a bid price of R4 787 088,00 which was higher than Vitual Buro’s price by R1 596 912,00.  The evaluation team concluded that Sefako Consortium be recommended to provide programme management services for the Golela Border Post Project. A risk assessment was also conducted and proved that Sefako Consortium would not be a risk to the Department.

(e)  The above recommendation was not approved / supported by the NBAC. The Project Manager was requested to confirm how resources would be allocated and to motivate reasons why not motivating the highest points scorer.

(f)   Per the internal memo referenced NBACHP07/17&HP07/1631/07/16 issued by the NBAC to the DG which was to apprise the DG about the tender process followed and to request that the DG review the recommendation of the BEC and the recommendation of the BAC in respect of the project and make a final decision should he concur with one of the decisions. The DG did not select any option presented in the internal memo, instead indicated on a footnote that he agrees with the Chief Operating Officer (COO)’s comment dated 1 August 2008 attached. The COO which stated that “ *Following the one on one meeting on 29 April 2008 regarding the above mentioned matter, I am pleased to confirm that the following protocol pertaining the contractual award and notification of successful bidders shall apply:*

1. *All bidders shall be notified of the award by the office responsible Deputy Director General and in the case of regions by the Regional Managers*
2. *The legal chief directorate shall present itself for contractual explanations in consultation with the responsible DDG and Regional Manager respectively.*

*The aforesaid protocol shall apply with effect from 1st of May 2008. This is intended to strengthen the accountability obligations of the said Senior Managers, to improve operational efficiency and lessen our risk as the department. Please communicate this directive to all parties so that all processes become streamlined.”*

(g)  There was no other evidence of the decision taken by the DG whether to award the contract to the highest scorer Virtual Buro or to the second highest Sefako Consortium. On 12 August 2008, the Legal Services representative issued an internal memo to the DDG Corporate services, requesting that he signs the Form of offer and acceptance and initials all pages to formalise an agreement between the department and Sefako Consortium. The internal memo indicated that the DG had approved the award to Sefako Consortium on 10 August 2008. The DDG signed the internal memo for approval on 12 August 2008. On 13 August 2008, the acceptance of an offer was faxed to Sefako Consortium, notifying them of the award.

The SCM process followed in the appointment of Sefako Consortium was in contravention of the prevailing prescripts in view of the following:

(a)  The following documents could not be provided for audit purposes

                     Procurement instruction to execute the project

                     Declaration of interest (PA 11)

                     Declaration of the tenderer’s past supply chain management practices (PA 27)

                     A compulsory Enterprise questionnaire for each entity comprising the service provider

                     Resolutions by the joint venture/consortium (PA 15.1/PA 15.2)

                     Special resolution (PA 15.3)

                     Site Inspection meeting certificate

                     Capacity of tenderer (DPW 09)

                     Preference points claim and affidavit (PA 16) for each entity in the consortium

                     Original Form of offer and acceptance

                     Conditions of the contract

                     Activity Schedule for Value based fees

(b)  The winning supplier was disqualified on basis of price and the motivation attached indicated that the price quoted was too low compared to the pre-tender estimate of R8 314 047, 36.  Based on the initial scoring model prepared, 13 bidders were evaluated, of which all of them quoted below the pre-tender estimate, the average of all the bids received was R4 690 018,23, which reflects that the amount quoted by Virtual Buro was not significantly lower than other bidders. Furthermore, the BEC prepared a new scoring model where the 11 bidders on the grounds that they had no proof of registration with ECSA under Electrical/ Mechanical/Civil Engineering. However, there was no proof attached on file either that Sefako Consortium was registered in all these categories of engineering. Thus the BEC’s decision to eliminate the other 12 bidders and support the appointment of Sefako Consortium could not be substantiated. The above is non compliance with the PPPFA as objective reasonable grounds were not used in awarding the bid.

(c)  The NBAC recommended that a thorough risk assessment be done of the highest points scoring tenderer prior to a final recommendation being made by the BEC for consideration by the NBAC however, no thorough assessment was done, the only consideration by the BEC was the experience of Sefako Consortium, who was not the highest scorer. This is not in line with the recommendations made by the BAC.

(d)  There was no evidence on file or on the internet that the bid was advertised on the Government tender bulletin. This constitutes non compliance with the Treasury Regulation 16A6.3(d) that required that all the bids to be advertised in the bulletin.

The officials have indicated that the documents get lost in transit between officials who are responsible for the approval or award. Some of the documents are kept by the project managers which results in the Legal Services keeping the copies or incomplete tender files.

The risk assessment is performed internally for some contracts, for others, a specialist is obtained, thus the members of the BEC are not following a consistent approach on the evaluation of the bids.

The BAC does not assess the evaluation criteria and the fairness of the procedures used by the BEC to disqualify other suppliers. The suppliers are considered non responsive on the evaluation without the evidence of how they were considered administratively non responsive.

The above deviations from the prescripts constitute non compliance with the applicable laws and regulations and thus expenditure to date of R1 500 171, 23 on the project should be classified as irregular expenditure.  The irregular expenditure should be disclosed in the books of the client department who is responsible for the expenditure of the above mentioned project, thus not impacting on the irregular expenditure of PMTE.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 BEC should abode by the laws and regulations applicable to procurement to ensure the fair and transparent evaluation of the bids. All the recommendations made by the BAC must be taken into account and the evidence of such actions be kept on file

(b)  SCM officials should ensure that all tenders are advertised on the Government Tender Bulletin and the evidence of the advert be printed and attached in the tender file for reference.

(c)  The department should ensure that the highest point’s scorer is not disregarded purely on the basis of price. Should there be apprehension that they will not perform, then the BEC must prepare a report that clearly spells out how they arrived at the conclusion that they will not perform which does not exclusively use price as the reason.

(d)  The Contract administration officials should ensure that all necessary documents that should be completed by the bidder are completed and kept together with the contract, if not, reasons for omission must be disclosed

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported.

1. **COAF 190 - Deviations with the Supply Chain Management Practices: Phumi Trading CC (Tender PT10/ 046: Zonderwater Prison: Repair and Maintenance of Building and Basic Civil Engineering Services.)**

**Audit finding**

(a)  Public Audit Act Section 15(2) (b) states that: *“The Auditor-General or an authorised auditor may for the purpose of an audit direct a person to produce, or to deliver at a specified place and time and in a specified format any such document, book or written or electronic record or information, including any confidential, secret or classified document, book, record or information of whatever nature”*

(b)  Chapter 5 of the Public Finance Management Act (PFMA) Section 40(1) (a) stipulates that “*the accounting officer for the 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 the prescribed norms and standard..”*

(c)  In terms of PFMA Section 41 the following is stated, “*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*.”

(d)  Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(e)  National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(f)   Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.10 issued 24 March 2006 states that, *“In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides, practices notes and circulars.”*

During the review of the appointment of Phumi Trading CC, the following was noted:

(a)    The request for approval of the procurement strategy (PA – 01) compiled by the project manager and supported by Head of Projects dated 30 June 2010 was issued to the Special Bid Adjudication Committee (SBAC) for approval. The strategy stated that the procurement process to be followed was an open procedure, the required CIDB grading was 7CE PE or 8CE and the estimate of the contract was R71 018 891,60. The advertising period was not indicated in the strategy. The SBAC approved the procurement strategy on 2 July 2010.

(b)    The tender was advertised from 16 July 2010 to 17 August 2010. The bid register for issuing bid documents (PA-08) indicated that 37 tender documents were issued on the 16 July 2010 and the register for bid received (PA-13) indicated that 15 bids were received and five bids were administratively non responsive.

(c)    The scoring model was compiled for the 15 responsive bidders and Phumi Trading CC scored the highest points - 89,57 for price and 8, 6 for HDI totalling 98,17 points.  The evaluation report and approval by the SBAC of the final award was not in file. The form of offer was signed by the then Acting regional manager on 28 March 2011.

The SCM processes followed in the appointment of Phumi Trading CC was in contravention of the prevailing prescripts in view of the following:

(a)  On the PA-16 Preference point claim form, Phumi Trading claimed 20 % equity ownership for disabled persons; however evidence of a medical certificate for the confirmation of permanent disabled status could not be found on file. The scoring model by the BAC allocated 0,2 points for disability to Phumi Trading; however the department did not have factual evidence supporting the points claimed by the supplier before awarding the points.

(b)  The following documents could neither be obtained from the procurement file submitted for audit, nor through enquiry from the departmental officials:

         Original tax clearance certificate

         Bid Evaluation report (PA 21)

         Approval of the award by the SBAC (PA 12)

         SBD 9 (PA 29)

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws, rules and regulations.

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Lack of adequate internal controls in the SCM processes, which results in contracts being awarded without appropriate monitoring taking place i.e. a supplier who did not purchase the bidding documentation obtained access to the documents and could be awarded the contract.

The above non submission constitutes contravention of chapter 5 of the PFMA paragraph 40(1)(a) and failure to provide the information within the agreed upon timeframe constitutes a limitation of scope on performance of planned audit procedures

(a)  It was noted that on the issue of the Tender Bid Documents Register (PA-08), Phumi Trading was not listed amongst the bidders whom were issued the bidding documentation.  It is not clear how Phumi Trading was able to tender without being issued bidding documentation. This constitutes a circumvention of the SCM processes of the department and unfair, inequitable methods of procurement.

(b)  It was noted on the resolution of board of directors that “David Mokoena” as managing member was duly authorised to sign all bid related documentation including the contract; however another individual “Sandile” signed on behalf of the tenderer on the declaration of the Preference points claim form and affidavit commissioned by an official of the SAPS. There is no evidence on the bidding documents to ascertain whether the individual was duly authorised to sign on behalf of the tenderer and thus constitutes inconsistencies in the completion of the bidding documentation.

Non compliance with the applicable laws, rules, regulations and practices may result in the incurrence of irregular expenditure as well as a limitation of scope on the planned audit procedures to determine the completeness of irregular expenditure.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)  A document centre, with proper access control, should be established where all the documents pertaining to the entity are completely filed, thus ensuring that it is traceable.

(b)  Management should ensure that the relevant SCM official whom issues out bid documentation to potential bidders for the applicable tender, records all the bidders and signs the issue of bid documents register.

(c)  Management should check that all necessary documents that must be completed by the bidder are indeed completed and submitted.  In cases where such required documents are not completed or submitted, management should ensure that the bidder is disqualified and withdrawn from the bidding process.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported.

1. **COAF 191 - RC Civils (Tender PT10/047: Pretoria, Central Prison: Repair and Maintenance of civil infrastructure)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states that, “*fruitless and wasteful expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised;”*

(b)  Public Finance Management Act(PFMA) Section 38(1)(c)(iii) states that “*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”*

(c)  Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that: “*The accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards*.

(d)  Section 41 of the PFMA states that*, “An accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require*.”

(e)  The circular of Code of Conduct for Bid Adjudication Committees  issued on 30 March 2006 Paragraph 2.5 states that “*Bid adjudication committee must ensure that:*

*. All necessary bid documents have been submitted;*

*. Disqualifications are justified and that valid and accountable reasons /motivations were furnished for passing over of bids; scoring has been fair, consistent and correctly calculated and applied; and bidders’ declarations of interest have been taken cognizance of”*

(f)   The Public Audit Act Section 15(2) (b) states that *“The Auditor-General or an authorised auditor may for the purpose of an audit direct a person to produce, or to deliver at a specified place and time and in a specified format any such document, book or written or electronic record or information, including any confidential, secret or classified document, book, record or information of whatever nature”.*

During the review of the appointment of RC Civil, the following was noted:

(a)  On 25 April 2010, the project manager, supported by the Head of Projects compiled the Request for approval of the Procurement strategy. The estimate of the contract was stated at R118 394 280,00. The CIDB grading required was 7CE PE or 8CE or higher. The selected procurement process was an open process and method two (price and preference) was selected for evaluation. The tender advertisement period was not indicated and the validity period was eight weeks. On 2 July 2010 the Special Bid Adjudication Committee (SBAC) approved the strategy with the provision that the CIDB grading requirement be modified to include 7GB PE or 8GB or higher.

(b)  An advertisement was placed for the contract from 16 July to 17 August 2010. The Bid Evaluation Committee held a meeting on 29 September 2010 to evaluate the 24 bids that were received before the closing date. The average of all the contracts received was R105 394 280,00. Six bids were disqualified as administratively non responsive. The 18 bids were evaluated on a scoring model. RC Civils was the highest scoring bidder (90 points price and 6.75 points for preference) with the bid of R75 737 162. The bid was 36,03% lower than the estimate and 18% lower than the average bids received. The BEC performed the risk assessment on the highest bidder based on technical risks; that is quality of previous work and contractual commitment. The following was concluded:

Technical risk-Quality of current and previous work:

        The bidder has previously done four projects which were mainly civil works with value from R17 million to R35 million, between year 2005 to 2009.

Contractual Commitment

      References contacted indicated that the bidder produced good quality of workmanship on previous projects, they have also completed the projects on time and their contractual administration had been rated as excellent.

(c)  The PA 21 was compiled by the BEC on 13 October 2010 recommending the award to RC Civils to the SBAC for approval. The SBAC did not approve the award as per the PA-12 dated 21 October 2010; instead, the submission was referred back for the risk assessment, stating that the BEC should submit a complying risk assessment report.

(d)  A new risk assessment report was prepared by Ntsu Engineering Consultants which concluded that the bidder’s price was too low. The rates were below cost price of materials specified in the tender documents, thus obvious that they could not implement the project to completion stage. The consulting engineer further stated that such contractors usually expose themselves to severe cash flow setbacks as a result they fail to complete the project. If the contractor be appointed, it will fail to finish the job due to its lowest rates and the department would lose a lot of money by the delay of the project to procure another contractor to finish the job (retendering and other unnecessary professional fees to assess unfinished work)

(e)  The revised submission was made to the SBAC to approve the award to RC Civils on 2 February 2011.  The BEC issued the letters dated 22 March 2011 to extend the validity of the contact to 31 June 2011. On 23 March 2011 the BEC held another meeting to address the comments by the SBAC as the committee did not approve the award on the assumption that the validity period had lapsed. The committee confirmed that the validity period had been extended until 31 March 2011 and thus resubmitted for approval. The SBAC still did not approve the award as per the PA-12 dated 24 March 2011 based on the stated reasons that:

         SCM had to confirm the price of the lowest tenderer

         Risk assessment contradicted the recommendation of the evaluation committee, therefore the committee needed to reconvene and prepare a new evaluation.

(f)   The BEC held a meeting on 28 March 2011 to further address the comments referred back by the SBAC. The BEC indicated that they have communicated with the supplier as per the recommendation. Attached to the minutes was the letter from RC Civils dated 28 March 2011 which stated that “*we hereby confirm that RC Civils will be able to successfully complete the DCS RAMP Project: Pretoria Central Prison: Repairs and Renovations for the bid amount of R75 737 162, 04 inclusive of VAT*”

(g)  On 31 March 2011, the SBAC did not approve the award, and stated that the issues that were previously raised by the committee were not addressed.

(h)  Per the meeting of the BEC (minutes signed on 6 April 2011) to re-evaluate the bid and the risk assessment, the recommendation stated in the minutes was that “*Despite the negative risk assessment done by the consultant, We as the Regional Evaluation Committee recommends the highest scoring bidder, “R Conrad Trading” for appointment subject to the following: the contractor to confirm if the price is realistic to execute work of this magnitude*” The SBAC approved the award to RC Civils on 14 April 2011. The supplier was notified of the award by legal services on 21 April 2011. On 4 May 2011, RC Civils representative issued a letter to the department of Public Works, confirming that the acceptance of the contract.

During the review of the award of the contracts for the Pretoria Central Prison: Repair and Maintenance of civil infrastructure, the following was identified:

(a)  The BEC indicated in the Procurement strategy approved that the winning supplier would be subject to pass a risk assessment. The risk assessment was performed as indicated, and as referred by the SBAC. The outcome of the assessment reflected that the bidder posed the risk on the department and thus not recommended for appointment. However the BEC overlooked the risks identified and went further to appoint RC Civils. Thus the amounts spent to pay the professional engineer was not necessary as both the BEC and SBAC did not consider the outcome of the risk assessment, instead, continued with its decision to appoint RC Civils, thus constituting fruitless and wasteful expenditure for the amount paid to Tsu Engineering Consultant to perform the risk assessment. This constitutes non compliance with PFMA Section 38(1)(c)(iii).

(b)  The Request for Information 54 and COAF 19 dated 21 February 2012 indicated that the information required for audit purposes was all the procurement supporting documents for the contract number PT10/047, however through inspection of the file provided, the following information could not be found:

(i)            Original valid tax clearance certificate (only a copy was included in the file)

(ii)           DPW 07 Form of offer and acceptance

(iii)          PA-11 Declaration of interests and past supply chain management practises (SBD 4 and 8)

(iv)         PA-15 Resolutions by the legal entity

(v)          Site inspection meeting certificate

(vi)         Priced bills of quantities

(vii)        Capacity of tenderer (DPW 09)

(viii)       Preference points claim and affidavit (PA 16)

(ix)         Contract data

The Bid Adjudication Committee makes recommendations for revision to the evaluation committee, or approves the decisions with the provision/condition to approval, but does not follow up/ensure that the recommendations were implemented. Though the supplier did not pass the risk assessment, they were still recommended and awarded, thus deviating from own procurement strategy.

The entity’s documents are not available and easily accessible for audit purposes. The information supporting the award of the contract is not kept together and filed safely. The records thus end up being lost or not being traceable.

This constitutes a limitation of scope on the planned audit procedures to determine compliance with applicable laws and regulations and thus impacts on the completeness of irregular expenditure.  Furthermore, the amount paid for the assessment results in fruitless and wasteful expenditure.  The fruitless and wasteful expenditure is thus understated by this amount.

**Internal control deficiency**

## Financial and performance management:

The entity 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 Bid Evaluation Committee must take into account all the responsive criteria indicated in the procurement strategy when evaluating the contract. The risk assessment should be taken into account in the evaluation to bids to minimise the risk of losses, delays and non compliance in the contracts.

(b)  Management should quantify the fruitless and wasteful expenditure and ensure that it is included in the fruitless and wasteful expenditure register.

(c)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(d)  A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that it is traceable.

(e)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the fruitless and wasteful expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The limitation of scope will be reported.  Fruitless and wasteful expenditure is also understated by an indeterminable amount, thus not complete.

1. **COAF 209 - Deviations with the Supply Chain Management Practices: Dimenges (Tender H10/ 022: Van Rooyenshek Port of Entry: Appointment of contractor: Maintenance and Serving of Building, Civil, Mechanical and Electrical Infrastructure)**

**Audit finding**

Laws, rules and regulations

(a)  Treasury Regulation 16A6.3 (c) states the following: “*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*”

(b)  National Treasury Practice Note 6 of 2007/2008 par.2.5 states that: “*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*”

(c)  CIDB SFU 4.2.1.4 and 4.2.1.5 states that “*Advertisements for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting. Advertisements for the submission of expressions of interest in respect of engineering and construction works contracts in terms of the P4 Qualified Procedure shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for submissions of interest and at least 5 working days before any compulsory clarification meeting.”*

During the review of the appointment of Dimenge Projects CC, the following was noted:

(a)  On 15 June 2010, the Key Accounts Management issued the procurement instruction for the project referenced WCS 048177 which was to replace the instruction issued on 2 February 2010 (WCS 047486). The instruction stated that the Van Rooyenshek Port of Entry RAMP expired on 31 March 2010. This previous ramp contract valued of R12,4million had addressed the serious state of repair including building, fencing, roads, services, heating and air conditioning, fire fighting equipment, lighting, refrigeration and incinerator. The continuation of the maintenance contract was estimated at a total of R4 million, The contract was required to ensure continuation of maintenance methodology and prevent deterioration of facilities at the port of entry.

(b)  It was stated the maintenance/servicing contract should address the following: Structural and building, pluming and drainage, building electrical, fencing, cleaning and site keeping, bulk water supply, roads and storm water, standby power, external lighting, heating ventilation and air conditioning systems, refrigeration equipment, conventional fire fighting equipment, incinerator, waste water treatment works. The instruction requested the procurement of the relevant service providers without delay through the relevant SCM procedures. The funds of the project would be made available from the DPW Capital Project.

(c)  The request for approval of the procurement strategy (PA-01) was compiled by the Project Manager and supported by the Head of Projects on 9 September 2010. The procurement process indicated was an open procedure, the required CIDB grading was 5CC PE/6CE or higher and the tender value estimate was R11 500 000,00.  The PA 01 indicated that the contract would be advertised for 2,5 weeks (19 days) without stating the reasons for advertising for a shorter period. The Bid Adjudication Committee (BAC) approved the strategy on 14 September 2010. The contract was subsequently advertised from 8 October to 27 October 2010.

(d)  The register for the receiving of bids reflected that five bids were received of which one was recorded to be administrative non-responsive and four were further evaluated.  Dimenges Project CC scored the highest, 87,2 points for price and 8,6 points for HDI ownership points on A BEC meeting held on 22 November. The BEC resolved that a risk assessment would be conducted on the highest scorer.on 25 November 2010, the risk assessment prepared by Ukhukhula Consulting Engineers (Pty) Ltd was completed and it entailed the following: the bills were correctly calculated and balanced, the contractor had the required CIDB grading of a 6CE PE, the previous contracts had been finished on time within the scope and cost, thus did not pose the risk to the department. On the evaluation meeting dated 1 December 2010, the BEC instructed the project manager to place the consultant in *Mora* for supplying the department with an estimate that is not market related as all tenders received were below the estimate. Then the Bid evaluation report was prepared recommending the award to Dimenges Projects CC on 10 December 2010. The Bid Adjudication Committee approved the award on 14 December 2010.

The SCM process followed in the appointment Dimenges Projects CC was in contravention of the prevailing prescripts in view of the following:

(a)  The tender was advertised for a period less than 21 days. There was no motivation indicated and approved by the BAC for the deviation from the 21 days. The SCM policy of the department of Public Works requires that advertising for a shorter period to be done only on the urgent cases and on approval of the BAC. The PI was issued on 15 June 2010, however the contract was only approved on 14 December 2010, thus six months later which is not indicative of the procurement being an emergency.Thus the process followed cannot be justified in terms of the department’s own policy and Treasury regulations 16A3.

(b)  The department uses the estimate indicated on the procurement strategy to perform the evaluation/risk assessment of the supplier. This estimate is arrived at by engaging a professional engineer to measure the scope of work and market related costs to complete the project. Thus this estimate is considered reliable to be used to benchmark the bidders for commercial risk in their quotes. It was noted that the professional engineer estimated R11 500 000, 00 however the bidders quoted market related bids which were all less than the estimate. The BEC agreed that the consultant should be placed *in Mora* for the inappropriate estimates. Thus the amount relating to the payment made to the professional engineer to compile the estimate for the contract should possibly be classified as fruitless and wasteful expenditure.

(c)  Due to the fact that the estimate was deemed higher than market value, it is evident that the Project manager did not review and balance the schedules by the consultant supporting the total estimate and analyse how the amount was arrived at. This constitutes a weakness in the internal controls of monitoring the projects including the work performed by the external parties.

The officials of the department do not perform their assigned responsibilities relating to the monitoring of controls and applying the laws and regulations in the procurement process. The documents are not reviewed to ensure that all the necessary information and reasons are included, complete and relevant.

The above finding results in non compliance with Treasury Regulation 16A.3 which constitutes irregular expenditure amounting to R2 920 895,52 (current year expenditure for the contract). The irregular expenditure should be disclosed by the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular of PMTE.

Possible fruitless and wasteful expenditure for the amount paid to the engineer for the contract estimate.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)    Management should ensure that all tenders are advertised for more than 21 days and if not possible, in cases of extreme emergency, the deviation should be approved in accordance with the SCM policy requirements.

(b)    The project manager should review the information used for the procurement and contract management purposes submitted by the external consultants, including reports, certificates and schedules to ensure that it is reliable and useful.

(c)    A compliance checklist must be kept throughout the procurement process, to monitor that all the laws and regulations where applicable have been abided with.

(d)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular and fruitless and wasteful expenditure.

**Management response**

a)    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). Though the policy states that deviations from normal tender period is for emergency / urgent cases, it must be noted that the policy has not been updated however Circular No 2 of 2008/9 was issued which does cater for other cases under the Proviso “…as the accounting officer or accounting authority may determine” of the same regulations. Approval for this deviation was obtained from the NBAC as per the department’s policy.

b)    I disagree that there were fruitless expenditure paid to the Consultant for the estimate. A Consultant is not paid for only deriving an estimate. The Consultant is paid for work done which includes among others, Tender Documents and Project Management fees which are based on the amount upon which the Contractor is appointed. Tender Estimates are indicative.  The department cannot prove that the Consultant’s estimate was unreasonably high above the market because the Contractors could also under-price in order to gain a competitive advantage.

c)    The Project Manager has the responsibility to check the scope of works and checking the compliance.  It is not in the competency of the Project Manager to review and balance the schedules by the consultant. The Department has vested this responsibility with the Engineer for measuring.

The same regulations does give the Accounting Officer powers to determine

Name: Eulala Kruger

Position: Acting CD:SCM

Date:

**Auditor’s conclusion**

Management comments noted; however the management did not address the reason for the deviation from the 21 days advertising requirement. Though the BAC approved, the basis for deviations were not established thus non compliance with Treasury Regulation 16A.3.

The BEC had instructed the project manager to place the consultant who prepared the estimate on Mora based on the excessively high estimate. If the quote of Dimenges Projects CC was market related as per the risk assessment, then the estimate was too high. The work performed by the consultant to arrive at the estimate which is inappropriate constitutes a fruitless exercise which could have been avoidable if the reasonable care was taken.

Thus the above matters and non compliance will  be reported.

1. **COAF 248 - Deviations with the Supply Chain Management Practices: Phumi Trading CC (Tender PT10/ 045: ThabaTshwane: Repairs and Renovations of civil infrastructure (RAMP Project)**

**Audit finding**

Laws, rules and regulations

(a)    Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) *stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards*

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

(b)    Practice note 8 of 2007/2008 states *“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).”*

(c)    Practice note 7 of 2009/2010 Declaration of interest SBD4 *the scope of the declaration of interest in the SBD 4 issued on 5 December 2003 is limited only to a declaration if the bidder has a relationship with a person employed by the principal. The principal refers to the institution that invited the bid. In other words, if an employee of an institution is a director, shareholder or member of a company or close corporation and that company or close corporation conducts business with an institution other than the one at which he or she is employed, there is no obligation to disclose his or her own or his or her spouse’s interest in the company or close corporation. The word “principal” should, therefore, be replaced with the word “state” so that declaration of any interest is broadened to all state institutions*

(d)    Practice note dated 21 July 2010 States that *“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”.*

(e)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During review of appointment of Phumi Trading CC the following documents could not be found on file:

(a)          The tax clearance certificate and the bid evaluation report to the regional bid adjudication committee (PA – 21)

(b)          Declaration of interest SBD4 or equivalent document as used by entity

(c)          Declaration of Bidders past SCM Practices SBD8 or equivalent document as used by entity

(d)          Certificate of Independent Bid Determination SBD9 or equivalent document as used by entity

The procurement file with all the relevant supporting documents including the tender/procurement documentation was requested on 20 February 2012. The file was subsequently submitted for audit purposes; however the above mentioned documents were not included in the file.

The PMTE does not have proper controls in place over filing of procurement documentation and procurement documents as key documents relating to the procurement process as listed above were not included in the file submitted for audit purposes.

The above results in non compliance with the above mentioned laws and regulations as such could not be obtained to indicate that management had indeed complied with the applicable laws and regulations.  This may result in possible irregular expenditure of R2 866 607,91 for all payments made relating to the tender.

**Internal control deficiency**

## Financial and performance management:

The entity 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.

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  Management should develop a standard checklist indicating the minimum documents to be included on the procurement files.  This will assist in ensuring that the relevant documentation is indeed included on the procurement file and available for record keeping purposes.  Management should consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender file.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 16/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 237 - Deviations with the Supply Chain Management Prescripts: Mphosha security services (Tender PT11/003): Rendering of security services at the Union Buildings Public area for a period of 24 months**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  SCM Practice note 4 of 2006 states that, “*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.*

(d)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(e)  National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(f)   Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the appointment of Mphosha security services, the following were noted:

(a)    PA-01 *Request for approval of the Procurement Strategy* dated 7 December 2010 was approved by Regional Bid Adjudication Committee on 8 December 2010 for an estimated contract value of R104 439.36 per month (R2 506 544.64 for a period of 24 months) on an open procedure and method four (Financial ,Functionality and Preference offer).

(b)    The tender was advertised on 14 January 2011 on the tender bulletin Vol. 547 Pretoria, 14 January 2011 No. 2661. The closing date for responses was reflected as the 15 February 2011 at 11:00.  As per PA-13 dated 15 February 2011, 67 suppliers submitted the bidding documents and 16 bidders were non responsive.  The reasons for administrative non responsiveness were as following:

(i)      Liability insurance not submitted

(ii)     COAIDA letter of good standing not submitted

(iii)    PA-15.1 and PA-29 not completed

(iv)   Tax clearance certificate expired

(c)    As per PA-20 Scoring Model and PA-12 Approval by the Regional Bid Adjudication Committee dated 11 May 2011, it was further noted that 24 bidders were evaluated and Mphosha Contract Project had the highest score (96.00 points) with the lowest contract price (R1 550 000).  27 of the 51 bids received were not evaluated and no reasons were indicated in scoring model for not evaluating the entire 51 bidders.

(d)    The following documentation for Mphosha Security Services could not be found on file:

(i)     Valid tax clearance certificate

(ii)    SBD 4 and 8 (or equivalent as used by the department)

(iii)   Contract signed by both parties and Bid Specification

The above deviations occurred as a result of the following:

(a)    The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations as the original tax clearance certificate and SBD4, 8 and 9 were not included in the procurement file and this is an indication that procurement process is not consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)    The PMTE does not have proper controls and processes in place for filing of procurement documentation as various documents as listed above could not be obtained

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure amounting to R581 249.79 incurred to possibly be classified as irregular expenditure.  The irregular expenditure disclosure note is thus understated with this amount.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    SCM Management must ensure that the department complies with the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)    Property Management officials should develop a standard checklist indicating the minimum documents to be included on the procurement/contract  files.  This will assist in ensuring that the relevant documentation is indeed included on the procurement file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/procurement file.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(c)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 17/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 245 -Deviations with the Supply Chain Management Prescripts: Phutoma security services (PTQ11/037 and PTQ10/196)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure” means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  National Treasury Practice Note 8 of 2007/08, par. 3.3.1 and 3.3.3 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”* and “*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 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(e) As per PPPFA 3(c),4.1 and 4.3. of 2011 it is stated that the bid documentation/request for quotation specify evaluation and adjudication criteria which include the preference points system (80/20) to be used as prescribed.

During the review of the appointment of Phutoma Security Services cc, the following were noted:

(a)    *As per Approval by Bid Adjudication Committee* dated 6 December 2011 for an amount of R252 000 for Security Services at no 180 Lisdogan the following suppliers were invited for to quote *as per PA-02 quotation register* on the above motioned amount.

1. Salute Business Enterprises
2. Phutoma Security Services
3. Ntsedzeni Security Services
4. Ponisa Security Services
5. Black Chain Security Services
6. Sanibonani Doors and Steel
7. Brave Heart  Security
8. Dumisa Protection Services
9. RMM Trading
10. RN Mohare Projects,

(b)  As per *PA -2 quotation register it was noted that only*  submitted quotations; however only Salute Business Enterprise and Phutomo Security Services  submitted their quotations; however only the original quotation received from Salute Business Enterprise could be found on file.  The original quotation received from Phutomo Security Services was not included in the contract file.  Due to the fact that only two quotations were received, this constitutes non compliance with PN 8 of 2007-08 as three quotations have to be obtained

It was further noted *as per PA-02 that* Salute Business Enterprise quoted R26 751.54 and Phutoma Security Services R21 000.00.  Salute was however not responsive as the Tax Clearance certificate and PSIRA letter had expired and the Coida letter was not attached, thus the Security Services were obtained from Phutoma Services.

(c)  The following information relating to the above security services could not be obtained:

(i)      PA -01 Procurement strategy and evaluation criteria used to evaluate the suppliers that submitted the quotation

(ii)     Original quotation as submitted by winning supplier

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to supplier are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations from obtaining valid quotation.

(b)  The PMTE does not have proper controls and processes in place for filing of procurement and security services documentation as various documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to R463 000(PTQ11/037) and R378 000(PTQ10/196) is classified as irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    The PMTE should only deviate from obtaining written quotation for procurements below R500 000 in cases where it is impractical to obtain quotes from list of prospective suppliers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(b)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the procurement/contract files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the contract file.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(c)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 17/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 251 - Deviations with the Supply Chain Management Prescripts: Mphosha security services (PTQ11/214): Rendering of security services at 193 Rigel Street Waterkloof**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  National Treasury Practice Note 8 of 2007/08, par. 3.3.1 and 3.3.3 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”* and “*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 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(e)  Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(f) As per PPPFA 3(c),4.1 and 4.3. of 2011 it is stated that the bid documentation/request for quotation specify evaluation and adjudication criteria which include the preference points system (80/20) to be used as prescribed.

During the review of the appointment of Mphosha Security Services cc, the following were noted:

(a)    Per *Internal memo* dated 7 December 2011 it was indicated that the Department of Public Works had accepted the quotation PTQ11/214 dated 25 November 2011 amounting to R36 000.00 per month, totalling R108 000 for the contract period 7 December 2011 to 7 March 2012.

(b)    As per PA-12 *Approval by the Regional Bid Adjudication Committee* dated 19 January 2012 an amount of R108 000 was approved for the procurement of security services at 193 Rigel Street Waterkloof; however the following documents were not attached to the payment batch:

(i)            Quotations from prospective suppliers (Only request for quotation to Mphosha Security Services dated 7 December 2011).

(ii)           SBD 4 or equivalent documents as used by entity.

(iii)          Original tax clearance(Only copy expired on 8 June 2012)

(iv)         PA -01 Procurement strategy and evaluation criteria used to evaluate the suppliers that submitted the quotation

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to supplier are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations from obtaining valid quotation.

(b)  The PMTE does not have proper controls and processes in place for filing of procurement and security services documentation as various documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to R108 000 should be classified as irregular expenditure.

**Internal control deficiency**

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| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    The PMTE should only deviate from obtaining written quotation for procurements below R500 000 in cases where it is impractical to obtain quotes from list of prospective suppliers.  management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(b)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the procurement/contract files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the contract file.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(c)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

1. I am not in agreement with the finding

The acquisition process was sourced through the Pro-quote system. Motivation for proceeding with one quotation was approved within delegated powers. Proof of documentation is inside the file.

Name: M Selepe

Position: Acting D: Finance & SCM

Date: 31/8/2012

1. I am not in agreement with the finding

All relevant documentation has been filed accordingly. The profile and bid documents of the recommends contractor are inside the quotation file.

Name: M Selepe

Position: Acting D: Finance & SCM

Date: 31/8/2012

1. I am not in agreement with the finding

The correct procurement process was followed; as a result it does not constitute irregularity.

Name: M Selepe

Position: Acting D: Finance & SCM

Date: 31/8/2012

**Auditor’s conclusion**

Management comments not received as per the agreed date: 17/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 186 - Deviations with the Supply Chain Management Prescripts: Magwa Construction CC (Magwa) (Tender H11/004):** **Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations**

**Audit finding**

Laws, rules and regulations

(a)    National Treasury Practice Note 6 of 2007/08, par. 2.3 states that: “*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”.*

(b)    National Treasury Practice Note 6 of 2007/2008 par.2.5 states that: “*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*”.

(c)    National Treasury Practice Note 8 of 2007/2008, par. 3.4.3 states that: “*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”.*

(d)  Construction Industry Development Board Regulations, 2004, section 18(1A), (1) and (2) states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract for the public sector of which the value exceeds R200 000.00 must be registered in accordance with this par. An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single construction works contract, of which the contract value exceeds a value determined by the Minister by notice in the Gazette. The CIDB must, within 30 working days from receipt of the duly completed application, register the project concerned and supply the employer with a receipt of registration.”*

During the review of the appointment of Magwa Constructions, the following were noted:

(a)    A procurement instruction dated 14 June 2010 was issued out by KAM to the Director of Special and Major Projects (D/S&MP) which stated that the previous repair and maintenance project (RAMP) valued at R3 million has addressed the serious state of despair at the Port of Entry including buildings, fencing, roads, services, heating and air- conditioning, fire fighting, lighting, refrigeration and incinerator.  The current RAMP contract for  Kosi Bay Port of Entry would be expiring on 15 August 2010, further it was stated that continuation of this contract was estimated at R 1 million and was required as a continuation of the maintenance methodology and prevent deterioration of facilities at the Port of Entry.

(b)  In the request for approval of the procurement strategy (PA-01) dated 26 January 2011, the nominated procedure was selected as the procurement strategy for the Kosi Bay Port of Entry, the estimated value of the tender was stated to be R2 663 568.39, further the tender advertisement period selected was 2 weeks.  As per the approval of the procurement strategy by the bid adjudication committee (PA-12), the deviation was approved by 5 of the 6 members of the bid adjudication committee on 1 February 2011.

(c)  Letters of nomination were faxed on 7 February 2011 to the following four service providers with successful fax transmission confirmation except for one service provider:

         Olebas Property Development

         Natal Richards Bay Hire

         Magwa Construction

         Trading  for Real 13 CC

(d)  A meeting was held on 28 February 2011 by the evaluation committee which was chaired by G Lukhele and the following members signed as verified the minutes:  N. Pingo, K. Masilo A Naicker and H. Sagner.  Only two bids were considered administratively responsive. The committee concluded that according to PA-20.3 scoring model, the highest bidder was Magwa Construction cc with an offer of R3 340 148.70.The Bid Evaluation Committee agreed that a risk assessment would be concluded on the highest scoring bidder which is Magwa Construction.

(e)  The risk assessment report dated 1 March 2011 was compiled by Virtual Consulting Engineers (Pty) Ltd. The risk assessment indicted that Magwa Construction CC had received excellent reviews regarding contractual commitment and quality of work, thus reduced risk.

(f)   Another meeting was held by the bid evaluation committee on 2 March 2011 in which the members assessed the risk assessment report and agreed that Magwa Construction cc be recommended for approval and the project manager will compile PA-21 for the recommendation to the national bid adjudication committee.   The BAC approved the award of service to Magwa on 7 March 2011. The letter of acceptance by the department was issued on 11 March 2011.  The letter of offer and acceptance was signed by the department representative on 11 March 2011.

The SCM process followed in the appointment of Magwa Construction was in contravention of the prevailing prescripts in view of the following:

(a)    The Bid Specifications and Evaluation Committee used the nomination method to procure for the good and services. The reason for the deviation from the competitive procurement process for a value more than R500 000, 00 was not appropriately documented.

(b)    The procurement Instruction from Key Account Management (KAM) attached indicated that the project was of the highest priority and the procurement of the service providers should take place without delay through the relevant Supply Chain Management procedures.  This instruction was issued on 14 June 2010; however the process to procure the contractor began in January 2011, six months later. This indicates there was sufficient time for the BEC to follow the open tender process without deviation. This is non compliance with National Treasury Practice Note 6 of 2007/2008 par.2.5 as the deviation was not due to an emergency, urgency or sole provider.

(c)    The letter dated 25 January 2011 from the NBAC Secretariat indicated that the project manager should consider a nomination procedure with bidders who tendered for the previous tender. However through inspection of the bidding file, there was no evidence that the four nominated suppliers were the contractors who previously tendered for contract No H03/046, Kosi Bay Border post-repair and maintenance of buildings, civil infrastructure and electrical installations advertised on 20 June 2003. There is no evidence/motivation indicating where the four nominated suppliers were selected from.  Thus the recommendations of the BAC were not implemented in the procurement process.

(d)    Due to procurement via deviation from competitive bidding, the department was required to report the deviation to the relevant treasury and the Auditor –General as it was above R1million. The deviation was not reported to the AGSA thus in contravention with National Treasury PN 8 of 2007/08, and par. 3.4.3.

(e)     The PA-25 request for approval of BSC&BEC members did not provide names for officials representing procurement and KAM BCOCC. This creates a risk that any official can attend the BEC/BSC meetings and claim or sign as procurement and/or KAM official. The AGSA could not verify whether the meeting of the BEC dated 2 March 2011 had a representative from procurement.

(f)    The form of offer and agreement was not signed by a witness on behalf of the department.

This could lead to a possible legal risk should the contract be in dispute at a later stage.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations.  Procurement officials resort to the nominated procedure without ensuring that all the legislative requirements are strictly adhered to i.e. deviations are only to be approved that are as a result of urgency, emergency or sole supplier.

The above results in non compliance with the above mentioned legislation, thus leading to irregular expenditure of R1 380 216,97 being incurred (Contract amount R3 340 148,00).  The irregular should be disclosed by the department responsible for the expenditure of the above mentioned project, thus not impacting on PMTE.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)       In approving deviations from the normal SCM process, the department should ensure that the deviations are based on valid reasons i.e. emergency, urgency or sole supplier, be properly documented and reported to Auditor-General and National Treasury within 10 working days as required.

(b)       The  must ensure that the entity abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(c)       The entity should ensure that effective contract management is exercised in that all contracts are signed by all parties and witnesses. Contracts should be monitored for expiry dates and procurement planned well ahead to avoid situations where the department has to procure services as urgent or deviate from the procurement process.

(d)       The entity should ensure that the PA-25, approval of Bid Evaluation and Specification committee members contain the relevant officials’ name, alternatively officials whom attend the BEC and BSC meetings should clearly indicate which unit they represent

(e)       The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

(a)  I am not in agreement with the finding. The tender was initially advertised publicly, see attached advert extract from the bulletin. It however lapsed during the builders’ holiday. In light of the attached CIDB Practice note F1.5.2 the Department may not re-advertise prior the lapse of a six month cooling off period. The Nominated Procedure (deviation from normal bidding process) was based on this proviso.

Paragraph 4 (1) of the same says “…sub clause does not prevent an employer from immediately calling fresh tenders should the employer change the contracting strategy...”

The NBAC therefore acted in accordance with the provisions of the CIDB.

(b)  The Initial tender that lapsed as explained above was initiated in 28 June 2010. Please refer to the approved PA25 for tender H10/19 attached. This is evidence that there was no time delay. Tender number H11/004 was based on the same Procurement Instruction. New Procurement Instructions are not issued if the scope of the work has not changed.

(c)  I am not in agreement with the finding. The correct tender number is H10/019 and a list of contractors that responded is attached.

(d)  I am in agreement with the finding; however the deviation will be reported to National Treasury and Auditor General.

(e)   I am not in the agreement with the finding; Projects are allocated to SCM and KAM officials based on their availability. At the time of the approval of the PA-25 it is not known who will. The name of the SCM official was Kgadi Mphela and for KAM was Anbigay Naicker as per the attached PA18.

(f)   This is outside the competence of SCM.  Legal Services will respond

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken | To ensure that Deviations that are in a backlog are compiled and submitted to national treasury as agreed on the meeting between DPW and national treasury on Tuesday 31/07/2012). | | |
| 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 of corrective action: | N/A | | |
| 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:  Acting CD:SCM

Date:

**Auditor’s conclusion**

1. There is no evidence attached to the response which supported the comment made by management for the public advertisement of the contract that lapsed. The fact that the tender advertisement was lapsed due to advertising on builders’ holiday is a further indication of lack of proper planning which resulted in the deviation from the procurement process thus non compliance with Practice Note 6 of 2007/2008.

Furthermore; through inspection of the tender bulletin, tender H10/019 was advertised from 8 October 2010 to 10 November 2010 which is not the builders’ holiday.

1. The delay in the procurement process could not be justified by the lapse of Tender H10/019. The absence of proper planning lead to the loss of time until the department changed the strategy.
2. No list was provided nor any information to support that the contractors tendered for the H10/019. There was no indication in the contract file which indicated that H11/004 was a contract that replaced the re-lapsed tender no H10/019.
3. Management’s comment noted, however deviation will be reported.
4. Management’s comment noted, however deviation will be reported.
5. Management comment outstanding. The finding remains and will be reported.
6. **COAF 210 - Deviations with the Supply Chain Management Prescripts: Keren Kula Construction (Tender H10/016): Heritage Refurbishment of Maroela house for VIP medical team**

**Audit finding**

Laws, rules and regulations

(a)    PFMA sec 38(1)(c) states that: “*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)    National Treasury Practice Note 6 of 2007/08, par. 2.3 states that: “*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”.*

(c)    Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(d)    CIDB regulation par. 18(1A) states that: *“(a) for the public sector of which the value exceeds R200 000.00; or (b)  for the private sector and a public entity listed in Schedule 2 of the Public Finance Management Act, 1 of 1999, of which the value exceeds R10 million, must be registered in accordance with this Part*.”

During the review of the appointment of Keren Kula Construction, the following were noted:

(a)    A procurement instruction (PI) dated 23 June 2008 was issued from KAM for the refurbishment of Maroela house for the presidential medical team in Pretoria.  The purpose of this document is to issue an instruction to the executing units to upgrade Maroela House or convert the house into a Military health care facility, taking into account the needs of the Presidential Medical Team (PMT), a contract period of 8 months has been adjudged by the consultants who prepared the report to be the most appropriate for a contract of the nature envisaged as it would have the desired benefit with acceptable and manageable level of risk.  It was further stated in the PI that the estimated cost of this contract is R30 000 000 which included new items such as a hospital equipment and interior decorating services.

A bid specifications committee of 5 members was approved by the chief director of supply chain management on 20 July 2010.  The procurement strategy entailed the following evaluation criteria: (1) CIDB grading of 8GB or higher and for potentially emerging suppliers a CIDB grading of 7GB PE or higher and (2) the evaluation method to be used would be method 2(financial and preference offer) with the 90/10 preference point system.  The procurement process selected was the nominated procedure, with an advertisement period of 4.5 weeks.  Further the estimated value of the tender was estimated to be R57 011 363.09.  Five (5) of the eight (8) members of the special national bid adjudication committee supported the approval of the strategy on 26 August 2010.

(b)  A procurement certificate (DPW-19) dated 4 October 2010 confirmed that funds of R10 000000 were in order.  A notice and invitation to tender (PA-04) dated 12 October 2010 was compiled by Malongane stating that the tender would be advertised on 15 October 2010 up until 17 November 2010.

(c)  Letters of invitation to bid for tender H10/016 were successfully faxed to eleven (11) nominated suppliers on 15 October 2010.  Of the eleven suppliers to whom invitations were issued, nine submitted their bids as listed on the tender register (PA-13) dated 26 November 2010.  Further of the nine whom submitted their bids, two (2) were considered non responsive due to the reason that only one director in the respective entities signed the resolution (PA-15.1).  A meeting was by three (3) of the members of the bid evaluation committee along with three (3) observers on 13 December 2010.  It was agreed by the committee that Keren Kula Construction, the highest scoring bidder, be recommended to the bid adjudication committee and that no risk assessment report be prepared as the special national bid adjudication committee (SNBAC) ruled on the previous procurement strategy that risk assessment must be removed as responsive criteria.

(d)  A tender evaluation report dated 21 January 2011 listed 9 of the tenderers whom were evaluated and Keren Kula construction with points of 87.97 for price and 7.2 for preference, thus a total of 95.17.On 21 January 2011, five of the members of the SNBAC supported the awarding of the contract to the recommended supplier.Keren Kula construction, the winning supplier was issued a letter of offer dated 8 February 2011 from the deputy director and contract administration for the Bryntirion: heritage refurbishment of Maroela house for VIP medical team (H10/016) tender.

The SCM process followed in the appointment of Keren Kula Construction was in contravention of the prevailing prescripts in view of the following:

    (i)        Failure to record the deviation from the competitive procedure to the nominated procedure, although the procurement strategy containing the aforementioned procedure was appropriately approved by the SNBAC, the deviation is not in compliance with National Treasury Practice Note 6 of 2007/08, par. 2.3 as the deviation was not supported by the allowable reasons for deviation as outlined in the aforementioned practice note as either an emergency or sole supplier.

   (ii)        The deviation was not reported to the National Treasury and Auditor-General of South Africa within 10 days as required per the practice note.

  (iii)        The project H10/016 is not listed on [www.cidb.co.za](http://www.cidb.co.za/) as registered with the CIDB. This is in contravention of CIDB regulation 18(1A)(a) and (b).

The above matters are a result of lack of measures in place to comply with the relevant SCM prescripts and therefore constitute non-compliance which may result in the incurrence of irregular expenditure.

Total irregular expenditure incurred through payments made to Keren Kula to date amount to R5 029 012,35. The irregular expenditure should be disclosed by the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular of PMTE.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)       In approving deviations from the normal SCM process, the department should ensure that the deviations are based on valid reasons, properly documented and reported to Auditor-General as required.

(b)       The department must ensure that the department abides by the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process is carried out.

(c)       The department should ensure that the PA-12, the fill in document used by the bid adjudication committee (BAC) to approve recommendations from the bid evaluation committee (BEC), clearly specify the recommendation under consideration (i.e the specific procurement strategy with its date and the name of the supplier recommended for the award by the BEC).

(d)       The use of a formula on when calculating the preference points and/or ensuring review of the points calculated by the preparer of the PA-20, by the members of the BEC prior to concluding on the supplier to be recommended for the award.

(e)       The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular and fruitless and wasteful expenditure.

**Management response**

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

(i)            The project went out on open tender for pre-qualification as tender number PT10/022 (advert attached), the invited contractors are those that met the prequalification criteria and thus were later invited to tender under tender number H10/016.

(ii)           This was not a deviation from any prescripts as the tender was advertised openly on the government Bulletin for pre-qualification purposes.

(iii)          CIDB conducted an audit of 2009/10 and 2010/11 and confirmed that all our contracts had been registered on the CIDB. Evidence to support this statement is attached.

Name:   Eulala Kruger

Position:

Date:

**Auditor’s conclusion**

Management comment noted. However, no attachment was provided to support the response, thus the finding remains valid.

1. **COAF 217 - Deviations with the Supply Chain Management Prescripts: Magwa Construction CC (Magwa) (Tender H10/025): Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations**

**Audit finding**

Laws, rules and regulations

(a)  Treasury Regulation 16A6.3(c) states that, “*The accounting officer or accounting authority must ensure that 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.”*

(b)  Practice Note 6 of 2007/08, par 2.5 states that: “*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 process*”.

(c)  Construction industry Development Regulations, 2004 (as amended on  14 November 2008) PART IV, par 2 states that*:* ***“****Every client or employer who is inviting calls for expression of interest or soliciting competitive tenders without first calling for expressions of interest in the construction industry must publish that invitation to tender on the CIDB’s website and that solicitation must be in accordance with – Expression substituted by Government Notice no 8986 of 14 November 2008, published in Government Gazette No 31603 of 14 November 2008.”*

(d)  Construction industry Development Regulations, 2004 (as amended on  14 November 2008) PART IV, Paragraph 18 (1)states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract -*

*(a) for the public sector of which the value exceeds R200 000.00.   An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single*

During the review of the appointment of Magwa Constructions, the following were noted:

(a)  A procurement instruction was compiled on 14 June 2010, by the acting director of key accounts management (KAM) for the attention of the director of special and major projects.  The procurement instruction was in relation to the appointment of a new contractor for the Bray, Makgobistad and Ramatlabama ports of entry project.  It was explained that the Makgobistad, Bray and Ramatlabama are Ports of Entry bordering South Africa and Botswana.  The RAMP (repair and maintenance project) contract for Bray and Makgobistad expired on 8 February 2010.  Ramatlabama will expire on 29 August 2010.  The previous RAMP contracts valued at R19,6 million had addressed the serious state of disrepair of the Port of Entry including buildings, fencing, roads, services, heating and air-conditioning, fire fighting equipment, lighting, refrigeration and incinerator.  The continuation of the maintenance contract was estimated at a total cost of R4,5 million.  It was stated that the contract is required to ensure continuation of the maintenance methodology and prevent deterioration of facilities at the port of entry.

(b)  A request for approval of the procurement strategy, which was analysed and agreed upon by five members of the BEC/BSC on 29 September 2010, was submitted to the bid adjudication committee (BAC).  The estimated value of the tender was stated to be R17 388 588,15; a CIDB grading of 7CE or higher or for potentially emerging enterprises a CIDB grading of 6 CE PE or higher; an open procedure was selected as a procurement procedure; method two (financial and preference offer) was selected as the evaluation method; further the tender was selected to be selected over a period of 2,5 weeks.  The justification of the shorter advertising period was that it was crucial to shorten the tender advertisement period as very little time was left to appoint a contractor and do a site hand over.  The project manager signed for the deviation.

(c)  On the notice and invitation to tender (PA-04) the date of the advertisement was indicated to be 19 November 2010 with a closing date of 8 December 2010.

(d)  Four (4) members of the BAC supported the approval of the procurement strategy on 12 October 2010, and the chairperson approved the strategy.  A meeting was held by the BEC/BSC on 13 December 2010, four members of the BEC/BSC listed on PA-25 attended the evaluation meeting.   On the basis that three(3) responsive bids were received and were evaluated on the scoring model sheet (PA-20.3), Magwa Construcion CC as the highest scoring bidder with an offer of R15 062 097,24 was selected for the performance of a risk assessment on it.

(e)  A follow-up evaluation meeting was held by the BEC/BSC on 10 January 2010 by half of the officials listed as members on PA-25.  It was agreed that Magwa Construction CC be recommended for the approval and the project manager would compile the PA-21 for the recommendation to the National Bid Adjudication Committee.  On the tender evaluation report to the national bid adjudication committee (PA-21) dated 12 January 2011 compiled by the project manager, the Magwa Construction CC with a tender price of R15 062 097,24 and total points of 92.8 was recommended as the tenderer for the 36 month Bray, Makgobistad and Ramatlabama port of entry project. The BAC approved the award on 25 January 2011. A letter of offer dated 28 January 2011 was issued to Magwa Construction CC informing them of the award.

The SCM process followed in the appointment of Magwa Constuction CC was in contravention of the prevailing prescripts in view of the following:

(a)  A period of 2,5 weeks was selected as the advertising period supported by the reasoning indicating that it was crucial to shorten the tender advertisement period as very little time was left to appoint a contractor and do a site hand over. However, from the time the Procurement Instruction was issued in June 2010 to the time the tender was awarded to the contractor in January 2011, there was adequate time to advertise for 21 days without deviating from the appropriate bidding process. This constitutes non compliance with Practice Note 6 of 2007/08.

(b)  Non-compliance with CIDB 2004, PART IV, par 24 and CIDB 18. (1A) and (1) as a result of failure to advertise the tender on the CIDB website along with registering the project on the CIDB register of projects.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations.  Furthermore, the above results from inconsistencies with the reasons provided for justifying the deviation and actions followed thereafter.

This non-compliance may result in the incurrence of irregular expenditure to the amount of R7 201 623,50 (being total payments made). The irregular expenditure should be disclosed by the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular expenditure of PMTE.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      Management must ensure that the department complies with the laws and regulations issued by the National Treasury, thereby ensuring that a consistent, fair, equitable, transparent, competitive and cost effective bidding process are carried out.

(b)      In approving deviations from the normal SCM process, management and the BAC should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of power.

(c)      Management should ensure that the department complies with the CIDB regulations during the procurement of construction works.

(d)      The pre-printed PA-12 should include the specific approval requested i.e. procurement strategy; PA-21 with the date.

**Management response**

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

(a)  The bid was advertised for 2.5 weeks as indicated in the Procurement Strategy signed off by the Head of project on 29 September 2010 and was then approved by the NBAC 12 October 2010. The approval was within the ambit of the National Treasury Regulations16A6.3(c). Though the policy states that deviations from normal tender period is for emergency / urgent cases, it must be noted that the policy has not been updated however Circular No 2 of 2008/9 was issued which does cater for other cases under the Proviso “…as the accounting officer or accounting authority may determine” of the same regulations. The deviation was based on Circular 2 of 2008/09 which was based NT regulation 16A6.3(c) as quoted above.

(b)The service was advertised on the CIBD I-tender website (Attached is an acknowledgement letter from CIDB which was issued after an audit).

Name:   Eulala Kruger/Juanita Prinsloo

Position:  Acting CD: SCM

Date:   14/8/2012

**Auditor’s conclusion**

Management comment noted. However, the circular referred to (Circular 2 of 2008/09) is not in line with the National Treasury regulations as it reduces the stipulated 21 days to lesser, not just in isolated cases but in every construction and engineering contract. Thus the matter constitutes non compliance and results in irregular expenditure for the department responsible for the expenditure of the above mentioned project, thus not impacting on the irregular expenditure of PMTE.

No supporting documentation was provided to substantiate that the contract was advertised on the CIDB.

1. **COAF 219 - Irregular Expenditure - Condonement**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Practice note 4 of 2008/2009, paragraph 3.2 states that, *“the relevant authority is the person or Institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation.”*

(c)    As per the Irregular expenditure management policy approved by the CFO on 19 February 2011 paragraph 13.2 the following is stated, *“Approval for ex-post facto/condonation limits: Central loss committee = R1 – R500 000; Chief financial officer = R500 000 – R1million; Accounting officer = >R1mil”*

During the review of the irregular expenditure condonement documentation, the following was noted:

(a)    The irregular expenditure which related to the approval of variation orders to the value of R18 522 685,75 (Pretoria region) and R34 720 549,43 (Head Office) was approved by the Acting Chief Financial Officer for condonement when in fact the Irregular Expenditure policy of the entity states that all irregular expenditure items in excess of R1million must be approved by the Accounting Officer. This was further corroborated as an exception by the Director-Financial Accounting. The relevant authority to condone the expenditure is therefore the Accounting Officer.

The above deviations constitute non compliance with the applicable laws, rules and regulations and practice note as listed above and as a result should no longer be disclosed as condoned but instead continue to be disclosed as irregular expenditure.

The above deviations occurred as a result of the following:

(a)  Management has not implemented the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that all condoned expenditure is in fact condoned by the relevant authority.  Furthermore the accounting officer has not communicated policies and procedures to enable and support an understanding and execution of internal control objectives, processes, and responsibilities.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    Management must ensure that all policies and procedures are clearly communicated and understood by all staff members. Additional controls should be implemented to ensure that the correct authority condones the irregular expenditure.

(b)    Irregular expenditure must be condoned by the appropriate authority in accordance with the relevant laws, regulations and practice notes.

**Management response**

(a)    Management must ensure that all policies and procedures are clearly communicated and understood by all staff members. Additional controls should be implemented to ensure that the correct authority condones the irregular expenditure.

(b)    Irregular expenditure must be condoned by the appropriate authority in accordance with the relevant laws, regulations and practice notes.

**Management response**

I am not in agreement with the finding.

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| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | The amount of R 34,750,549.43 is not irregular since a submission for a deviation in terms of Treasury Regulation 16A6.4 was made and duly authorized by the accounting officer on 12 December 2009.  The amount of R 18,522,685.75 should be followed with the Pretoria region. | | |
| 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 | Reduce the disclosed irregular expenditure amount by R 34,750,549.43 which was incorrectly captured. | | |
| Position of official responsible to take corrective action | Director : Financial Reporting | | |
| Estimated completion date of corrective action: | 31 August 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 | Deviation was already authorized. | | |
|  |  |  |  |

Name: J Prinsloo

Position: Chief Director – Planning and Reporting

Date: 17/8/2012

**Auditor’s conclusion**

Management comments are noted. We have received the relevant supporting documentation for the R34 750 549.43. We have not received any response for the R18 522 685.75 therefore this will remain a valid finding in the management report.

1. **COAF 224: Deviations with the Supply Chain Management Prescripts: Facilities Management-day to day Maintenance contract (WCS 044107- Contract 02)**

**Audit finding**

Laws, rules and regulations

(a)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)  PPPFA paragraph 11 states that “*an organ of state must, prior to making an invitation for tenders, properly plan for, and, as far as possible, accurately estimate the costs of the provision of services or goods for which an invitation for tenders is to be made*”

(c)  The Code of conduct for the Bid Adjudication Committee paragraph4. 5.2 states that “*Members of the Bid Evaluation Committee may present their recommendations /reports to the Bid Adjudication Committee and clarify any issues but shall not have any voting powers.”*

(d)  National Treasury Practice Note 6 of 2007/2008 par.2.5 states that: “*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*”

(e)  Circular on Code of Conduct for Bid Adjudication Committees, paragraph 2.10 issued 24 March 2006 States that *“In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides, practices notes and circulars.”*

During the review of the appointment of Superfecta Trading 209, the following was noted:

On 25 August 2008,   the Director-Prestige Technical maintenance sought an approval from the Pretoria regional manager to appoint on the nominated basis, the contractor to do an overall Facility management and maintenance services on a nominated basis for the Presidency facilities- Union Buildings, Presidential Guesthouse, Mahlamba Ndlovu and Oliver Tambo House. Motivation was that the existing facilities management service provider who was appointed eight months earlier had performed poorly which resulted in its contract being terminated for the presidency portfolio.

The department intervened through workshops with the service provider, obtaining commitments from them, however none of the commitments materialised.  Maintenance took a slum and most maintenance complaints were not attended to on time or not attended to at all. A decision was taken that as of 1 September 2008 that all the Presidency properties should be maintained by the Pretoria regional office, Prestige technical maintenance in order to address the backlog and further put in place the Preventive maintenance contract to monitor and carry out the maintenance as required in terms of the building standards and the OHSA. The contractors who were nominated were:

1. Prestige Air conditioning CC

2. Bromberg Refrigeration

3. HAT specialists

4. Maphafu Electrical

5. Bona Electrical

6. D&F Diesel and Fuel Services

7. Superfecta Trading 209

8. Yebo Maintenance

9. Nel Mahlangu

10. Cleaning Specialists

11. Chaup pest contract

12. Pongani Pest control.

The motivation for nominating these suppliers was that all these contractors were registered with the department as service providers and about 90% were NIA cleared. They had worked on the Prestige properties before and they all understand the systems. The director thus recommended the approval to nominate the above service providers for maintenance of Presidency properties for a period of six months starting from 1 October 2008.

The regional manager approved the memo on 25 August 2008 as an urgent procurement. On 13 September 2008, the nominated contractors were invited to make presentations to the BEC to assess their capabilities for day to day maintenance contract. The contractors were evaluated based on this presentation for Quality, ranking from “poor to very good” by the members of the BEC. Based on these quality score sheets, the PA 20 scoring sheet was compiled. Only four contractors were evaluated, and the remainder were noted as non compliant. A 50:50 weight was used on the Quality and Price, even though the nominated companies were not required to quote for the price. Then the scores for Preference were added to arrive at the final score. Superfecta Trading 209 was then awarded 90 points, though their weighed score was 67, 5 points for quality and 0 points for preference.

On 26 September 2008, the Director ,Prestige Technical maintenance sought an approval from the regional manager to appoint Superfecta Trading 209 as the highest scoring contractor to conduct maintenance of the Presidential Properties for a period of six months starting from 1 October 2008. The financial implication for the contract was indicated as R6 146 000, which was made up of: Mobilisation Fee of R1 434 000, 00, Fixed Monthly management of R259 050 per monthly and Monthly operational schedules fees of R692 000 per month. On 8 October 2008 a letter was issued to Superfecta Trading 209 informing them of the award of the contract for an estimated amount of R6 146 000 including VAT. It was indicated that this contract would be incorporated into the contract of Motseng Facilities Management. Motseng Facilities Management was also notified that a mobilisation fee of R1 434 000, 00 and monthly management fee of R259 050, 00 would be reduced in order for the DPW to pay Superfecta Trading 209 for 6 months. On 7 November 2008, the BEC requested the Regional Bid Adjudication Committee (RBAC) to ratify the urgent procurement process, stating that the mobilisation and management fees would be paid under WCS 044107. The RBAC approved the ratification on 12 November 2008. A service level agreement was signed by the department and the representatives of the service provider on 28 October 2008.

On 24 March 2009, the Director of Projects at Pretoria region requested the RBAC to extend the contract of Superfecta for a period of 12 months, due to that the original service provider Motseng Facilities Management was not ready to reclaim the portfolio, due to the non submission of requested information, and Superfecta had proven to be capable to provide the required services, is familiar with the site and most of its technical staff was NIA cleared and had internal  capacity in terms of technical expertise, they rely on internal financial resources, had a quick turn-around time and they were a 100% BEE company. It was further mentioned that the quality control was up to standard and the clients were very happy with the work done by Superfecta Trading. The financial implication to extend the contract was stated to be R983 000. The RBAC approved the extension on 25 March 2009.

On 25 January 2011 Internal Memorandum referenced FM CONTRACT WCS 044107 from the Deputy Director Technical Maintenance to the SBAC indicated that:

“*Subsequent to the meeting held between the Deputy Minister and the Chief Finance Officer yesterday, and a follow-up meeting held between the Deputy Minister and the Acting director  Prestige, a decision was taken that both the Facilities Management Contracts be extended for a period of 12 months. The reason is that the department is not yet ready for the new service providers to take over Maintenance in Prestige Facilities. Secondly the Projects Directorate will on the other hand need enough time to prepare for the procurement of such a service. We hereby request that the latest submission to the NBAC be reviewed as per the above decision. See attached revised motivation. We further request and adhoc NBAC sitting to review this submission as we no longer have any time left.”* The internal memo was signed for recommendation by the Acting Director - Prestige on 25 January 2011.

Per the PA 12 –Approval by the SBAC, the extension of the contracts for Facilities Management was approved on 27 January 2011. The approval was only granted for three months.

On 19 April 2011, the Acting Chief Director of Prestige requested a further extension of the contract of Superfecta Trading 209 from 1 May 2011 to 31 March 2012 (12 months) , based on the recommendation that the department  made assessments on the performance of Motseng Facilities Management and the service provider indicated no readiness to assume the duties, thus the only option was to extend the contract of Superfecta Trading 209 for 12 months and a further 10 months which ended on 31 January 2011.  The financial implication indicated was that Superfecta had an expenditure of R73 383 879, 36 as at 31 March 2011 and requested the approval of the R39 486 836, 40 for the extension of 11 months.

The third extension request was signed by the acting DDG – ICR & KAM on 31 January 2012 which indicated that the approval requested was for a month to month basis starting on 1 February 2012. The SBAC approved this award on 3 February 2012.

The SCM process followed in the appointment and extension of Superfecta Trading 2009 was in contravention of the prevailing prescripts in view of the following:

(a)  In the 2009-2010 audit cycle, the following irregularities were reported ( final Management Report issued in June 2010:

(i)            The PA 20 scoring model form indicates that the 90/10 preference points system was used, with a price/quality split of 50/50 on the 90 points. This is a deviation from the scoring method which was used when the original service provider was selected, as at that time a split of 60/40 on quality/price was used on the 90 points, This is therefore an indication that the department did not have the basis for the evaluation criteria.

(ii)           that potential suppliers were not requested to provide a price quotation, A price quotation was only submitted by Superfecta Trading 209 after the contract was awarded to them, This is in contradiction to the scoring model because the 90 points were split 50/50 between quality and price and if price was not submitted the department was in no position to award points on price, Upon enquiry management confirmed that Superfecta Trading 209 only provided prices after the bid was awarded to them. (even though in the scoring sheet, they were awarded 90 points for quality and price)

(iii)          In the motivation for nomination it was indicated that all potential suppliers were BEE Companies however the points for HDI were not consistently awarded. Superfecta was also not awarded any points for Historically Disadvantaged Individual ownership though they were indicated as 100% BEE. Management was not able to provide an explanation of the criteria used to award points.

Furthermore, nine of the 12 suppliers that were nominated were providing single specialised services (i.e. cleaning, pest control, electrical, air conditioning and refrigeration). These service providers would not have qualified with for the requirements for day to day maintenance. Thus the process followed was not competitive and fair to identify the relevant suppliers to provide the required services of day to day maintenance.

Thus the deviations from the requirements of the PPPFA constitute irregular expenditure as defined and payments made to Superfecta Trading CC should be disclosed as such.

(b)  On the initial 6 months contract, the financial impact was correctly summed up to R6 146 000 (excl VAT). This was an error as the total of the quoted fees was R7 149 300,00.

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| --- | --- | --- |
| **Quoted Fee** | **Per month** | **6 Months** |
| Mobilisation fee (once off payment) |  | 1 434 000,00 |
| Fixed management fee (6 months) | 259 050,00 | 1 554 300,00 |
| Monthly operational schedule fee (6 months) | 692 000,00 | 4 152 000,00 |
| Total | | 7 140 300,00 |

The approval of the award and the budget was based on an incorrect amount. This is a result of the absence of due care by the evaluation committee to ensure accurate and complete evaluations as required by the PPPFA regulations.

(c)  It was noted that the Director of projects (Noloyiso Ntwana) requested the nomination of the suppliers, took part in the evaluation and awarding of points for the nominees, requested the extension of the contract for Superfecta Trading CC on 24 March 2009 and further sat on the Regional Bid Adjudication Committee that approved the extension on 25 March 2009. As the director had actively been involved in the evaluation of the contract, he/she should not be involved in voting or making decisions for the adjudication of the contract. This constitutes non compliance with the Code of conduct and TR 16A6.2(b) & (c).

(d)  The Facilities Management contracts were extended for four times, and approved by the Bid Adjudication Committee, even though the committee had previously stipulated that the second extension was the final and the department had additional time to obtain new service providers. This is a reflection that the recommendations that are put in place by the adjudication committees are not implemented or prioritised by the department. Extensions are used as a remedy for lack of proper planning

The above deficiencies constitute non compliance with the laws regulations and the weaknesses in the SCM and project management internal controls and result in irregular expenditure of R74 724 215, 63 (8 561 606, 63 for the current year and R66 162 609,00 for the previous  years)

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

1. Corrective action should be considered against the members of the BEC and NBAC and other officials responsible for their failure to fulfil their mandate, role and functions and to ensure that the SCM process was fair and consistent and in line with the prevailing SCM and CIDB prescripts
2. In approving deviations and extensions from the normal SCM process, management and BAC should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers
3. The evaluation committees and the project manager should analyse the financial impact recalculate and balance the pricing data to eliminate the arithmetic errors in the quotes.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 28/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 227 - Deviations with the Supply Chain Management Prescripts: Kirkwood, Patensie, Colesberg Prisons: Repair, Maintenance and operation of Water and Waste water works-Tender No H08/018**

**Audit finding**

Laws, rules and regulations

(a)  Construction industry Development Regulations, 2004 (as amended on 14 November 2008) PART IV, par 2 states that*:* ***“****Every client or employer who is inviting calls for expression of interest or soliciting competitive tenders without first calling for expressions of interest in the construction industry must publish that invitation to tender on the CIDB’s website and that solicitation must be in accordance with – Expression substituted by Government Notice no 8986 of 14 November 2008, published in Government Gazette No 31603 of 14 November 2008.”*

(b)  Construction industry Development Regulations, 2004 (as amended on  14 November 2008) PART IV, Paragraph 18 (1)states that: *“Despite the values determined in Government Notice No. 692 of 9 June 2004, every project consisting of a single construction works contract -*

*(a) for the public sector of which the value exceeds R200 000.00.   An employer must, within 21 working days from the date on which a contractor’s offer to perform a construction works contract is accepted in writing by the employer, apply on the approved form to the CIDB for the registration of every project, consisting of a single* *construction works contract, of which the contract value exceeds a value determined by the Minister by notice in the Gazette.”*

(c)   CIDB SFU, paragraph 4.2.1.4 & 5 states that: *“Advertisements for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting. Advertisements for the submission of expressions of interest in respect of engineering and construction works contracts in terms of the P4 Qualified Procedure shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for submissions of interest and at least 5 working days before any compulsory clarification meeting.”*

During the review of the appointment of Zana Manzi (Pty) Ltd, the following was noted:

(a)  An instruction note dated 21 September 2007 was issued by the Key Accounts Management (KAM) official to the Director of Special and major projects requesting the appointment of consultants for the design and documentation to ensure the new contracts are in place by expiry date which was expected to be six to nine months period. The request was further to execute these services without delay to the satisfaction of the department of Correctional Services and to the best interest of the state as stated in the General Conditions of Procurement. PA-01 (Procurement Strategy) was compiled by the Project Manager on 8 May 2008 and supported by the Head of Projects on 9 May 2008. The estimate of the contract was R26 000 000 to be procured on an open procedure, the CIDB grading required was 5CE PE/6CE or higher and the contract would be advertised for 4,5 weeks.

(b)  On 6 June 2008 the BAC approved on the condition that the procurement strategy included the following: the annualised cash flow, risk assessment criteria to be followed, method of grading to be reflected in the tender documents and that the correct procurement strategy forms are used.

(c)  The advertisement of the contract was placed in the government gazette from 11 July 2008 to 11 August 2008. Per the register of bids, two suppliers responded to the tender before closing date and none was considered non responsive. The bids were evaluated by the BEC and Zana Manzi scored the highest points. The risk assessment report prepared by Ninham Shand dated 14 October 2010 reflected that Zana Manzi did not pose any unacceptable risk to the department.  The BEC recommended the award of the contract to the BAC as the highest scorer on 5 November 2008.  The three members of the BAC approved the award of the contract to Zana Manzi (Pty) Ltd subject to the risk assessment by the DPW team of the BEC be attached on 20 January 2009. The letter of award was issued to notify Zana Manzi of the award on 25 January 2009.

The SCM process followed in the appointment of Zana Manzi (Pty) Ltd was in contravention of the prevailing prescripts in view of the following:

(a)There was no evidence obtained that the contract was advertised on the CIDB website *iTender@cidb* service at least ten working days before the closing date for tenders and at least five working days before any compulsory site meeting as required by the CIDB regulations.

(b) Once the project had been awarded to Zana Manzi (Pty) Ltd, the department should have registered the project on the CIDB website as required by the CIDB regulations as the value of the award was more than R200 000,00. However, supporting evidence that the project was registered on the CIDB could not be obtained, neither did the project appear when searched on the CIDB website.

SCM officials have not taken adequate measures to ensure that all the relevant laws and regulations have been complied with in the tendering process.

This constitutes non compliance with the CIDB regulations and standard procurement practices. Similar non compliance is recurring and was reported in the prior year management reports.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)    Management should ensure that all responsible officials are aware of the CIDB requirements that are to be complied with and that compliance with such is obtained.

**Management response**

I am not in agreement with the finding. CIDB Conducted an audit in terms of CIDB regulation 24, and CIDB regulation 18(1) for the 2009/2010 and 2010/2011 financial years. The audit revealed that all our contracts had been registered in terms of the Regulations quoted above. Please see attached response from CIDB.

Name:   Eulala Kruger/Juanita Prinsloo

Position: Acting CD:SCM

Date: 15/8/2012

**Auditor’s conclusion**

Management comment noted, however, no attachment was provided to substantiate the management response. Thus finding remains valid.

1. **COAF 233 - Limitation of scope – RFI no. 201**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 201 dated 3 July 2012 was requested but not all information was provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Approved Submission documents for the condoned irregular expenditure with a payment number of PTA08/038 and an amount of R181 515 452,38. |

The approved submission documents for the condoned irregular expenditure amounting to R105 756 506,70 of the R181 515 452,38 indicated above could not be provided for audit purposes.

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 235 - Upgrading of essential Infrastructure at the Skilpadshek Border Post Residential Component**

**Audit Finding**

Laws, rules and regulations

1. Section 1 of the PMFA states the following**: “fruitless and wasteful expenditure”** *means expenditure which was made in vain and would have been avoided had reasonable care been exercised*;”
2. Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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. OVERVIEW**

**1.1 Need determination**

The need to upgrade the infrastructure of the Skilpadshek Border Post (SBP) and to establish a residential area for the employees was already identified in 2001. The process to upgrade the infrastructure has started but was not finished by 31 July 2012. The residential area of SBP has not progressed, as the contract therefore was cancelled.

**1.2 Roles and responsibilities of the role-players**

The major role players in the infrastructure delivering process were the client departments (BCIP) and the Department of Public Works (DPW).

**Roles and responsibilities of the BCIP:**

* Identify the need for infrastructure.
* Prioritise needs.
* Compile a cost estimate.
* Include in the MTEF budget.
* Liaise with other role players such as the municipality to ensure that the related services are available.
* Identify and obtain ownership of the land earmarked for the project.
* Brief the DPW on the project requirements.
* Consider and approve the planning documentation.
* Transfer funds to the DPW in accordance with cash flow forecast.
* Attend site and other relevant meetings.
* Consider and approve additional funding.
* Ensure utilisation of building soon after first handover.
* Report deficiencies to the DPW.
* Ensure that adequate staff and equipment are available to ensure full commissioning.
* Monitor utilisation.

**Roles and responsibilities of the DPW:**

* Plan project according to the BCIP brief.
* Submit the planning documentation for approval by the BCIP.
* Appoint the technical team, including the principle agent who is responsible for coordination and supervision on the project, quantity surveyors, engineers, architects etc.
* Advertise tenders, evaluate tenders and appoint the successful tenderer.
* Obtain surety from the contractor before site handover.
* Site handover to contractor.
* Project management and technical inspection.
* Attend site and other meetings.
* Consider requests for variation orders.
* Consider and approve requests for extension of contract period.
* Consider progress report and effect progress payments to the contractor and consultants.
* Charge penalties on late completion of work, if required.
* Take timely action to institute corrective action where the contractor does not progress satisfactorily or the quality of workmanship is not up to the required standard.
* Where necessary, replace the contractor and call up the surety to cover additional costs.
* At first handover compile a snag list.
* Monitor the completion.
* Issue final handover certificate.
* Refund retention monies.
* Compile a close-out report.

**1.3 Implementing agent**

The BCIP entered into agreements with the DPW to act as implementing agent for this project. According to the Programme Implementing Agent Agreement (PIAA) between the BCIP and the DPW, the responsibility rests with the DPW to ensure that the infrastructure project is facilitated and monitored in the most economical, efficient and effective manner.

**2. BACKGROUND AND FINDINGS ON THE UPGRADING OF ESSENTIAL INFRASTRUCTURE AT THE SKILPADSHEK BORDER POST**

**2.1 Residential area for the current and prospective employees of the Skilpadshek Border Post**

**2.1.1 Background**

2.1.1.1 Following a request by the BCIP in 2000, a pre-design investigation was undertaken in-house by the North West Department of Public Works Directorate: Project Information and Analysis (PIA) with regard to the accommodation requirements at the Skilpadshek Border Post.

2.1.1.2 Various alternatives, including the upgrading of existing infrastructure and the feasibility to construct entire new facilities were investigated.

2.1.1.3 The Directorate: PIA of the DPW undertook a site survey in 2001 to establish ownership and to determine whether the accommodation requirements would fit on the present site. Cost estimates to the various options were calculated. The cost for the building work was estimated at R7 753 600 and the total capital cost for the project was estimated at R29 917 756. The BCIP was in the process to source funds from the various stakeholders (client departments) which included the South African Revenue Services; the South African Police Services and the department of Home Affairs.

2.1.1.4 A planning instruction was issued on 22 April 2002 to DPW to proceed with a master plan design for the project. Brink and Schoeman Quantity Surveyors that was appointed during June 2002 was the project manager.

2.1.1.5 A planning instruction was issued on 14 September 2005 to the Mmabatho Regional office of DPW to proceed with the development of the essential infrastructure as well as the acquiring of additional land at Skilpadshek. The BCIP requested on 6 July 2007 that the project be returned to head office to prevent further delays to the project.

2.1.1.6 Mvela Phanda Construction Pty (Ltd) (MPC) the successful bidder was awarded the contract for the construction of the residential component of the Skilpadshek Border Post Project on 27 August 2008. The total value of the contract amounted to R374 392 624. The planned contract period was set for 20 months and the completion date was set at 30 April 2010.

2.1.1.7 Project construction was put on hold since then for a number of reasons:

A geotechnical survey in 2006 indicated that the site was located on dolomite and that no new extensions should be permitted on the land until detailed investigations clarify the inherent risk classification of the area.

In December 2008, the site that was identified for the residential area was furthermore discovered to be located within an area where past mining activities of necessity preclude such development.

Problems with the acquisition of additional land needed to accommodate the new border also delayed the progress with the project.

* + 1. **Findings**

* + - 1. The construction of the new residential area of the SBP was hampered by an ineffective co-ordination process, which contributed to the delays experienced with the project. For example, more than eleven years have elapsed since September 2000 to commence with the construction of the residential area of the project, when the need to upgrade the SBP was initiated by means of the Border Control Improvement Programme. Since May 2004 when the final changes to the masterplan was accepted at a cost of R1 299 315 to compile various delays have been experienced with the result that the site for the construction of the new residential area was only handed over to the contractor, MPC, on 23 September 2008. The project was part of the 2010 initiative and had to be completed by the end of April 2010 or before the Soccer World Cup had commenced. The project was classified as of a high priority. Delays that contributed to the project starting late include the following:

The previous project manager indicated on 11 August 2005 that no further instructions have been received from the client department regarding, inter alia, the acquiring of additional land for the project since May 2004 and the process therefore came to a stop. According to him the total area that required for the new development by far exceeded the available land. The BCOCC indicated on 6 June 2007 that a planning instruction dated 14 September 2005 was issued to the Mmabatho Regional Office to proceed with the acquiring of additional land at SBP. The BCOCC also indicated in the same letter that due to capacity problems experienced by the Mmabatho Regional office it has been agreed by DPW to return the project to head office.

The ownership issue and rezoning of an additional 120 hectares of land identified to accommodate the new project, contributed to the delays of the project. Negotiations between DPW and the rightful owners, Gopane Tribal Authority started in May 2006. The land is registered state land, but was allocated to the Gopane Tribal Authority. A tavern and guest house was located on the property. In exchange for the 120 hectares the Gopane Tribal Authority accepted the option of alternative land that was outside their jurisdiction. This process was not finalised on 9 February 2009 when the Town Planner requested that the project be put on hold to avoid more fruitless expenditure.

* + - 1. No proper geotechnical survey on the soil was conducted before the project commenced and contractors were appointed. This resulted in huge delays, the contract with the construction company to be cancelled coupled with fruitless expenditure as is indicated in paragraph 6.1.2.3 below.

According to site meeting 10 held on 11 April 2006 the first soil investigation done in the project area was done in-house by the DPW and did not detect any dolomite.VGI Consultants was appointed to undertake an assessment to compile a Risk Management Strategy for the assets located on dolomite in South Africa. It was recommended in their report dated April 2006 that the Skilpadshek site be assessed as a Category 1 site. A site is classified as a Category 1 site when it is located on dolomite. As the site is located on dolomite additional detailed investigations was required to clarify the Inherent Risk Classification of the area before new planning or extensions are permitted in the area. The site handover to the contractor MPC took place on 28 October 2008. Shortly thereafter two large holes were detected in the area by the contractor that was identified as entrances to underground mine shafts. Refer to the pictures below that was taken by the audit team during a walkthrough at SBP on 25 January 2012.

**Two pictures of surface holes reflecting unstable soil conditions at the planned residential area of SBP**





**Evidence of previous mining activities on the residential land earmarked for development**



The Mineral Corporation was thereafter appointed by DPW to carry out a technical investigation of mine workings and their possible impact on the residential development of the project. The Mineral Corporation indicated in their report dated December 2008 that the residential development is mostly located within an area where past mining activities preclude such development. They furthermore, recommended to moving the planned residential area to a new area.

Quantity Surveyors Brink and Schoeman reported to DPW on 4 December 2008 that the unknown mining activities on the site and the possibility that the residential component might have to be moved to a new site will cause delays and fruitless expenditure to be incurred on the project. Two scenarios were submitted as indicated in the table below:

**Two scenarios with comparable costs to be considered by DPW due to the mining activities that were identified on the residential area of the project**

|  |  |  |  |
| --- | --- | --- | --- |
| **Scenario** | **Original project**  **Cost**  **R** | **Cost of project on hold**  **R** | **Extra cost**  **R** |
| **Put contract on hold**  **for seven months** | 480 656 483 | 556 003 520 | 75 347 037 |
| **Cancel the contract**  **and re-tender(seven**  **months to date of**  **site handover)** | 480 656 483 | 576 175 108 | 95 518 625 |

Fruitless expenditure of R75 347 037 and R95 518 625 will be incurred for both scenarios. Should the contract be cancelled the cost would, however, be R20 171 588 more. Brink and Schoeman Quantity Surveyors furthermore indicated that both comparisons only compare construction costs and the fees of the consultants directly involved in the project. No provision was made in these calculations for other costs such as town planning, environmental impact reports, procurement of the land, surveying the land, dolomite studies, costs to the DPW or to other user clients. The contract was cancelled on 13 March 2009 as no alternative land as indicated in paragraph 6.1.2.1 could be obtained.

**2.1.2.3 Forensic investigation into alleged irregularities with the Skilpadshek settlement at the DPW**

The Special Investigation Unit was mandated to conduct an investigation in accordance with the terms of reference set out in Proclamation R38 of 2010.The allegations for the investigation relates to an irregular and or unlawful settlement between the DPW and (MPC with regard to the cancellation of the SBP main contract for the upgrading of essential infrastructure, i.e. the residential component. This investigation reflects on various control weaknesses that were identified, which resulted in possible irregular actions and fruitless expenditure as summarised below:

The senior DPW official who agreed to the quantum of the settlement between DPW and MPC misused his authority to bind the DPW to the settlement amount of R33 726 705.90 which is regarded as unreasonably excessive and unjustified and was irregularly/unlawfully disbursed.

MPC did not submit appropriate supporting documentation to enable DPW to correctly quantify the amount of the claim, which should therefore have been rejected and no payment should have been made.

A number of misrepresentations were made by the main contractor in their invoices, which resulted in an amount of R11 459 882.60 being overstated and claimed by the main contractor.

An amount of R1 118 008.86 was found to have been duplicated and claimed for material on site as part of “value of work done” and also as part of progress payment no.5. Material found in a storeroom on the premises of the project was paid by DPW as part of payment no. 5. These materials was never utilised in execution of the contract as MPC was the sole custodian to these keys. MPC used these materials on their other contract at SBP even though it belonged to DPW.

An amount of R3 862 696.47 also appeared to be incorrectly claimed after the contract with MPC had been terminated.

DPW‘s Legal Department was never consulted for legal advice regarding the settlement paid to MPC.

The Chief Financial Officer of DPW was never informed of the settlement fees paid to MPC as a result of the cancellation of the contract.

**Fruitless and wasteful expenditure that was incurred at SBP residential project is as follows:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Progress payment** | **Date of payment** | **Amount paid**  **R** | **Note** |
| 1 | 27-11-2008 | 13 636 857.82 | 1 |
| 2 | 15-12-2008 | 4 791 841.83 |  |
| 3 | 04-03-2009 | 5 763 080.58 |  |
| 4 | 29-09-2009 | 5 987 491 .37 |  |
| 5 | 14-10-2009 | 38 638 935.96 | 2 |

Note 1: The claim for works insurance, liability insurance and security was inflated by R11 049 164.37

Note 2: Includes the cancellation fee of R 33 726 706.17

The total amount of Fruitless and wasteful expenditure therefore amounts to R68 818 207,56.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. Measures were in place to establish if the tenant vacated the building under the agreed terms when the lease was terminated to avoid fruitless and wasteful expenditure. The PMTE did not ensure measures where in place to monitor the space utilised by tenants.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control

**3. POSSIBLE AREAS FOR IMPROVEMENT**

3.1 The accounting officer of DPW should comply with the following sections of the PFMA:

* Section 38(c) regarding effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure
* Section 38(h) which stipulates that the accounting officer should take effective and appropriate disciplinary steps against any official who makes or permits irregular expenditure.

3.2 The reasons why actions were not taken against contractors and consultants to recover possible losses due to delays in completing projects or incomplete or inferior work performed for which they had been paid, should be determined. Appropriate action should be instituted.

3.3 A proper needs determination policy should be compiled and implemented to ensure needs are accordingly met. Surveys should be conducted on the proposed land for development before the contractor is appointed.

* 1. The recommendations made by the SIU should be considered for implementation.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The fruitless and wasteful expenditure should however be included by the department who will be responsible for the expenditure of the above mentioned project.

Leases

1. **COAF 103 - Summermania Seven (Pty) (Ltd): Lease contract renewed on month to month basis (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

(a)        *this Act; or*

(b)       *the State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 38(1)(a)(iii) of the PFMA states the following under the general responsibilities of the accounting officers: “*The accounting officer for a department, trading entity or constitutional institution must ensure that the 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) of the PFMA states the following under the general responsibilities of the 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)  National Treasury Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(e)  National Treasury Practice Note 6 of 2007/08, par. 2.3 states that: “*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”.*

(f)   Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

During the review of payment no. 397098 (dated 11 June 2011 for R1 168 351, 80) made to Summermania Seven (Pty) (Ltd) and Volume 3 of lease file 6029/7015 the following was noted:

(a)  The payment was made in respect of a month-to-month lease for the Ndinaye Building

(b)  As per request no. 152 dated 25 May 2012, lease file no. 6029/7015 was requested, however such information was not provided by the entity and thus COAF 98 relating to limitation of scope was issued on 5 June 2012. Volume 3 of lease file 6029/7015 was subsequently submitted.

(c)  The original lease agreement commenced on 1 July 2007 and expired on 30 June 2010.  The commencement rental was R953 040 for 15 400m2 and 220 parking bays with an escalation rate of 10% per annum.  No subsequent lease agreement was entered into.  The original lease agreement contained a clause indicating that should arrangements be made six months prior to the expiration of the lease, the lease can be renewed for a minimum of two years, but not exceeding five years.

(d)  As per internal memorandum, *Request for approval for extension of lease contract of AVN, Nipilar and Ndinaye buildings*, the request for one year extension of the Ndinyane building was approved by the previous acting DG on 29 March 2010.

(e)  As per the PA-01.1(LS): *Request for approval of the procurement strategy for a negotiated procedure* dated 16 April 2010, it is indicated that the National Department of Public Works has an existing project at the Public Works House and CGO for the accommodation of all Public Works employees who are currently accommodated at Ndinaye and that the extension of the lease will enable the projects to be finished and relocation of DPW employees to a permanent building.

(f)   The PA-12 *Approval by Bid Adjudication Committee dated 30 April 2012 requesting an one year extension of lease for the Ndinaye Building for offices of 15 400 and 220 parking bays: negotiated procedure* was approved subject to the following:  (i) the region negotiating a lower escalation rate; (ii) the region attaching a memorandum containing the details of the beneficiary/owner of the building and (iii) the correct PA-25. No subsequent information or approval could be obtained for audit purposes.

(g)  As per the data captured on PMIS the period of the lease is indicated as 1 June 2010 to 31 December 2012.

(h)  From a download of payments made on PMIS, payment of R 1 598 305,30 (payment number 120207, invoice number 533863) was made for January 2012 rental.

(i)    Furthermore, should the agreement have escalated subsequent to the expiry in terms of the original lease agreement the rental should have increased as follows:

|  |  |
| --- | --- |
| **Date of escalation** | **Total rental amount/month**  **R** |
| 01/07/2007 | 953,040.00 |
| 01/07/2008 | 1,048,344.00 |
| 01/07/2009 | 1,153,178.40 |
| 01/07/2010 | 1,268,496.24 |
| 01/07/2011 | 1,395,345.86 |
| 01/07/2012 | 1,534,880.45 |

Thus the payment for January 2012 should have not been more than R1 395 345, 86 per month.  Amount paid in excess totals R202 959,44 for January 2012.

(j)    The amounts paid on the month to month basis in respect of this lease were not included in the register of irregular expenditure for the year ended 31 March 2012.

The processes followed in extending the lease with Summermania (Pty)(Ltd) was in contravention of the prevailing prescripts in view of the following:

(a)  The entity did not follow a competitive bidding process, but followed the negotiated procedure to extend the lease which constitutes a deviation.

(b)  The reasons for deviating from the competitive bidding process did not constitute an emergency or urgent case, nor was it a result of the landlord being a sole supplier.  Thus the reasons were not appropriately documented and approved by the relevant official.

(c)  The deviation was not reported to the AGSA and National Treasury within 10 working days.

(d)  No new lease agreement was entered into between DPW and the landlord, nor was the lease extended in terms of the current conditions contained in the original lease contract.

(e)  No final approval of the extension of the lease by the bid adjudication committee could be found on file.

The above deviation resulted from the project for providing all Public Works officials with accommodation in the CGO and Public Works House taking longer than planned (initially the request was for a period of three years), thus resulting in the department continuing on a month to month basis in the current leased building.

The extension of the lease on a month to month basis results in PMTE paying more for the lease than according to the terms of the initial contract entered into.  Thus in the absence of a valid lease contract, lease rentals could possibly be unjustifiably increased by the landlord resulting in inflated rentals which is not value for money.

The above will also result in irregular expenditure of R27 511 936.11 for the period 1 July 2010 to 31 March 2012 for all expenditure paid in relation to the month to month rental.  Furthermore the irregular expenditure disclosure note will be understated as not all irregular has been disclosed.

**Internal control deficiency**

**Leadership:**

The accounting officer did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control

**Financial and Performance Management**

The accounting officer did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)  Leases nearing the end of their lease term should be timeously identified to take appropriate action regarding renewing or procuring other accommodation in line with SCM prescripts.  Appropriate officials should be assigned such responsibility in order to initiate the renewal process to avoid last minute approvals and month-to-month leases.

(b)  Reasons for deviating from the competitive bidding process should be clearly documented and approved by the duly delegated official.  Such reasons should constitute an emergency or urgent case or be as a result of a sole supplier.

(c)  Management should ensure that valid lease agreements exist for all leases entered into and that rentals paid are in line with market related rentals.  Should agreements be extended, management must ensure that the rentals are not unjustifiably increased by the landlord.

(d)  Management should timeously identify irregular expenditure relating to month to month leases and ensure that such is included in the irregular expenditure register and reported to National Treasury.

**Management response**

I am [not] in agreement with the finding for the following reasons

The lease agreement was terminated in December 2011 and the last payment was effected in January 2012, therefore no irregular expenditure has been incurred.

Name:  S Kutu

Position:  Acting Director: Property

Date: 26/7/2012

**Auditor’s conclusion**

Management comments are noted however no evidence was provided by management indicating that the lease agreement was terminated in December 2011 was not provided. The finding is unresolved and non compliance identified will be reported in the final management report as well as the audit report.  Although management only commented on the lease agreement being terminated, management did not respond to the fact that the lease agreement renewal is a deviation that was not approved in terms of the SCM prescripts.

1. **COAF 104 - Deviations with Supply Chain Management Practices: Aluane Town Lodge, Residential accommodation for** **Cubans (6029/6798)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure”**means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  SCM Practice note 4 of 2006 states that, “*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.”*

(d)  Practice note 8 of 2007/2008, paragraph 3.4.1 states that: *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(e)  Practice note 6 of 2007/2008, paragraph 2.3 states that: *“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”*

(f)   Practice note 8 of 2007/2008, paragraph 3.3.1 and 3.3.2 state 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. Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers".*

(g)  National Treasury Practice Note 6 of 2007/2008 requires that, *“3.1 With effect from the date on which this practice note takes effect, 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.”*

(h)  National treasury Practice Note 8 of 2007/2008, paragraph 6.1 stipulates: *“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 R 30 000 (VAT Included).”*

(i)    Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

During the review of the following payment made to Aluane Town Lodge as well as the procurement for the lease thereof, the following was noted:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Name of supplier** | **File number** | **Lease period** | **Payment number** | **Payment date** | **Amount**  **R** |
| Aluane Town Lodge | 6029/6798 | 01/09/2008 to 31/08/2010 | 399311 | 13 July 2011 | 1 637 222,40 |

(a)  The above mentioned contract is currently under investigation at the Special Investigating Unit (SIU).

(b)  During August 2008 various PA-01: *Request for approval of the procurement strategy for a negotiated procedure* documents for the project: Procurement of (additional) residential accommodation for Cuban professionals were compiled by the Property Manager and supported by the Senior Property Manager:

(i)    Request for nine Cuban officials dated 1 August 2008;

(ii)   Request for three Cuban officials dated 1 August 2008;

(iii)  Request for accommodation, number of officials not mentioned dated 5 August 2008.

(c)  .It was indicated that the Property Management section requested approval to negotiate a lease agreement for the reason being the situation in the country on xenophobia at that stage. Attached to the requests were internal memorandums requesting approval for the procurement of residential accommodation for Cuban professionals. It was indicated in the memorandums that quotations were received from Town Lodge Menlo Park, Farm Inn and Aluane Town Lodge.  It was also stated that the officials have been lodged from one hotel to another with no fixed accommodation. The fact that accommodation was changing every two days pose a security challenges.

(d)  The following internal memos were noted on file:

(i)    Per internal memorandum approval was obtained by the DG on 18 August 2008 for the procurement of residential accommodation for nine Cuban professionals for a period of three months commencing 1 August 2008 to 31 October 2008 at R650(excl. VAT) per day per official payable at R22 538,75 per person.

(ii)   Per internal memorandum approval was requested for residential accommodation for 24 Cuban professionals for 26 months commencing 1 September 2008 until 31 August 2011 at R600 (excl. VAT) per day per official payable monthly at R20 805 per person with a 10% escalation.  The last page indicating the DG’s approval was not on file/could not be obtained.

(iii)  Per letter dated 21 August 2008 (signed by the acting regional manager), it was indicated that the DPW was informing Aluane Town Lodge that their offer for the 21 Cuban Professionals at R600 (excl. VAT) per day per official payable at R20 805 for three months commencing 1 September 2008 until 30 November 2008.

(e)  The following PA-12: Approval by the National Bid Adjudication Committee was found on file:

(i)    6 August 2008, number of Cuban officials not indicated, committee referred back for the regional manager to determine number of Cubans that were based in Pretoria.

(ii)   6 August 2008, for 15 Cuban officials, referred back for the regional manager to determine number of Cubans that were based in Pretoria

(iii)  6 August 2008 for three Cuban officials, referred back for the regional manager to determine number of Cubans that were based in Pretoria

Based on the above, no final approval could be found on file for the accommodation for the Cuban officials.  Thus the deviation was not approved in terms of PN 6 of 2007-08.

(f)   The quotations were obtained from suppliers who are not listed on the prospective suppliers list. The deviation of not using the preferred supplier database was not approved in terms of National Treasury Practice Note 8 of 2007/2008.

(g)  The letter of acceptance dated 1 December 2008 was issued to the manager of the Aluane Town Lodge for the lease of three years commencing on 1 September 2008 to 31 August 2011 for 25 Cuban Professionals at R684,00 per day totalling R20 805,00 per person (VAT incl.).  It was indicated that the lease agreement had an annual escalation of 10% per annum.  No lease agreement could be found on file/provided by the PMTE.  The letter of acceptance was also issued subsequent to the commencement of the lease period.

(h)  The value of the service that was procured was above R1 million and therefore the deviation had to be reported to the National Treasury and AGSA within 10 working days after the procurement strategy was approved. No documentation could be obtained in the tender file as proof that the deviation was sent to the National Treasury and AGSA which is in contravention of PN 6 of 2007/2008, par 3.1.

(f)   The following information relating to the above lease could not be obtained:

(i)            SBD 4 and 8 or equivalent as used by the entity, as the building changed ownership during the period

(ii)           Original valid tax clearance certificate; only a copy was included in the lease file

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations.

Potential impact of the finding raised above:

(a)  Non- compliance with PN 8 of 2007/08 par. 2.3 and 3.4. and PN 8 of 2007/08 par. 6.1 resulting in the expenditure being irregular.

(b)  The expenditure incurred in relation to the above contract totals R18 050 308,86 for the following financial periods

(a)    2009/2010 financial year: R 3 385 800,00

(ii)      2010/2011 financial year:R10 175 594,10

(iii)     2011/2012 financial year: R 4 488 914,46

The amounts were not disclosed as per the irregular expenditure disclosure note and thus irregular expenditure is understated in the annual financial statements.

(c)  Non-compliance with PN 6 of 2007/08 par. 3.1

**Internal control deficiency**

**Leadership:**

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

**Recommendation**

(a)  Management should ensure that they comply with the relevant laws and regulations by completing the checklist accurately and honestly and letting officials signs as evidence that they have ensured compliance with the relevant laws, rules and regulations.

(b)   The PMTE should only deviate from inviting competitive bids for procurement above R500 000 in cases where it is impractical such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(c)  The responsibility for the submission of the information relating to the deviations to National Treasury and the AGSA must be assigned to an official at head office

(d)  Management should ensure that payments made to the landlord are made in terms of valid signed lease agreements.

(e)  The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 16/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 109 - Deviations with Supply Chain Management Prescripts: Bono infrastructure and facilities and project management/Bay Breeze Trading 263 CC / Fruitless and wasteful expenditure: Department of Trade and Industry – Nedpark Building (6029/7056) (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 1 of the PMFA states the following**: “fruitless and wasteful expenditure”** *means expenditure which was made in vain and would have been avoided had reasonable care been exercised*;”

(c)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)      National Treasury Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(e)      National Treasury Practice Note 6 of 2007/08, par. 2.3 states that: “*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”.*

During the review of payment batch 370607 and lease file 6029/7056 the following was noted:

(a)  The lease agreements signed 26 September 2009 and addendum signed 7 October 2009 for a two year lease term commencing 1 December 2009 and possible extension of five years (should landlord be BEE compliant) was entered into between Tacora Investment (Pty) Ltd and DPW for Trade and Industry.  As per internal memorandum dated 9 June 2009 approval was requested from the BAC for overruns incurred on refurbishment (additional R12.83/m2 vat inclusive on the current rate) to be amortised over the lease period of seven years commencing 1 November 2009.  The BAC approved the request on 12 June 2009 for two years and extension of a further five years subject to the landlord providing a BEE certificate. Although such refurbishments were requested and overruns incurred, the Department of Trade and Industry subsequently no longer required the building.  The amount spent by Dti for refurbishment could not be ascertained from the lease file.  As per request for information no. 219 dated 6 July 2012, evidence for the total amount spent on tentant installations as well as the amount recovered from Dti was requested, however evidence of such could not be provided by the PMTE.   Rental paid to the landlord (Tacora Investments (Pty) Ltd) for the Nedpark building for Dti totalled R19,9 million (table 1 refers).  As per the request above, management could also not provide us with information regarding whether this amount was recovered from Dti.

Table 1:

| **Invoice#** | **Supplier name** | **Bas transfer date** | **Propcode** | **nl description** | **Building** | **Total**  **R** |
| --- | --- | --- | --- | --- | --- | --- |
| 266395 | Tacora Investments Pty Ltd | 22/11/2010 | 315298 | offices:rentals | Nedpark Building | 8 943 819.18 |
| 269075 | Tacora Investments Pty Ltd | 29/11/2010 | 315298 | offices:rentals | Nedpark Building | 2 365 673.05 |
| 299100 | Tacora Investments Pty Ltd | 19/01/2011 | 315298 | offices:rentals | Nedpark Building | 2 106 268.22 |
| 294732 | Tacora Investments Pty Ltd | 26/01/2011 | 315298 | offices:rentals | Nedpark Building | 1 038 723.48 |
| 296495 | Tacora Investments Pty Ltd | 26/01/2011 | 315298 | offices:other add costs | Nedpark Building | 121 581.00 |
| 296496 | Tacora Investments Pty Ltd | 26/01/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 296497 | Tacora Investments Pty Ltd | 26/01/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 316578 | Tacora Investments Pty Ltd | 11/02/2011 | 315298 | offices:rentals | Nedpark Building | 392 593.11 |
| 313974 | Tacora Investments Pty Ltd | 22/02/2011 | 315298 | offices:rentals | Nedpark Building | 1 038 723.48 |
| 315749 | Tacora Investments Pty Ltd | 22/02/2011 | 315298 | offices:other add costs | Nedpark Building | 121 581.00 |
| 315750 | Tacora Investments Pty Ltd | 22/02/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 315751 | Tacora Investments Pty Ltd | 22/02/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 334883 | Tacora Investments Pty Ltd | 25/03/2011 | 315298 | offices:rentals | Nedpark Building | 1 038 723.48 |
| 336578 | Tacora Investments Pty Ltd | 25/03/2011 | 315298 | offices:other add costs | Nedpark Building | 121 581.00 |
| 336579 | Tacora Investments Pty Ltd | 25/03/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 336580 | Tacora Investments Pty Ltd | 25/03/2011 | 315298 | offices:other add costs | Nedpark Building | 165 168.05 |
| 368918 | Tacora Investments Pty Ltd | 25/05/2011 | 315298 | offices:rentals | Nedpark Building | 1 132 208.60 |
| 370665 | Tacora Investments Pty Ltd | 25/05/2011 | 315298 | offices:other add costs | Nedpark Building | 132 523.29 |
| 370666 | Tacora Investments Pty Ltd | 25/05/2011 | 315298 | offices:other add costs | Nedpark Building | 180 033.17 |
| 370667 | Tacora Investments Pty Ltd | 25/05/2011 | 315298 | offices:other add costs | Nedpark Building | 180 033.17 |
| **Total** | | | | | | **19 905 073,53** |

*Source: PMIS expenditure report*

(b)  According to the lease agreement signed on 26 September 2009 the monthly rental for the said building was R1 325 472.50.

|  |  |
| --- | --- |
| **Category** | **Monthly payment (inc VAT)**  **R** |
| Office accommodation: | 1 038 723,48 |
| Parking bays: | 121 581,00 |
| Operating cost: | 165 168,04 |
| **Total** | **1 325 472,50** |

The audit team noted that duplicate payments were made on a monthly basis with regards to the payment for operational costs during the period January 2011 to March 2012. Total overpayments of R2 641 036 were made in this regards.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Period** | | **Operating cost per month**  **R** | **Number of months** | **Total for period**  **R** |
| **Start** | **End** |
| Jan 2011 | April 2011 | 165 168,04 | 4 months | 660 672,16 |
| May 2011 | March 2012 | 180 033,16  **Note 1** | 11 months | 1 980 364,76 |
| **Total** | | | | **2 641 036,92** |

**Note 1:** The increase in the operating cost was as a result of the 9% escalation rate.

(c)  The Department of Tourism identified the Nedpark building for leasing as their lease was coming to an end as per memorandum dated 29 September 2010 and confirmed their intention to occupy the Nedpark Building.  The Department of Tourism however also required the building to be refurbished /upgraded to suit their needs and Bono Infrastructure Facilitities and Project management was selected to conduct refurbishment of Nedpark building.

(d)  Internal memorandum dated 23 February 2011 to the chairperson of the regional bid committee regarding the ratification for the payment to Bono Infrastructure indicated the estimated cost to be R34 135 354 97.

(e)  As per PA-12 dated 25 February 2011 the regional bid committee referred the request back requesting detailed quotations  tax invoice  tax clearance certificate and dates to be included to indicate the urgency.

(f)   Internal memorandum dated 1 March 2011 to the chairperson of the regional bid committee regarding the ratification for the payment of Bono infrastructure indicated the value of work to be R19 809 312 66.  Three quotation dated 3 February 2011 were attached i.e.:

a.     Bono                                             R19 809 312 66

b.    TNT Holdings                                R16 930 545 84

c.    Dr. Power South Africa CC          R  1 078 007 31

The quotation for Bono included construction and electrical work.  Per letter dated 10 February 2011 from Bono to the Department of Public works it was indicated that to date they had not yet received an estimation for the mechanical works and that they would finalise the costs as soon as the material has been imported.  They further indicated that the quotation would be sent to the department once received.

No reasons were documented in the memorandum motivating the appointment of Bono Infrastructure and Project management and the exclusion of the other suppliers from which quotations were obtained.  The reasons for the urgency was indicated as follows; “*National Department of Tourism (NDT) took over the lease at Nedpark Building from Department of Trade and Industry (DTI) on 11 November 2010…After long deliberations in the matter  the Landlord handed over the building to DPW on the 25 January 2011 to refurbish the building according to the client’s needs.  Bono Infrastructure Facilities and Project Management was appointed to do a turn-key management services on the 3 February 2011…DPW confirmed to deliver the building by 15 March 2011…*”

(g)  As per PA-12: Approval by regional bid adjudication committee dated 4 March 2011 the ratification for the payment of Bono Infrastructure and project management at Nedpark Building was approved.  One of the committee members did not support the approval indicating that the spending of nearly R35million of state money on leased property was in contravention of the PFMA.

(h)  Although expenditure to date as per payment batches reviewed totaled R36 969 241 24 the only internal memorandum attached to the approval obtained by the Regional Bid Committee on 4 March 2011 indicated an amount of R19 809 312 66.  Thus no evidence could be obtained that the regional bid committee actually approved an amount equal to the expenditure.  As per the payment certificate the original contract value totaled R34 135 354 97; however as indicated above this amount could not be substantiated with an approval from the regional bid committee as the original submission of R34 million was sent back for revision  which was then resubmitted to the committee for an amount of R19million.

The SCM process followed in the appointment of Bono Infrastructure Facilities and Project Management was in contravention of the prevailing prescripts in view of the following:

(a)  The PMTE deviated from the competitive bidding process  however sufficient reasons for the deviation and selection of supplier based on quotations received was not adequately documented before approval by the bid adjudication committee.

(b)  The amount of R36 969 241 24 spent exceeded the approved amount of R19 809 312.66 as per the memorandum to the chairperson of the Regional bid committee which was in line with the quote received from Bono Infrastructure Facilities and Project Management. The amount in excess totalled R17 159 928 58.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations.

The above will result in:

(a)  Non compliance with the applicable laws, rules, regulations and practice notes which will lead to the incurrence of irregular expenditure of R36 969 241 24.  Thus the irregular expenditure disclosure note as per the Annual financial statements is understated by this amount.

(b)  Fruitless and wasteful expenditure of R19 905 073,53for the period the landlord was paid for the lease but the building stood vacant.

(c)  A prior period error as operating lease expenditure was overstated with R495 504,12 in the 2010-11 financial year (i.e. 1 January 2011 to 31 March 2011).

(d)  Overstatement of operating lease expenditure of R2 145 532,80 in the current financial year (i.e. 1 April 2011 to 31 March 2012).

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)    The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers. The reasons to deviate from the prescribed procurement process should be properly recorded and appropriately approved by the duly delegated official.  The reasons should be substantiated by sufficient evidence.

(b)    Management should monitor payments made to suppliers to ensure that the original approved amount is not exceeded and that payments are made in terms of the contract.

(c)    Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into before the PMTE commits to the lease with the landlord.  Management should ensure that payments made to the landlord are in terms of a valid signed lease agreement.

(d)    The matter regarding the irregular and fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the department or trading entity as per the requirements of the PFMA section 38(1)(h).

(e)    The entity should take steps to recover the amount overpaid from the landlord.

(f)     The reasons for the duplicate payment should be investigated and the effectiveness of the controls relating to the making of payments assessed to ensure that such duplicate payments do not reoccur.

(g)    Management should provide the audit team with information requested i.e. the total cost of refurbishment to the Dti building and whether such payments for refurbishment and the lease expenditure was recovered from the Dti or paid by PMTE/DPW.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 18/07/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 112 - Deviations with the Supply Chain Management Practices: Faerie Glen Waterpark (Pty) Ltd (Tender PT11/013) (6029/6913): Alternative Office Accommodation and parking for the Film and Publication Board - Eco Glade 2 Block C Centurion**

**Audit finding**

Laws, rules and regulations

(a)    Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  In terms of Treasury regulations 16A6.3(c), *‘The accounting officer or accounting authority must ensure that 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;’*

(d)     SCM Practice note 4 of 2006 states that, “*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 dated 21 July 2010 states that, *‘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.’*

(f)     Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(g)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of alternative accommodation of 1 300m2 and 36 parking bays for the Film and Publication Board, the following was noted:

(a)  The following documents were not included in the contract file and could not be obtained for audit purposes and the contract with procurement documents was requested as per RFI no. 55 dated 16 February 2012:

(i)            A valid tax clearance certificate

(ii)           Bid evaluation report to the regional bid adjudication committee (PA – 21)

(iii)          Declarations of interest (SBD4) or equivalent as used by the entity

(iv)         Declarations of Bidders past SCM Practices (SBD8) or equivalent as used by the entity

(v)          Certificate of Independent Bid Determination (SBD9) or equivalent as used by the entity

The request for approval of the procurement strategy (PA – 01) supported by the Director Property Management on 3 February 2011 indicated that ten points would be allocated to HDI and no points will be allocated to other specific goals. Based on the PA-04 (LS): *Notice and invitation to bid* dated 11 February 2011, it was indicated that four points would be allocated to HDI and six points to other specific goals. As per the PA-16: *Preference certificate*, no specific goals were listed as per paragraph 1.3.2.2 nor in any other document on file PT10/013.  Thus based on the above there is inconsistencies regarding whether points were to be allocated to specific goals or not.

(b)  The tender was advertised for less than 21 days (25 February 2011 to 8 March 2011) and not advertised on government tender bulletin.  As per the minutes of the Bid Specification meeting dated 8 November 2010, the request for approval of the open tender procurement *s*trategy with a shortened tender period was approved based on the motivation that the shortened period would allow for the termination and commencement of the current and new lease to be aligned.The above reasons are insufficient as the department had time to advertise the tender for 21 days due to the Film Public Board commencing their discussions with the Department of Public Works for alternative accommodation in October 2010 as per letter dated 16 November 2010.

(c)  As per PA -20 scoring model the bidders were evaluated for the first time and the following suppliers were all considered administratively non-responsive based on the reasons mentioned below, leaving only the winning supplier to be evaluated.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Suppliers Name** | **Tenderer value per month** | **Total Score: Combined price/Quality(As a ratio of 90/80)plus preference points** | **Reasons for bidders to be disqualified** |
| 2 | Broll | R172 934.19 | 78.04 | PA-15.1(Resolution of Board of Directors) not complete, tax, clearance certificate photocopy/not certified |
| 3 | Broll | R210 774.60 | 64.35 | PA-15.1(Resolution of Board Directors) not complete |
| 4 | Khwela City | R196 467.60 | 67.11 | PA-15.1(Resolution of Board of Directors) not complete |
| 5 | Redefine | R146 490.00 | 90.00 | PA-15.1(Resolution of Board of Directors) not complete |
| 6 | Nakeli | R193 769.72 | 75.04 | Tax clearance certified photocopy/not certified |

(d)  Based on the scoring model table as per PA – 20 scoring model, approval of Bid Adjudication Committee dated 9 June 2011 and Bid evaluation report dated 30 May 2011 the bid recommended and approved by Bid Adjudication Committee was Faerie Glen Water park at bid price of R213 480,96 per month with total points of 69.26.  The above mentioned bidders did not win the bid based on the reasons stated in the table above Through inspection of the file and bidding documents submitted by the winning supplier it was noted that the above documents were also not included for the winning supplier.

(e)  It was also noted that the recommended members to serve on the Bid Evaluations committee as per the PA-25 were not the same as those who declared their interest on the PA-18.1 and who approved procurement strategy PA-01. Some of the members had been scratched out and replaced with others with no supporting reasons or approvals for the changes.

The above deviations occurred as a result of the following:

(a)    The entity does not have a document centre, with proper access control that all the documents pertaining to the entity are filed, thus ensuring that is traceable and easily retrievable and/or supplied timely to the auditors for audit purposes.

(b)     Management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with relevant laws and regulations as the suppliers that did not submit the bidding documents were not eliminated before Bid Adjudication Committee started with the evaluation process.

(c)    Management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations as per the letter dated 16 November 2010 from Film Publication Board informing DPW that their five year lease with ALW Estates in 2003 was coming into end in August 2011.

(d)    Bid advertised for less than 21 days is an indication that appropriate planning by Supply Chain Management officials and the Bid Specification Committee was not done on timously as minutes of the meeting of the Bid Specification Committee dated 8 November 2010 states that the request for approval of the open tender procurement strategy, with the motivation for the shortened tender period in order to align the termination and commencement of the current and new lease was approved.  It should however be noted that the department had time to advertise the tender for 21 days as FPB started discussions with DPW for alternative accommodation in October 2010 (refer to letter dated 16 November 2010).

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and may result in tenders not being obtained at reasonable and economical prices. Other suppliers are not given a fair chance to submit the tender documents and one supplier being favoured. Tenders being awarded to suppliers that did not meet the tender requirements.  Due to the bid being advertised for less than 21 days where it is not an emergency, irregular expenditure of R657 500,93 was incurred.  The irregular expenditure disclosed in the financial statements is understated by R657 500,93.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)    SCM management and property management officials responsible for filing bidding documents should check that the necessary documents are included in the contract file before supporting documents are submitted for audit purpose.

(b)    SCM management officials responsible for bidding process should check that all necessary documents that must be completed by the bidder are completed or the bidder is disqualified and withdrawn from the bidding process if the information required is not submitted or completed.

(c)    SCM officials responsible for the bidding process should ensure that bids are advertised less than 21 days in urgent cases and applied only in the cases where it is impractical to invite competitive suppliers

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 16/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 113 - Deviations with the Supply Chain Management Practices: New Heights 326 (Pty) Ltd 6029/2787, South African National Defence Force, Voortrekker**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Section 40(1)(a) of the PFMA stipulates that*, “ 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 the prescribed norms and standards”.*

(d)    Section 41 of the PFMA states that, “*An accounting officer for a department, trading entity or constitutional constitution must submit to the relevant Treasury or Auditor-General, such information, returns, documents, explanations and motivations as may be prescribed or as the relevant treasury or Auditor General may require*.”

(e)    National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that, *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(f)     National Treasury Practice note 8 of 2007/2008 paragraph 3.4.3 states that, “*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*.”

(g)    Practice note 6 of 2007/2008, paragraph *2.*3 states that, *“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 reason for such action must be recorded and approved by the accounting officer or accounting authority.”*

(h)    Practice note 8 of 2007/2008 states *“The Accounting officer / authority must be possession of an original valid tax clearance certificate for all price quotations and competitive bids exceeding the value of R30 000 (VAT included).”*

(i)     Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(j)     *SCM Practice note 4 of 2006 states that, “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.”*

(k)    (National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

During the review of the procurement of the lease for the Voortrekker Gedink building (landlord New Heights 326 (Pty) Ltd) for accommodation of 7 884,99 square meters (m2), 152,09m2 stores and 110 parking bays for the South African National Defence Force, the following was noted:

(a)    The building was procured through a negotiated procedure as per PMIS download with a lease start and end date of 1 November 2011 and 31 October 2021 respectively. Per inspection of the lease file,no procurement strategy or reasons for the deviation from SCM practices was included in the file submitted for audit purposes (Request for information no. 52 dated 14 February 2012).

(b)    The original contract was entered into 1 May 2000 with a termination date of 30 April 2005 for 7 884,97 m2 and 110 parking bays.  The starting rental was R266 491,96 (VAT incl.) with an escalation rate of 8% per year commencing 1 May 2001. A clause in the agreement stated that at least six months prior to expiry of the lease period the landlord shall advise the tenant in writing of the terms and conditions required for renewal and within three months of such advice, the parties shall have reached an agreement on the new terms and conditions to govern the new lease. No such correspondence indicating compliance with this clause could be found of file.

(c)    The lease was renewed for a further period of five years with an exit clause of three years starting on 1 June 2005 to 31 May 2010. No procurement strategy and need assessment   were included in the files submitted for audit purposes providing reasons for the deviation from inviting competitive bids. Included in the file was an approval dated 6 September 2005 by the then Standing Tender Committee of the Pretoria Regional Office approving the renewal of the Voortrekker Gedenk Building.

(d)    The lease was renewed for a further period of 9 years and 11 months starting on 1 November 2011 to 31 October 2021, as per acceptance letter signed and dated by the Regional Manager on 14 September 2011.  From 1 June 2010 to 13 September 2011 the lease was running on month to month basis as no lease agreement was in place.  The lease agreement was signed by all parties on the 19 April 2012, thus subsequent to the commencement of the lease. No procurement strategy and need assessment and Bid Adjudication Committee approvals were included in the files submitted for audit purposes providing reasons for deviating from the competitive bidding process.

1. A comparison between the current lease agreement and the previous lease agreement revealed that the rental per month has increased by approximately 74% due to the fact that the new lease agreement makes provision for operating costs which were previously not included in the lease agreement.  No documented reasons could be found on file to justify the inclusion of the operating costs that were now included in the new lease agreement.

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| **Commencement Details** | **Previous lease**  **01/06/2005-31/05/2010**  **R (incl. VAT)** | **New lease**  **01/11/2011-31/10/2021**  **R (incl. VAT)** |
| Office Space | 346 970,23 | 719 109,30 |
| Stores | 30 250,00 | 5 548,20 |
| Parking | 3 041,81 | 56 430,00 |
| Operating costs | - | 188 766,20 |
| **Total monthly rental** | **R380 262,04** | **969 853,70** |
| Lease term | 5 years | 9 years 11 months |
| Escalation | 8% | 9% |

The 2011 equivalent rental including the escalation rate of 8% for six years was R603 428,07  per month as per the previous lease agreement and the 2011 total rental per month was R969 853,70 based on the new lease agreement, thus resulting in approximately a 61% increase in rentals.

The following information relating to the above lease could not be obtained:

(i)     SBD 4, 8 and 9 equivalent as used by the entity

(ii)    Valid tax clearance certificate

The SCM process followed in the renewal of lease agreement with New Heights 326 (Pty) Ltd 6029/2787 was in contravention of the prevailing prescripts and was a result of the following:

(a)    The PMTE deviated from the competitive bidding process and sufficient reasons for deviating were not adequately documented before approval by the bid adjudication committee.  No such information was available on file to support the approval of the deviation.

(b)    Poor planning as the lease had expired in May 2010 and the lease subsequently ran on a month to month basis from 1 June 2010 as the new lease agreement was not in place.

(c)    The PMTE did not take effective and appropriate steps to ensure that the new lease agreement was timeously signed before the commencement of the lease i.e. the lease commenced 1 November 2011; however the lease agreement was only signed in April 2012.

(d)    Management not conducting successful negotiations with the landlord as the rental for the new lease entered into increased by 61%.  This results in the entity paying more for the lease than required.

(e)  Management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations.

The above will result in non compliance with the applicable laws, rules, regulations *a*nd practice notes which will lead to the incurrence of irregular expenditure as following:

(a)  Month to month rentals(1 June 2010 to 30 September 2011) totaling R8 290 935,78 (of which R3 117 512,50 relates to the 2011-12 financial year)

(b)  Expenditure of R3 104 054,00 incurred for the period October to March 2012 relating to the new lease agreements.

(c)  Thus the irregular expenditure disclosure note is understated by the above amounts.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers. The reasons to deviate from the prescribed procurement process should be properly recorded and appropriately approved by the duly delegated official.  The reasons should be substantiated by sufficient evidence.

(b)  Property Management officials should ensure that the lease agreement is signed immediately after the National/Regional bid adjudication committee have approved the renewal of lease agreement to avoid entering on month to month arrangement

(c)  The property management officials did not take sufficient action and perform sufficient follow up to ensure that the new lease agreement was signed by both parties subsequent to the letter of acceptance being issued.

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(e)  Management should identify contracts nearing their termination date well in advance (more than six months) to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring that market related rentals are obtained and that new lease agreements are entered into timeously to prevent ongoing month to month leases.

(f)     The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 26/07/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported in the management and audit report.

1. **COAF114 - Deviations with the Supply Chain Management Practices: Fountain Head Property Trust, Department of Human Settlements, 240 & 260 Walker Street**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure”**means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 1 of the PMFA states the following**:** “*fruitless and wasteful expenditure”**means expenditure which was made in vain and would have been avoided had reasonable care been exercised*

(c)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)    National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that, *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*

(e)    National Treasury Practice note 8 of 2007/2008 paragraph 3.4.3 states that, “*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*.”

(e)Practice note 6 of 2007/2008, paragraph *2.*3 states that, *“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 reason for such action must be recorded and approved by the accounting officer or accounting authority.”*

(f)  Practice note 6 of 2007/2008, paragraph 3.1 states that, “*With effect from the date on which this practice note takes effect, 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.”*

(g)   Practice note 8 of 2007/2008 states, *“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).”*

(h)   Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(i)     SCM Practice note 4 of 2006 states that*, “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.”*

(j)   National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

During the review of the processes followed for the procurement of the lease for 240 and 260 Walker Street, the following was noted:

(a)  The original lease agreement was entered into for 7808 square meters (m2) commencing on 1 September 1996 with a termination date of 31 August 2001.  A new lease agreement was subsequently entered into for another five years with commencement date of 1 September 2001 and termination date of 31 August 2006.  This lease provided for the option of extension for a further five years.  Per addendum signed between the two parties, the lease was extended for an additional five years commencing on 1 March 2007 and terminating on 29 February 2012.  . Due to the lack of information as per the lease file, it could not determine whether the initial contracts were procured through a competitive bidding process or other means in line with the SCM prescripts.  As per discussion held with the Assistant Director: Property Unit; no other information in addition to the file was available for this lease. Lease files with all the relevant supporting documents including tender/procurement documentation were requested in RFI 55 on 16 February 2012.

(b)  Through inspection of Procurement Instruction (PI) signed by the Director: KAM on 28 September 2010, it was indicated that the Department of Human Settlements (DHS) is currently accommodated at 240 Walker Street in Pretoria. Due to the continued growth of DHS the current office accommodation is not adequate to accommodate the existing staff compliment.

(c)  As a result the client department requested additional office space of 5 279 m2. An Internal Memorandum addressed to the Special National Bid Adjudication Committee (SNBAC) on 4 November 2010 stated that the aim was to request approval for the procurement of additional accommodation at 260 Walker Street as well as the renewal of the existing lease agreement at 240 Walker Street.  As per internal memorandum dated 19 November 2010, it was indicated that the SNABC had requested a reconciliation of the two transactions on 4 November 2010 to reflect the total package and value for money.

(d)  As per the revised internal memorandum dated 19 November 2010, it was indicated that the rental for 240 Walker Street would increase from R65,51 (VAT excl.) per m2 per current lease agreement to R88,00 (VAT excl.) per m2 per new lease agreement, with no tenant installations taking place at 240 Walker Street (as the client requested all tenant installations to take place on 260 Walker Street). This results in a 34,3% increase in the rate per m2 for the office space at 240 Walker Street without any improvements being made to the building.

(e)  As per the PA-12 Approval by the Special National Bid Adjudication committee dated 18 November 2010, the renewal and additional accommodation for 240 and 260 Walker Street respectively was approved with a comment indicating that it is approved for two years as per the BEE Policy. However, the lease agreement was entered into for eight years. No final approval for both the renewal of 240 Walker Street and additional accommodation at 260 Walker Street could be obtained for audit purposes.

(f)   The documented reasons for the above deviations as well as the approval thereof by the duly delegated official could not be found on file.  It was also noted that the deviation was reported to National Treasury and the AGSA on 7 June 2012, thus not within ten days as required per TR16A6.4.

(g)  In addition to the above, it was also noted that DHS has not moved into 260 Walker Street and have refused to pay for the lease despite the fact that the lease agreement was signed by DPW and the landlord and commenced on 1 January 2011.  The reasons provided by management indicated that the following delays were being experienced i.e. the finalization of the TI implementations: finalization of the layout plans by the client, the appointment of a project manager as well as the unavailability of the AS builds from the landlord.  The audit team noted during the site inspection that the building had not been refurbished as there were damaged carpets etc. and confirmed that the building was not being utilised by the department of Human settlements.

(h)  The following information relating to the above lease could not be obtained:

(i)            SBD 4, 8 and 9 equivalent as used by the entity

(ii)           Valid tax clearance certificate

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as various documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure for the period 1 January 2011 to 31 March 2012 incurred amounting to R15 557 047,25 (payments per BAS report/PMIS report) should be classified as irregular expenditure. The irregular expenditure is thus understated in the financial statements disclosure note.  The expenditure paid for the vacant 260 Walker Street building amounts to fruitless and wasteful expenditure of R9 430 433,17 (payments made from 1 January 2011 to 31 March 2012 as per BAS/PMIS report for 260 Walker Street). The fruitless and wasteful expenditure it thus understated in the financial statements disclosure note.

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.

(b)   Management must before the commencement of a SCM process, analyze the need for the goods and/or services to ensure that the correct procurement system e.g. quotations or competitive bids are selected based on the threshold values set by the National Treasury.

(c)  The relevant SCM documentation supporting the decisions to select a supplier must be   kept on file or attached to the contract.

(d)   In approving deviations from the normal SCM process, management should ensure that the deviations are based on valid reasons, properly documented and approved on the appropriate level in line with the approved delegation of powers.

(e)  Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into before the PMTE commits to the lease with the landlord i.e. the lease term as well as the area (office, storage space, parking bays etc.).  Management should ensure that payments made to the landlord are in terms of a valid signed lease agreement.

(f)   The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular or fruitless and wasteful expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 26/07/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported in the management and audit report.

1. **COAF 120 - Deviations with the Supply Chain Management Practices: Petatype (Pty) Ltd, Department of Agriculture, 140 Hamilton Forum building (6029/6820) (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Treasury regulation 16A.6.1 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)  Treasury regulation 16A6.4 states that, “*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)   SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(h)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(i)    Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(j)    National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(k)  Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of the Hamilton Forum Building for the Department of Agriculture, the following was noted:

(a)  The Department of Agriculture (DOA) during June 2007 forwarded a Procurement Instruction to the Department of Public Works (DPW) PTA Regional office requesting the procurement of additional office accommodation within the vicinity of the Agricultural Place Building (State Owned) for relocation of its information centre. A procurement Strategy for a negotiated procedure was then instituted by the Department of Public works

(b)  During August 2008, the Department of Agriculture requested the Department of Public Works not to proceed with the preparation of the procurement strategy until further notice.  This request was made due to the organisational developments that might impact on the requirements of office accommodation. Subsequently, the Department of Agriculture requested the procurement of additional office accommodation as per letter dated 18 September 2008. The previous decision to relocate the information centre was reconsidered and it was concluded that relocation was not the best option. Suitable space had been identified by the Department of Agriculture that would meet their urgent need for additional office space. The Procurement Instruction dated 30 July 2007 indicating lettable area of 2331 m2 was withdrawn and replaced with a revised approved assessment and guideline for procurement of additional accommodation for lettable area of 1966.25 m2 and 45 parking bays.

(c)  The motivation for negotiated procedure was as follows: “*The Department of Agriculture requested that additional accommodation be leased, Procurement Instruction (PI) has been issued for an area of 1966 square meters and 45 parking bays. The client department is currently occupying accommodation in the Agriculture Place Building (State Owned). The client needs accommodation in the same vicinity as the additional area required will be for an overflow of staff. Therefore to go out on open tender procedure will not assist the client.”*

(d)  During 2009 as per letter dated 4 March 2009, the lease was renewed for a further two year period commencing on 1 May 2010.  The lease agreement as per the lease file was only signed by a representative of the Department of Public Works and not by the Landlord.  It was further noted that the details as per the lease agreement did not agree to the information as captured on PMIS i.e. the start and end date for PMIS is indicated as 1 June 2010 and 31 December 2012 and per the contract as 1 May 2010 and 30 June 2013 respectively.  Per discussion with the Deputy Director: Property Management it was indicated that the lease was currently running on a month to month basis from 1 June 2010 to 31 May 2012 as that there is no signed lease agreement in place.

(f)   During the current financial year, the entity requested approval as per PA01-1(LS) *Request for approval of the procurement strategy for a negotiated procedure* to procure additional accommodation of 599 square meters and 31 parking bays as well as the renewal of the existing lease of 1299 square meters and 40 parking bays for a period of nine years and 11 months for the department of Agriculture. This was supported by the acting director: Property Management on 30 April 2011.  The motivation for the negotiated procedure indicated that the client was currently occupying the building which lease was to expire on 30 April 2011 and thus the acquisition of the 3rd floor accommodation would result in the Department of Agriculture occupying the whole building (i.e. being the only tenant in the building).  The third floor was currently occupied by Government Communication and Information Services (GCIS). [As per other information in the lease file it was indicated that the lease of GCIS was coming to an end].  It was also noted that the property had been sold by the current lessor Kanivest 3146 cc to a BEE landlord Petatype cc. The lessor was willing to commit R2 000 000 for tenant installation.  The renewal was requested for 9 years 11 months commencing 1 June 2011.  As per the PA-12 the Special National Bid Adjudication Committee approved the renewal and additional accommodation on 9 June 2011.

(g)  The following information relating to the above lease could not be obtained:

(i)            Signed lease agreement relating to the above renewal period of nine years and 11 months

(ii)           Previous signed lease agreements relating to this building

(iii)          SBD 4, 8 and 9 equivalent as used by the entity

(iv)         Valid tax clearance certificate

The SCM process followed in respect of the acquisition and renewal of the above lease is in contravention with the prevailing prescripts in view of the following:

(a)  Although the deviations from the competitive bidding process were approved by the Special National Bid Adjudication committee for additional accommodation and renewal of existing lease at Hamilton Forum Building, the deviations were not reported to the National Treasury and the AGSA within 10 working days.

(b)  The deviation from the competitive bidding process did not satisfy the requirements of Practice Note 8 of 2007/08 i.e being an urgent or emergency case or a sole supplier.

(c)  The lease is continuing without a valid signed lease agreement in place.

(d)  The supplier did not submit a valid tax clearance certificate, nor did the supplier submit his SBD4, 8 and 9 equivalent [This is deemed necessary as the landlord is a new owner of the building].

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The property management officials did not take sufficient action and perform sufficient follow up to ensure that the lease agreements relating to the period 1 June 2010 to 31 May 2012 as well as the new lease was signed by both parties.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred for the period 1 April 2011 to 31 March 2012 amounting to R2 108 352,61 and expenditure of R1531 826,23 for the period 1 May 2010 to 31 March 2011 should be classified as irregular expenditure.  The irregular expenditure amount as disclosed per the financial statements is thus understated

**Internal control deficiency**

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| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and appropriately approved.

(b)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the renewal/new lease agreements to thus avoid entering a month to month arrangement.  Officials should make sufficient follow up to ensure lease agreements are signed by both parties and included on the lease file.

(c)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.

**Management response**

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

Supply Chain Management prescripts make provision for deviation of a competitive process, therefore the process to embark on a negotiated process was approved by the delegated authority.

Name: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

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

Cause: Lease agreement requires participation of two parties ( DPW & Landlord). In this case delegated official from DPW signed the lease & still awaiting for the landlord to make his decision. There is no clause in the lease agreement which is binding the landlord to return the lease on a said date.

Name: S Kutu

Position: Acting D: Property

Date: 26/7/2012

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

Cause: The department only drafts submissions to the Bid after receiving an approved Procurement Instruction from Head Office.

Name: S Kutu

Position: Acting D: Property

Date: 26/7/2012

**Auditor’s conclusion**

1. Management comments are noted however Supply Chain Management prescripts make provision for deviation of a competitive process in cases where it impractical to invite competitive bids in case of emergency and services available from sole supplier. The finding is not resolved and will be reported in the final management report.
2. Management comments are noted however comments do not address the finding. The finding is unresolved and will be reported in the final management report.
3. Management comments are noted however comments do not address the audit finding. The finding is unresolved and will be reported in the final management report.
4. **COAF 121 - Deviations with the Supply Chain Management Practices: City Properties (Pty) Ltd (Tender PT11/ 030: Department of Human Settlement: New Accommodation for Sanitation Regional Office. Pretoria (CBD, Acardia, Sunnyside) (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Chapter 5 of the Public Finance Management Act (PFMA) section 38(1)(a)(iii) states that, “*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”*

(b)  Paragraph 40(1)(a) of the PFMA stipulates that*, “ 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 the prescribed norms and standards”.*

(c)    Section 41 of the PMFA 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*.”

(d)  Treasury Regulations 16A6.3(c): “*The accounting officer or accounting authority must ensure that 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;”*

(e)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

(f)   Instruction note 32 paragraph 3.2 *Publication of names of bidders in respect of advertised competitive bids above the threshold of R500 000(All applicable tax included)* states that, “*3.2.1 Within ten (10) working days after the closure of any advertised competitive bid, institution must publish on its website the names of all bidders that submitted bids in relation to that particular advertisement. Where practical, institutions must also publish the total price and preferences claimed by the respective bidders. The information should remain on the website for at least thirty (30) days “*

During the review of the open tender process followed for the appointment of City Properties (Pty)Ltd for 261,25m2 for the Department of Human Settlements Sanitation Pretoria regional office, the following was noted:

(a)  PA-13 *Register for receiving bids / tenders* signed and dated 27 June 2011 indicated that the following suppliers submitted their bids before the closing date and time

(i) Premium Properties Ltd: Apollo Centre

(ii) City Property: Provisus Building

(iii) City Property Administration Pty Ltd: Styns Towers

(b)  The bids received were from the same supplier i.e. City Property, but were for three different buildings.  The supplier therefore shared the same telephone number: 012 357 1504 and fax number: 086 647 1626.

(c)  An A4 paper completed by the bidders who submitted their tenders indicated that the following seven bids were submitted; however based on the PA-13 only three bidders were included in the register as indicated in point (a) above.  The information on the PA-13 register was typed in and not completed by the bidders themselves. The following four bidders were excluded from the PA-13 register:

(i)  2IC Investment - bid submitted 31 May 2011

(ii) Nosipho Trading and projects - bid submitted 1 June 2011

(iii)Kgotso Property Consultants - bid submitted 8 June 2011

(iv)Bahumi Property Group - bids submitted 1 June 2011

Due to the fact that all tenderers that submitted their bids were not considered, the principles of SCM were not applied i.e. fair, equitable, transparent, competitive and cost effective.

(d)  PA-04 (LS) *Notice and invitation to bid* the tender was advertised on 20 May 2011 to 21 June 2011 which is more than 21 days; however the government tender bulletin indicating that the tender was indeed advertised on the tender bulletin was not included in the contract file submitted for audit purpose.  Subsequently a web search was performed for the government tender bulletin, but no records could be found for bid number PT11/030.

(e)  As per the PA-21 *Bid evaluation report to the regional bid adjudication committee* the bidder with the lowest score was recommended.  The motivation was as follows “*The client DHS recommended the Provisus building because of its location.  The building is close to Structura building which is accommodated by the DHS National office. The DHS Sanitation Regional office will have easy flow of information because of the proximity of the two buildings.  The building also gives the client room for expansion.*”  The tenderer with the highest points was not recommended based on the fact that the complex is in a shopping complex, thus the client disqualified the bidder based on its location.

(f)   The reasons as indicated above is not sufficient as the building scoring the second highest score (Apollo centre building) is situated in Du Toit street between Church and Vermeulen Street which is also in close proximity to the Structural building.  The rental for the Apollo centre building was R25 315.13 per month which is R2 978.25 less than the rental for the Provisus Building.

(g)  The appointment of City Property (Pty) Ltd was approved by the Regional Bid adjudication committee on 31 August 2011 for a monthly rental of R28 293, 38 per month subject to a valid tax clearance certificate being attached.  Only a copy of the tax clearance certificate was attached and the original tax clearance certificate could be found on file/was not provided for audit purposes.

(h)  It was further noted that there was no valid lease agreement.  The letter of acceptance dated 13 October 2011 indicated that Premium Properties Ltd won the tender for provision of new office accommodation in the Provisus Building for the Department of Human Settlement regional sanitation office.  The period was for two years commencing 1 March 2012/Date of occupation for 261,52m2 at R108,30/m2, thus total monthly rental of R28 322,62.  Discussions held with the Deputy Director: Property Management revealed that there was no signed lease agreement for the above mentioned lease.

(i)    Evidence that the names of all the bidders who submitted their bidding documents were published on the department’s website within ten (10) working days after the closure of the above mentioned advertised bid in terms of Instruction Note 32, could not be found on file.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations.

(b)  The PA-13 register not being completed and signed by the bidders themselves when submitting their bids.

(c)  Management not taking appropriate steps and performing sufficient follow up action to ensure that a valid signed lease agreement is in place.

(d)  The PMTE does not have proper controls in place over filing of procurement and lease documentation as evidence of bids advertised on the government tender bulletin, a valid signed lease agreement, original tax clearance certificate etc. were not included in the contract files submitted for audit purpose.

The above will result in non compliance with Instruction Note 32 paragraph 3.2, PFMA Section 38(1)(a)(iii) and TR16A6.3(c), thus leading to irregular expenditure of R28 322,62 (one month’s rental as lease commenced 1 March 2012) being incurred for the financial year ending 31 March 2012.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Financial and performance management:**

The entity 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 PA-13 form should be completed and signed by the bidders who submit their bids to ensure that all bidders who submit are included in the register.  It is not advisable that the register is typed over as this could lead to bidders being omitted from the list.

(b)  Property Management officials should ensure that advert on tender bulletin and news paper are included in the contract files that are filed at registry.

(c)  Management should ensure that the particulars of the bidders who submitted their tenders including the total amount and preference points claimed by the respective bidders, are publish on the entity’s website within 10 working days after closure of the advertisements for a minimum period of 30 days.  Evidence of such compliance should be included on the lease/procurement file.

(d)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the procurement.  Should this not be possible, regular follow up should be made to ensure that the lease agreement is signed timeously (i.e. before the client department occupies the building and payment commences).

(e)  Management should develop a checklist for filing to ensure that all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented

**Management response**

a)    b and c  I am [not] in agreement with the finding for the following reasons

The PA 13 is a Departmental document that records names of bidders who submitted bid documents, it is not supposed to be completed by bidders.

 Name: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

d)    I am [not] in agreement with the finding for the following reasons

The tender was advertised as an open procedure, therefore the bidder tendered for different buildings with different offers. No legislation prescribes how many times a bidder can compete for the same bid.

Date Name: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

d)     I am [not] in agreement with the finding for the following reasons

The lease agreement file was audited and not the tender file

Date Name: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

e and f) I am [not] in agreement with the finding for the following reasons.The client has the final say in choosing a suitable building which will better allow for service delivery. The building was chosen as it is on the same street as Structura.

Name: S. Kutu

Position:  Acting Director Property Management

Date: 26/7/2012

g)    I am  [not] in agreement with the finding for the following reasons

The TCC was inside the file

 Name:   S Kutu

Position:  Acting Director Property Management

Date: 26/7/2012

h)    I am [not] in agreement with the finding for the following reasons

There is a valid signed lease agreement.

Name:   S Kutu

Position:  Acting Director Property Management

Date: 26/7/2012

**Auditor’s conclusion**

(a)  b) and c) Management comments are noted however the comments are not addressing the finding. The finding is unresolved and will be reported in the final management report.

(b)  d) Management comments are noted. The finding is unresolved as bids submitted were from the same supplier tendering for different buildings and this does not constitute of competitive bidding and non compliance identified will be reported in the final management report.

(c)  d) Management comments are noted however the tender file as indicated by management was not provided. The finding is unresolved and will be reported in the final management report.

(d)  c) and f) Management comments are noted however the comments are not addressing finding. The finding is unresolved and will be reported in the final management report.

(e)  g) Management comments are noted however the original tax clearance certificate was not provided. The finding is unresolved and will be reported in the final management report.

(f)   h) Management comments are noted however the lease agreement was not provided. The finding is unresolved and will be reported in the final management report.

1. **COAF 122 - Deviations with the Supply Chain Management Practices: Faerie Glen Water Park (Pty) Ltd (Tender PT10/077: South African Defence force: New alternative accommodation) (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Chapter 5 of the Public Finance Management Act (PFMA) section 38(1)(a)(iii) states that, “*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”*

(b)    Treasury Regulations 16A6.2(b) states, *“A supply chain management system must, in the case of procurement through a bidding process, provide for the establishment, composition and functioning of bid specification, evaluation and adjudication committees;”*

(c)  Treasury regulations 16A6.3(c): “*The accounting officer or accounting authority must ensure that 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;”*

(d)  Preferential Procurement Regulations paragraph 8(3) states, “*A bid must be disqualified if it fails to achieve the minimum qualifying score for functionality as indicated in the bid documents;*”

(e)  Preferential Procurement Regulations paragraph 8(4) states, “*Bids that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point system...”*

During the review of the appointment of Faerie Glen Water Park (Pty) Ltd for the provision of new alternative accommodation of 514,93 square meters (m2) and 15 parking bays for the South African Defence Force: Chief Directorate Finance, the following was noted:

(a)  The request for approval of the procurement strategy (PA – 01) dated 4 September 2010 indicated that an open procedure will be followed.  The preference points scoring system was 90/10 and the minimum functionality score to qualify for further evaluation was 50.

(b)  The PA-13 register signed and dated 7 December 2010 indicated that the following bids/tenders were submitted before the closing date and time:

(i)    City Property Administration Pty Ltd: P O Box 15 Pretoria 0001

(ii)   Centpret Properties Pty Ltd: P O Box 15 Pretoria 0001

(iii)  City Property Administration Pty Ltd: P O Box 15 Pretoria 0001

(iv) Faerie Glen Waterpark CC: P O Box 39727 Faerie Glen 0043

The SCM process followed in the appointment of Faerie Glen Water Park (Pty) Ltd was in contravention of the prevailing prescripts in view of the following:

(a)  Minutes of the bid specification committee were not included in the file requested per RFI no.55 dated 16 February 2012 and therefore it could not be determined whether the bid specifications were compiled by the bid specification committee.

(b)  As per PA-04 *Notice and invitation to bid*, the tender was advertised on 5 November 2010 to 7 December 2010 which is 21 days; however the government tender bulletin indicating that the tender was advertised on the tender bulletin was not included in the contract file submitted for audit purposes.  A web search was subsequently performed and no records could be found for bid number PT10/077.

(c)  Three of the four suppliers that submitted their bid documents shared the same postal address, telephone number [012](tel:012) 319 8774 and fax number 086 647 1616.  Although one of the three suppliers with the same details did not receive the bid, this is not in line with the principles of SCM i.e. competitive and fair as in essence bids were only received by two bidders.

(d)  The final scoring table calculations did not disqualify the two bidders who did not achieve the minimum functionality score i.e. Centpret Properties (Pty) Ltd and City Property Administration who both obtained a functionality score of 48,88 which is below 50.  Thus the two bidders were included in the second phase of the calculations.  Although they were included, the winner bidder would still have received the highest score overall had the correct calculations been performed.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations.

(b)  The PMTE does not have proper controls in place over filing of procurement documentation as bid advertised on government tender bulletin, news papers and bid specification minutes were not included in the contract files submitted for audit purposes.

The above finding results in:

(a)  Non compliance with the principles of SCM as per PFMA section 38(1)(a)(iii)

(b)  Non compliance with TR 16A6.2(b) and PPR paragraph 8(3)

(c)  Non compliance with TR16A.6.3(c).  Thus, irregular expenditure of R53 809.70 (VAT incl.) per month will be incurred in the future upon commencement of rental payments to the landlord.  For the year ended 31 March 2012, the supplier was still busy with tenant installations and therefore payment of the monthly rentals had not yet commenced.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)    SCM officials should encourage SCM practices that are competitive and fair and therefore be on the alert for bidders who submit more than one bid, but that relate to the same bidder.  Such matters should be escalated timeously to management for action to ensure that the bidders receive a fair chance of being selected.

(b)  Management should ensure that bids are advertised in at least the Government Tender Bulletin and that evidence of such is kept on file.

(c)  Management should develop a checklist for filing to ensure that all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(d)  Management should assess which suppliers are to be disqualified based on functionality before calculating the supplier’s scores for price.

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | SCM will ensure that all proper documents relating to bid advertisements are properly attached and filed at Legal Services | | |
| 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 | D: Finance & SCM | | |
| Estimated completion date of 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

PA 04 :Notice and invitation to tender was inside the pink file (tender document file)

Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

The tender was advertised as an open procedure, therefore the bidder tendered for different buildings with different offers. No legislation prescribes how many times a bidder can compete for the same bid.

Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

The disqualifying criteria was not based on acquiring the minimum functionality points, the criteria used was on the basis of not meeting the standard functionality criteria set up.

Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

**Auditor’s conclusion**

(a)  Management agrees with the finding and will be included in the final management report.

(b)  Management comments are noted however notice for invitation of bids and the pink file were not submitted with management comment. The finding is not resolved and will be included in the final management report

(c)  Management comments are noted however bidder tendered were from the same group bidding for different building this does not constitute competitive bidding process. The finding is unresolved and will be included in the final management report.

(d)  Management comments are noted however the comments do not address the finding. The finding is unresolved and will be included in the final management report

1. **COAF 131 - Deviations with the Supply Chain Management Practices: JR 209 (Pty) Ltd (Tender PT10/071): Landbank Building Department of Energy (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)   Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 40(1)(a) of the PMTA stipulates that*, “ 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 the prescribed norms and standards”.*

(c)  Treasury regulations 16A6.3(c): “*The accounting officer or accounting authority must ensure that 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;”*

(d)  Preferential Procurement Policy Framework Act no. 5 of  2000 (PPPFA) section 2(1)(e) states, “*An organ of state must determine its preferential procurement policy and implement it within the following framework: any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;”*

During the review of the appointment of JR 209 Investment Pty Ltd for the provision of 18 052,2m2 office space and 765 parking bays for the Department of Energy, the following was noted:

(a)  The request for approval of the procurement strategy (PA – 01) supported by the Director Property Management on 21 January 2011 indicated that the full ten points will be allocated to HDI.  Based on the PA-04 (LS): *Notice and invitation to bid* dated 2 February 2011, it was indicated that four points would be allocated to HDI and six points to other specific goals. As per the PA-16: *Preference certificate*, no specific goals were listed as per paragraph 1.3.2.2 nor in any other document on file PT10/071.  This is in contravention of PPPFA section 2(1)(e).

(b)  The following bids were evaluated as per the PA-20 scoring model:

(i)          New Heights

(ii)         Alkara 334 (Pty) Ltd

(iii)        Folang Holding (Pty) Ltd

(iv)       Guma Property Holding

(v)        Zambli 216 amount

(vi)       JR 209 Investment (Pty)Ltd

(vii)      Rezmep Investment Share

(viii)     Rezmep Investment Share

The preference point calculations could not be found of file to support the preference points as included in column h of the PA-20 *Scoring model* and therefore the calculation of such points could not be verified.  It is also uncertain which ratio of HDI to specific goals was utilised in determining the score.

(c)  JR 209 Investment (Pty) Ltd won the tender for R2 206 035.70 (VAT incl.) per month based on the landlord having the highest score of 96.68.  The lease agreement was entered into for nine years and 11 months commencing on 1 April 2012.

(d)  The PA-04 *Notice and invitation to bid* indicated that the tender was advertised from 14 February 2011 to 22 February 2011, thus for a period of eight days which is less than the  21 days as required by the Treasury Regulations.  As per PA-01 number 5, the reason for the shorter period of 1,5 weeks was indicated as follows "*The department of Energy is utilisting Trevenna Campus in Sunnyside and they are urgently requesting this office procure alternative accommodation because of the location that they are residing in.  They are preferring to be accommodated in CBD area, Arcadia or Hatfield*."

Based on the above, the reasons are not considered to be urgent and therefore the entity did not comply with TR 16A6.3(c).

(e)  Furthermore, the government tender bulletin could not be obtained as per the contract file submitted for audit purposes.   A web search was subsequently performed and no records were found for bid number PT10/071.

(f)   Although the pre bid amount was indicated as R230 744 378.6, the contract amount awarded totalled R421 902 062.37 which is R191 157 683.69 above the estimated amount.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations.

(b)  SCM officials not appropriately applying the laws and regulations to only allow for deviations in cases that are indeed emergency/urgent cases as per the requirements of the act.

(c)  The PMTE does not have proper controls in place over filing of procurement documentation as the bid advertised on the government tender bulletin was not included in the contract files submitted for audit purpose, nor were the scoring sheets supporting the calculation of the preference points (HDI /other specific goals) included in the file.

The above deviations constitute non compliance with TR16A6.3(c), thus resulting in irregular expenditure incurred amounting R2 206 035.70 per month from 1 April 2012 be classified as irregular expenditure.  The above also results in non-compliance with PPPFA section 2(1)(e)

**Internal control deficiency**

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| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from advertising bids for 21 days in actual urgent or emergency cases; thus not urgent or emergency cases that result from poor planning. The reasons to deviate from advertising bids for 21 days should be properly recorded and should be substantiated by evidence.

(b)  Management should ensure that if points are awarded for specific goals, that such goals are clearly identified in the invitation to submit tenders as per the requirements of PPPFA section 2(1)(e).

(c)  Management should develop a checklist for filing to ensure that all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

**Management response**

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

(a) See attachment 1 for functionality criteria.

(b)The preferential was attached on the approved submission. Please find the attached 2 for easy reference.

(c)See attachment 3 for copy of lease agreement

(d) See attached letter supporting advert less than 21

(e)Please see the attached Government tender Bulletin which says that Bid will be evaluated in terms of Price/Functionality

Name:  Mr Shati Kuti

Position: Acting Director Property Manager

Date: 11/7/2012

**Auditor’s conclusion**

Management comments are noted however the finding is not resolved as the letter from Department of Energy supporting the tender to be advertised less than 21 days was dated 11 December 2011 and the tender was advertised on 14/02/2011 to 22/02/2011 and the preference points calculation were not attached to the supporting documents for management response. The finding will be reported in the final management report and audit report.

1. **COAF 144 - Deviations with the Supply Chain Management Practices: Growth point (Pty) Ltd Department of Public Enterprise: Infotech Building (6029/2347)**

**Audit finding**

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 16A6.4 states that, “*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)  SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(h)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(i)    National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(j)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the renewal of the lease agreement with Growth Point (Pty) Ltd for the provision of 4 927,34m2 offices, 202,3m2 stores and 94 parking bays in the Infotech Building for the Department of Public Enterprise, the following was noted:

(a)  The lease initially commenced in 1989 and was subsequently renewed from 1 January 1997 to 31 December 1998, 1 January 1999 to 31 December 1999, 1 March 2000 to 28 February 2003 and 1 June 2003 to 31 May 2006. The previous lease agreement with commencement date 1 June 2006 for five years was terminating on 31 May 2011.  The Department of Public Enterprise requested approval to renew the lease agreement for a further five years for the 5 129,64m2 as occupied on the third and fourth floors of the Infotech building which included the stores and cafeteria.  In addition to the 74 parking bays leased, the department requested that this be increased to 120 parking bays.

(b)  As per clause 5.1 to 5.3 in the lease agreement, the tenant has the right to renew the lease agreement for a further five years upon notifying the landlord at least six months prior to the expiry of the lease agreement and within three months thereof, to have reached an agreement on the terms and conditions to govern the new lease.  As per point (d) below it can be noted that the PA-01 request for a negotiated procedure was only requested three months prior to the expiry of the lease agreement.

(c)  As per letter dated 22 November 2007 from Growth-Point Properties it was indicated that Growth-Point Properties had acquired the property fund management and property administration businesses from Investec Property Group and that the rental statements will now be issued by Growthpoint and not Investec Group.

(d)  As per PA-01.1(LS) *Request for approval of the procurement strategy for a negotiated procedure,* dated 4 March 2011, the reasons for deviating were as follows: “*The Department of Public Enterprise is currently occupying Infotech Building and requested this office to renew the lease agreement for period of five (5) years as the lease expires on 31 May 2011.  The current accommodation still complies with Department of Public Enterprise minimum needs and requirements and the funds have been made available for renewal. Highly successful negotiations have been conducted in the past which led to concession by the landlord…The current premises still meets the requirements of the client and it would be a costly exercise client would have to allocate funds for relocation purposes*.”   The reasons documented are not related to an emergency, urgency or sole supplier as per the requirements of the practice note.  It was also noted that the request was only done three months prior to the expiry of the lease.

(f)   The renewal of lease agreement from 1 June 2011 to 31 May 2013 was approved by Special National Bid Adjudication Committee on 28 April 2011 for two years.  The letter to Growth-Point Properties indicating that their offer has been approved for the procurement of the lease agreement was dated 9 June 2011.  Thus subsequent to the renewal date.

The SCM process followed in the appointment of Growth Point (Pty) Ltd was in contravention of the prevailing prescripts in view of the following:

(a)  The deviation was not reported to National Treasury or the AGSA within 10 working days.

(b)  The department was unable to negotiate rates that were in line with the previous lease agreement that expired i.e. the landlord now refused to accept an escalation rate less than 9% (letter dated 8 April 2011 from Growth-Point Properties) whereas per the previous lease agreement the escalation rate was 8%.  The rates per m2 and parking also increased by more than per the normal annual increase as per the previous contract.  Please refer to table below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Previous lease agreement  (1 June 2007 - 31 May 2011)** | | | **New lease agreement (1 June 2011 - 31 May 2013)** | | **Increase in rate** |
| **Required** | **As at 1 June 2006** | **Equivalent as at 1 June 2011 after taking escalation of 8% p.a. into account** | **Required** | **As at 1 June 2011** |
| **A** | **B** | **C** | **C - B** |
| **Rand value  (incl. VAT)** | **Rand value  (incl. VAT)** | **Rand value  (incl. VAT)** | **Rand value  (incl. VAT)** |
| **Office  (m2)** | 4927.34 | 60.17 | 91.29 | 4927.34 | 100.32 | **9.03** |
| **Stores (m2)** | 202.3 | 29.07 | 44.11 | 202.3 | 44.46 | **0.35** |
| **Parking bays** | 74 | 232.56 | 352.85 | 94 | 364.8 | **11.95** |
| **Escalation** | 8% |  |  | 9% |  | **1%** |

Thus based on the above, the commencement rental as per the new lease agreement was R45 687,99 more per month, than what it should have been had the new lease continued on the same rates as per the previous lease agreement.

(c)  Although the renewal of the lease commenced on 1 June 2011, it was signed late i.e. on 26 March 2012 by the acting Director General on behalf of Public Works.  The lease agreement was not signed by the landlord.  Thus payments were made to the landlord without a valid signed lease agreement being in placed.

(d)  The data for this lease as captured on PMIS did not agree to the details as per the unsigned lease agreement in the table above i.e. extent was indicated as 2 548m2 and 118 parking bays per PMIS, thus 2 581,64m2 less and 24 parking bays more than the unsigned contract.

(e)  The following documentation for Growth Point (Pty) Ltd could not be found on file:

(i)  Valid tax clearance certificate

(ii) SBD 4 and 8 (or equivalent as used by the department)

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning as the approval of the request for a negotiated procedure was only requested three months prior to the termination date of the lease contract.  Also due to the fact that the landlord was only willing to renew the lease for two years, the PMTE could have procured another building with better rates had the process commenced with sufficient time prior to the expiry of the lease agreement.

(c)  Management not being able to utilise their own state-owned buildings to accommodate client departments, thus resulting in leasing a building from a landlord for over 20 years.

(d)  The property management officials did not take sufficient action and perform sufficient follow up to ensure that the lease agreements relating to the period 1 June 2011 to 31 May 2013 is signed by both parties.

(e)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as various documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred from 1 June 2011 to 31 March 2012 amounting  R5 375 962.10 is to be classified as irregular expenditure.  The irregular expenditure disclosure note is thus understated with this amount.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.

(b)  Management should identify contracts nearing their termination date well in advance to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring market related rentals are obtained and that new lease agreements are entered into to prevent ongoing month to month leases.

(c)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the renewal/new lease agreements to thus avoid payment made base on approval of submission/letter of acceptance.  Officials should make sufficient follow up to ensure lease agreements are signed by both parties

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(e)  Management should ensure that the use of state-owned buildings is prioritised to thus avoid leases being entered into for such long durations.

(f)   Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(g)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 02/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported.

1. **COAF 149 - Deviations with the Supply Chain Management Practices: Zambili (Pty) Ltd, Department of Justice, Spooral Park Building (6029/6895)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)   SCM Practice note 4 of 2006 states that, “*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.”*

(c)    Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(d)  Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(e)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(f)   Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(g)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(h)  National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of Zambli 216 (Pty) Ltd (Spooral Building) for 2434 square meters and 24 parking bays for the Department of Justice: SA Law Commission, the following was noted:

(a)  As per PA-01(LS) *Request for approval of the procurement strategy* dated 22 September 2010 it was indicated that The SA Law Commission (Department of Justice) together with the Department of Home Affairs were given notice to vacate the Sanlam Middestad premises by 31 August 2010, as per letter dated 1 July 2010 from the landlord, C-Max Investment 245(Pty) Ltd.  It was further indicated in the letter that lease had been terminated on 31 May 2006 and thereafter continued on a month to month basis.  The landlord had now let the premises to another tenant and the department was requested to vacate the premises on or before 31 July 2010.  Th*e SA Law Commission moved to temporary accommodat*ion but was unable to work due to the lack of infrastructure. Alternative accommodation was therefore urgently required. Due to the urgency of the project, it was requested that approval be obtained to nominate the suitable candidate from the tenders that were received for the Department of Women Children and Person with Disability as the specifications met the requirements of both the client Department of Justice and Home Affairs, as both clients were accommodated in the same building.  The tender process for the Department of Women Children and Person with Disability had subsequently lapsed; and as a result the bidders were never engaged for PT10/064.  Thus the bidders that submitted their bids were nominated to bid for procurement of accommodation for the Department of Justice.  The following bidders responded as per PA-13 *Register for receiving bids/tenders*

(i)    Metropolitan Life Ltd: No amount was indicated

(ii)   Centpret Properties Pty Ltd (Locarno House) amount: R221 787.00

(iii)  Zambili 216 (Pty) Ltd - (Byron’s Place) amount: R307 706.52

(iv) Sugar Creek Trading 278 amount: R378 581.00

(v)  Centpret Properties (Die Meent) amount: R221 787.00

(vi) Zambili 216 (Pty) Ltd (Spooral Park Building) amount: R320 310.00

(b)  It was further noted that supplier (ii) and (v) shared the same cell number: 082 424 8244, telephone number 012 357 1407 and fax number 086 647 1626 and supplier (iii) and (vi) shared the same telephone number 041 365 0863 and fax number 041 365 0864.  These were thus the same bidders offering two different buildings each.  Therefore bids for nominated suppliers were received from four suppliers and not six suppliers.

(c)  Inspected the PA-20 Scoring model and the following suppliers were evaluated

(i)    Centpret Properties Pty Ltd (Locarno House) amount: R221 787.00

(ii)   Zambili 216 (Pty) Ltd - (Byron’s Place) amount: R307 706.52

(iii)  Sugar Creek Trading 278 amount: R378 581.00

(iv) Centpret Properties (Die Meent) amount: R221 787.00

(v)  Zambili 216 (Pty) Ltd (Spooral Park Building) amount: R320 310.00

 Zambli 216 (Pty) Ltd won the tender with a score of 70,32 at an amount of R320 310,36 per month.  Centpret Properties (Pty) Ltd scored the highest (90 points) with a price of R221 787,00 per month.  The tender was however not awarded to Centpret Properties (Pty) Ltd as per minutes of meeting dated 17 November 2010 due to the fact that the landlord does not qualify for a five year lease period.

 The second highest scorer was Zambli 216 (Pty) Ltd (Byron Place) scoring point 72,87 at an amount of R307 706,52 per month. The chairperson of the meeting held 17 November 2010 motivated that the Spooral building is in Centurion and therefore the rates are higher and would not be a fair comparable to the other building in the CBD.  The Byron Place does not meet the specialised requirements of the client and is therefore not suitable.

 The reasons as indicated above was not sufficient for not awarding the tender to the supplier with the highest points and lowest price i.e. the rental for the Centpret Properties Pty Ltd(Locarno House and Die Meent) building was R221 787.00 per month which is R98 523.36 less than the rental for the Zambili 216 Pty Ltd (Spooral Park Building).

 It was further noted that Metropolitan Life Ltd as per PA-20 scoring model was not evaluated as per the PA-20 scoring model.  No reasons were indicated/documented in the file for not evaluating Metropolitan Life Ltd.

(d)  As per letter dated 15 November 2010 from the department of Justice to the department of Public Works it was indicated that the Spooral Park building is the only possible option.  It was also indicated that the building had more space than currently approved and that the SALRC was in the process of making a submission to the DG:Justice to approve the additional space.  Such approval could not be found on file, nor could the original needs assessment from the client department be found on file to verify the above.

(e)  The deviations from the competitive bidding process was recommended to the DG for approval by National Bid Adjudication Committee on 9 December 2010; and approved by the DG per internal memorandum on 17 December 2010.

(f)   The following information as requested per RFI no. 115 on 24 April 2012 and COAF 65 on 7 May 2012 relating to the lease could not be obtained for audit purposes.  Subsequent follow up with the Assistant Director: Property Management regarding the outstanding documentation was performed, however to date the below mentioned documentation could not be provided for audit purposes:

(i)    Signed lease agreement only letter of acceptance was included in the file

(ii)   SBD4, 8 and 9 or equivalent document as used by the entity.

(iii)  Original tax clearance certificate as only the copy was included in the file.

(iv) Needs assessment for the client department including approval by DG: Justice for additional space

(v)  Bid documents submitted by all bidders

The SCM process followed in respect of the acquisition and renewal of the above lease is in contravention with the prevailing prescripts in view of the following:

(a)  Although the deviations from the competitive bidding process was recommended to DG for approval by National Bid Adjudication Committee on 9 December 2010, and approved by the DG per internal memorandum on 17 December 2010, the deviation was not reported to the National Treasury and the AGSA within 10 working days.

(b)   The deviation from the competitive bidding process did not satisfy the requirements of Practice Note 8 of 2007/08 i.e being an urgent or emergency case or a sole supplier.

(c)  The lease is continuing without a valid signed lease agreement in place.

The supplier did not submit an original  tax clearance certificate, nor did the supplier submit his SBD4, 8 and 9 or equivalent document as used by entity

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning as the lease had been running on a month to month basis since 2006.  Thus management had ample time to go out on open tender and ensure competitive prices are obtained for the new lease.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the aforementioned laws, rules and regulations and as a result expenditure incurred will result in irregular expenditure.  During the period June 2006 to August 2010 irregular expenditure was incurred due to the lease being on a month to month basis.  No expenditure was incurred during the current financial year for the above mentioned lease

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and appropriately approved.  Management should ensure that emergency cases are not as a result of poor planning.  Leases nearly the end of their term should be timeously identified to allow sufficient time to take action and thus ensure compliance with SCM prescripts.

(b)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the renewal/new lease agreements to thus avoid paying the supplier based on the acceptance letter and/or on a month to month arrangement.  Officials should make sufficient follow up to ensure lease agreements are signed by both parties and included on the lease file.

(c)  To ensure value for money, the department should pursue an escalation rate of not more than 9%.

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  The requirements are to be communicated to the relevant officials to ensure that the requirements are clearly understood and implemented.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Management will ensure that all deviations approved by the entity are reported to the National Treasury within 10 working days. | | |
| 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 | D: Finance | | |
| Estimated completion date of corrective action: | On going | | |
| 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

Supply Chain Management prescripts make provision for deviation of a competitive process, therefore the process to embark on a negotiated process was approved by the delegated authority.

Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

There is a lease agreement in place.

Name:  S Kutu

Position:  Acting D: Property

Date: 26/7/2012

d)    I am [not] in agreement with the finding for the following reasons:

The original TCC was attached to the submission directed to the relevant authority.

Name:  S Kutu

Position:  Acting D: Property

Date: 26/7/2012

**Auditor’s conclusion**

 (a) Management agree with the finding therefore finding will be included in the final management report

(b) Management comments are noted however Supply Chain Management prescripts make provision from deviation of a competitive process in cases where the procurement is emergency or services available from sole supplier. The finding is not resolved and will be reported in the final management report

(c) Management comments are noted however the lease agreement was not provided with the management response. The finding is not resolved and will be reported in the final management report.

(d)  Management comments are noted however the original tax clearance was not provided with the management response. The finding is not resolved and will be reported in the final management report.

1. **COAF 154 - Fruitless and wasteful - Continental Building (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PMFA states the following**:** “fruitless and wasteful expenditure”*means expenditure which was made in vain and would have been avoided had reasonable care been exercised*;”

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

Background

Name of building: Continental Building

Street address: CNR Visagie and Bosman

Client department: Water Affairs

Floor area:  4113m2

Monthly rental: R299 335,58

Parking bays: 61

Finding

(a)  According to the lease agreement, the commencement date was 1 December 2007. However, on the 20th June 2007 the Lessor (Manaka Property Investment), agreed in writing that rental would be free for four months with rentals only due from April 2008 while improvements required under the lease were made before Department of Water Affair would take occupation. The free rentals amounted to R1 197 342,32.

(b)  Furthermore, the audit team noted the Department of Water Affairs did not take occupation after completion of the improvements but only took occupation of the building on the 6 April 2009 after receiving a letter from DPW informing it that wasteful expenditure had been incurred because the building was not occupied. The audit team enquired with management and we were informed that the building was ready for occupation hence certificate of occupation was issued by City of Tshwane and Portfolio Manager were of the view that the building is ready for occupation.

(c)  The rental payment of R5 265 677,94 when the building was not occupied is fruitless and wasteful expenditure. The payment of R5 718 720,67 from 1 December 2007 to 9 April 2009 includes rental as agreed, overrun installation cost but also includes four month’s rental which should have been free as agreed with the lessor.

(d)  DPW was paying for 61 packing bays as per lease agreement hence there are only 52 packing bays, therefore, the audit team are of the view that this constitute wasteful expenditure as illustrated below:

|  |  |  |
| --- | --- | --- |
| **Period** | **Packing bay-monthly**  **R** | **Total**  **R** |
| Dec 07 – Nov 08 | 3 150,00 | 37 800,00 |
| Dec 08 – Nov 09 | 3 433,50 | 41 202,00 |
| Dec 09 – Nov 10 | 3 804,89 | 45 658,68 |
| Dec 10 – Nov 11 | 4 147,33 | 49 767,96 |
| Dec 11 – June 12 | 4 520,59 | 31 644,13 |
| **Total wasteful expenditure** | | **206 072,77** |

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. Measures were not in place to obligate tenants to utilize buildings leased to eliminate fruitless and wasteful payment. The building was not inspected to confirm that the number of parkings at the building agree to the contract.

The above results in fruitless and wasteful expenditure of R206 072,77.  The amount was not disclosed in the fruitless and wasteful expenditure register and thus fruitless and wasteful expenditure is understated by R206 072,77 in the Annual Financial Statements.

**Internal control deficiency**

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| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  The PMTE should ensure adequate measures, including site inspections, are in place to ensure that the area leased agrees to the contract

(b)  The PMTE should implement controls to ensure leased buildings are inspected to determine if buildings are utilised optimally and implement processes obligating tenants to inform them when buildings are under-utlised.

(c)  The matter regarding the fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the department or trading entity as per the requirements of the PFMA section 38(1)(h). The amount of fruitless and wasteful expenditure should be determined.

**Management response**

I am [not] in agreement with the finding for the following reasons

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | The building will be inspected to confirm that the number of parkings bays at the building agree to the contract. | | |
| 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 | D: Property | | |
| Estimated completion date of 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:  S Kutu

Position:  Acting D: Property

Date: 26/7/2012

**Auditor’s conclusion**

Management comments are noted however there was no evidence indicating that the building was visited for inspection and the amount paid for parking not utilised should be included as part of fruitless and wasteful. The finding is unresolved and will be included in the final management report as well as the audit report as fruitless and wasteful expenditure is not complete and the entity does not have appropriate procedures in place to identify such instances of fruitless and wasteful expenditure.

1. **COAF 155 - Leased property: utilisation and lease agreements – Metro Park building (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PMFA states the following**: “fruitless and wasteful expenditure”** *means expenditure which was made in vain and would have been avoided had reasonable care been exercised*;”

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

During the review of the lease for the Metropark building, the following was noted:

(a)  The Department of Public Works (DPW) entered into a five year lease agreement on 3 November 2004 with Tresso Trading 119 (Pty) Ltd on behalf of the Department of Human Settlements (DHS) for the leasing of office accommodation. The details of the lease agreement are as follows:

|  |  |
| --- | --- |
| Address | 363 Schoeman Street |
| Floor area leased | 2 468.71m2 (entire 3rd floor) |
| Commencement date | 1 December 2004 |
| Termination date | 30 November 2009 |
| Commencement rental (including vat) | R92 099.92 per month |
| Annual escalation rate | 8% |

(b)  **Office utilisation:** During site visits conducted at the said building, the audit team noted that approximately 50% of the office space was not utilised by the DHS. According to Portfolio Manager: DPW, on expiry of initial lease agreement on 30 November 2009, the DHS had not indicated their position on the extension of the lease agreement or had submitted its revised needs assessments, thus the audit team was unable to establish the DHS motivation for the continued utilisation of the said building. The audit team has requested the correspondence with the DHS relating to the DHS position on the extension of the lease agreement and revised need assessments however this information was not provided to the audit team.  The period of underutilisation is unknown therefore an amount for fruitless and wasteful expenditure could not be calculated at this time.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. The PMTE did not conduct site inspections of leased buildings to indentify under-utilisation to enable corrective action and did not have processes in place obligating tenants to inform them when premises are under-utilised.

The above will result in non compliance with the applicable laws, rules, regulations and practice notes which will lead to the incurrence of fruitless and wasteful expenditure.  Thus the fruitless and wasteful expenditure as disclosed in the annual financial statements is understated.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  The PMTE should implement controls to ensure leased buildings are inspected to determine if buildings are utilised optimally and implement processes obligating tenants to inform them when buildings are under-utlised.

(b)  The matter regarding the fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the department or trading entity as per the requirements of the PFMA section 38(1)(h). The amount of fruitless and wasteful expenditure should be determined.

**Management response**

I am [not] in agreement with the finding for the following reasons

The mandate of the Department is to acquire accommodation, utilization thereof is the client’s responsibility.

Name:   K Shati

Position:  Acting: D Property

Date: 26/7/201

**Auditor’s conclusion**

Management comments are noted however the comment does address the finding. The finding is unresolved and will be included in the final management report as well as the audit report as the completeness of fruitless and wasteful expenditure cannot be determined as the entity does not have processes and procedures in place that are adequate for the identification of fruitless and wasteful expenditure.

1. **COAF 156 - Extension of COAF 103 (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

(a)        *this Act; or*

(b)       *the State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

During the review of payment no. 397098 (dated 11 June 2011 for R1 168 351, 80) made to Summermania Seven (Pty) (Ltd) and Volume 3 of lease file 6029/7015 the following was noted:

(a)  The payment was made in respect of a month-to-month lease for the Ndinaye Building

(b)  As per request no. 152 dated 25 May 2012, lease file no. 6029/7015 was requested, however such information was not provided by the entity and thus COAF 98 relating to limitation of scope was issued on 5 June 2012. Volume 3 of lease file 6029/7015 was subsequently submitted.

(c)  The original lease agreement commenced on 1 July 2007 and expired on 30 June 2010.  The commencement rental was R953 040 for 15 400m2 and 220 parking bays with an escalation rate of 10% per annum.  No subsequent lease agreement was entered into. However an undated and unsigned addendum to the existing lease agreement was found. The original lease agreement contained a clause indicating that should arrangements be made six months prior to the expiration of the lease, the lease can be renewed for a minimum of two years, but not exceeding five years.

(d)  As per the data captured on PMIS the period of the lease is indicated as 1 June 2010 to 31 December 2012.

(e)  From a download of payments made on PMIS, payment of R 1 598 305,30 (payment number 120207, invoice number 533863) was made for January 2012 rental.

(f)   Furthermore, should the agreement have escalated subsequent to the expiry in terms of the original lease agreement the rental should have increased as follows:

|  |  |
| --- | --- |
| **Date of escalation** | **Total rental amount/month**  **R** |
| 01/07/2007 | 953,040.00 |
| 01/07/2008 | 1,048,344.00 |
| 01/07/2009 | 1,153,178.40 |
| 01/07/2010 | 1,268,496.24 |
| 01/07/2011 | 1,395,345.86 |
| 01/07/2012 | 1,534,880.45 |

Thus the payment for January 2012 should have not been more than R1 395 345, 86 per month.

(g)  According to the recalculation performed by the audit team, lease payments paid to Superbia Four (Pty) Ltd during the period from October 2011 to February 2012 were not in accordance to the lease agreement as detailed in the table below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Invoice date** | **BAS transfer date** | **Description** | **Amount paid including VAT**  **R** | **Amount as per the lease agreement**  **R** | **Overpayment**  **R** |
| 1/10/2011 | 27/09/2011 | OFFICES:RENTALS | 1 598 305.26 | 1 395 345.86 | 202 959.40 |
| 1/11/2011 | 26/10/2011 | OFFICES:RENTALS | 1 598 305.26 | 1 395 345.86 | 202 959.40 |
| 7/2/2012 | 9/2/2012 | OFFICES:RENTALS | 1 598 305.26 | 1 395 345.86 | 202 959.40 |
| Total | | | | | **608 878,20** |

The above deviation will result in additional irregular expenditure and Furthermore the irregular expenditure disclosure note will be understated as not all irregular has been disclosed.

The above will also result in additional irregular expenditure of R 608 878.20.  Furthermore the irregular expenditure disclosure note will be understated as not all irregular has been disclosed.

**Internal control deficiency**

**Leadership:**

The accounting officer did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control

**Financial and Performance Management:**

The accounting officer did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

The PMTE should implement controls to ensure that payments are reconciled lease agreement amounts on a monthly basis.

**Management response**

I am [not] in agreement with the finding for the following reasons

A signed addendum that makes provision for the rental adjustment is attached to the lease to the lease agreement.

Name: K Shati

Position:  Acting: Director: Property

Date: 26/7/2012

**Auditor’s conclusion**

Management comments are noted however the comments do not address the finding.  The finding is unresolved and will be reported in the final management report.

1. **COAF 159 - Deviations with the Supply Chain Management Practices: Zambli 216 Pty Ltd, Department of Home Affairs, 140 Byrons Place building (6029/0216/2)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 16A6.4 states that, “*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)  SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(h)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(i)    National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

(j)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of alternative accommodation of 1 874 square meters(m2) and 20 parking bays in the Byron Place building for the Department of Home Affairs for 9 years 11 months, the following was noted:

(a)  The entity requested approval as per PA01-1(LS) *Request for approval of the procurement strategy for a negotiated procedure* to procure alternative accommodation by means of a negotiated procedure with Zambli (Pty) Ltd.  The reasons for deviation from the open tender procedure were as follows, “*Department of Home Affairs requested procurement of office accommodation in extent 1874m2 and 20 parking bays. This office went out on tender (PT10/05) and only two tenders bidded namely Zambli 216(Pty) Ltd and Vuza Property Services. Zambli (Pty) Ltd was the highest scoring bidder in accordance to price, functionality and preference method, but the client delayed to confirm funds therefore the tender lapsed, hence we requested approval for negotiated procedure*.”

Therefore the reasons from deviating from the competitive bidding process did not satisfy the requirements of Practice Note 8 of 2007/08 i.e. being an urgent or emergency case or a sole supplier.

(b)  As per the PA-12 *Approval by the Special National Bid Adjudication Committee*, the alternative accommodation was approved on 23 June 2011 subject to the region negotiating a benchmark escalation of 8%.

(c)  The details of the lease agreement entered into were as follows:

|  |  |
| --- | --- |
| **Lease details** | |
| Office Space | R155 425.32 |
| Parking | R7 980.00 |
| Operating costs | R20 054.88 |
| Lease term | 9 years 11 months |
| Number of Parking Bays | 20 |
| Square Meters | 1466 |
| Escalation | 8% |
| Lease Term | 1/3/2011 to 28/2/2022 |

No record of the details for the above mentioned lease could be found on PMIS.

(d)  The deviation as approved by the Special National Bid Adjudication committee was not reported to the National Treasury and the AGSA within 10 working days the contract as the contract was awarded on 23 June 2011 and the AGSA was informed on 7 June 2012.

(e)  The following information relating to the above lease could not be obtained:

(i)      SBD 4, 8 and 9 or equivalent as used by the entity

(ii)     Valid original tax clearance certificate (only copy was included in the contract/lease file)

(iii)    Supporting bid documents indicating that the competitive bidding process was initially followed and that Zambli 216(Pty)Ltd won the tender with the highest score before the entity followed the negotiated process with the supplier.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules and regulations as listed above and as a result expenditure incurred in relation to the contract should be classified as irregular expenditure.  No payments were made for the 2011-12 financial year.  Furthermore the above results in PMIS data being complete.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(b)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(c)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(d)  A formal process or tracking form/tool should be put in place to ensure that all leases entered into are indeed captured on the PMIS.

**Management response**

a)    I am [not] in agreement with the finding for the following reasons

A competitive bidding process was initially followed, though subsequently lapsed. A negotiated procedure was then approved within delegated powers.

 Name:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

The property has not been occupied as yet.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | An addendum rectifying the commencement date will be drafted to amend the date of occupation. | | |
| 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 | D: Property | | |
| Estimated completion date of corrective action: | On occupation | | |
| 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Management will ensure that all deviations approved by the entity are reported to the National Treasury within 10 working days. | | |
| 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 | D: Finance | | |
| Estimated completion date of corrective action: | On going | | |
| 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

**Auditor’s conclusion**

(a)  Management comments are noted however the bidding documents indicating that the procurement process was followed and the tender lapsed were not submitted with management comments. The finding is unresolved and will be reported in the final management report.

(b)  Management agrees with the finding and will be included in the final management report.

(c)  Management agrees with the finding and will be included in the final management report.

1. **COAF161 - Operating Lease debtor/creditor: misstatements identified in the straight-lining of leases and PMIS data used**

**Audit finding**

Laws, rules and regulations

In terms of the IAS 17 *Leases* paragraph 33 and 34 the following is stated:

*“33. Lease payments under an operating lease shall be recognised as an expense on a straight-line basis over the lease term unless another systematic basis is more representative of the time pattern of the user’s benefit.\**

*34 For operating leases, lease payments (excluding costs for services such as insurance and maintenance) are recognised as an expense on a straight-line basis unless another systematic basis is representative of the time pattern of the user’s benefit, even if the payments are not on that basis.”*

During the review of the operating lease debtor and creditor (straight-lining of operating lease expenditure), the following was noted:

(a)  Per the lease smoothing schedule provided with the annual financial statements for audit purposes, the rand values used in the calculation were the rand values as per the PMIS start rental + service charges.  Service charges are not applicable for the calculation of the straight-lining and therefore should not have been included in the calculation.  The start rental amounts were also not accurate to reflect the commencement rental as per the lease agreements.  Refer below for further detail.

(b)  355 leases had a “start rental” of zero, however an amount for” rental” was captured on PMIS, thus resulting in the calculation not being performed on a complete amount as no rental was captured in the “first rental” field (smoothing schedule filtered for “start rental” zero and “rental” filtered for all amounts other than zero).

(c)  Differences were noted between the smoothing schedule data and the valid signed lease agreements.  Refer to Annexure A below.

The above is a result of the PMTE not having appropriate policies and procedures in place to ensure data is captured correctly on PMIS and is therefore reliable for calculating the straight-lining of leases. Lack of an appropriate accounting system to assist in the calculation of the straight-lining of leases (accrual basis of accounting).

The above results in an overstatement of operating lease debtor/creditor of R319 073 295,68 (actual misstatement before extrapolation). This is a material misstatement that will impact have an impact on the audit opinion.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should ensure that sufficient appropriate documented processes are in place and implemented by all officials to ensure that the data captured on PMIS is accurate and in agreement with the valid signed lease agreement.  This will ensure that the calculations based on the PMIS data is accurate should the correct formula be applied.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | A comprehensive review of PMIS data and the IT download to the lease agreement. | | |
| 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 | This is an extensive exercise that will take time to be finalized. | | |
| Position of official responsible to take corrective action | Regional and IT department. | | |
| Estimated completion date of corrective action: | To be detailed in a project plan | | |
| 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 | Not stated. | | |

Name: J Prinsloo

Position: Chief Director – Planning and Reporting

Date: 13 August 2012

**Auditor’s conclusion**

Management agrees with the finding and their comment is noted.  Due to the material impact of the finding on the straight lining disclosed in the financial statements, the finding is unresolved and will be reported in the final management report and the audit report. The above resulted in a disagreement of R319 Million.

1. **COAF 165 - Sinodale Centre – Fruitless and wasteful expenditure (Pretoria region)**

**Audit finding**

Laws, rules and regulations

Section 1 of the PMFA states the following**:** “fruitless and wasteful expenditure”*means expenditure which was made in vain and would have been avoided had reasonable care been exercised*

Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

During the review of the Sinodale Centre the following was noted:

(a)   Background

Name of building: Sinodale Centre

Street address: 234 Visage Street

Client department: Department of Minerals & Energy

Floor area: 16385.82

Parking Bays: 165

Monthly rental of office: R774, 925.70

Monthly rental of Parkings Bays: R58 575.00

(b)  The Department of Public Works entered into a lease agreement with New Heights 326 (Proprietary) Limited for the Sinodale building on behalf of the Department of Minerals and Energy. The term of the lease was from 1 March 2004 until 2008 at a cost of R867 909 and an annual escalation of 8%. The terms of the lease were confirmed on the 31 March 2009 by the Regional Tender Bid Committee as ex-post facto. The PMTE has on numerous occasions advised the tenant to renew the lease but in vain. The Department of Minerals and Energy vacated the building on the 31st March 2010.

(c)   Restoration of building:

As at 27 June 2012, two years after vacating the building, DPW has not restored the building into a fit state. DPW reported that the department only removed shelving from the premises in October 2011.

(d)   Payments after vacating the building.

Although the department vacated the premises in March 2010, PMTE has continued to pay the landlord the monthly rental. Payments of R14,3 million to the landlord reflect on the BAS system till the end of June 2012.

(e)  The extract from the BAS report as per the table 1 below reflects the payments made since the department vacated the Sinodale Centre.

Table 1

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Landlord** | **AP** | **Amount**  **R** |
| 29/04/2010 | New Heights 326 Pty Ltd | 261067 | 954 699,99 |
| 29/04/2010 | New Heights 326 Pty Ltd | 259412 | 150 513,01 |
| 29/04/2010 | New Heights 326 Pty Ltd | 261066 | 163 269,68 |
| 29/04/2010 | New Heights 326 Pty Ltd | 260507 | 8 885,37 |
| 29/04/2010 | New Heights 326 Pty Ltd | 260437 | 20 678,40 |
| 29/04/2010 | New Heights 326 Pty Ltd | 259430 | 108 170,37 |
| 21/05/2010 | New Heights 326 Pty Ltd | 266055 | 954 699,99 |
| 27/05/2010 | New Heights 326 Pty Ltd | 269011 | 883 415,30 |
| 27/05/2010 | New Heights 326 Pty Ltd | 269793 | 8 885,37 |
| 27/05/2010 | New Heights 326 Pty Ltd | 269766 | 20 678,40 |
| 27/05/2010 | New Heights 326 Pty Ltd | 269091 | 108 170,37 |
| 27/05/2010 | New Heights 326 Pty Ltd | 269072 | 150 513,01 |
| 30/06/2010 | New Heights 326 Pty Ltd | 280538 | 8 885,37 |
| 30/06/2010 | New Heights 326 Pty Ltd | 280503 | 20 678,40 |
| 30/06/2010 | New Heights 326 Pty Ltd | 280069 | 108 170,37 |
| 30/06/2010 | New Heights 326 Pty Ltd | 280049 | 150 513,01 |
| 21/07/2010 | New Heights 326 Pty Ltd | 285080 | 87 221,30 |
| 27/07/2010 | New Heights 326 Pty Ltd | 288091 | 8 885,37 |
| 27/07/2010 | New Heights 326 Pty Ltd | 288063 | 20 678,40 |
| 27/07/2010 | New Heights 326 Pty Ltd | 287540 | 108 170,37 |
| 27/07/2010 | New Heights 326 Pty Ltd | 287519 | 150 513,01 |
| 05/08/2010 | New Heights 326 Pty Ltd | 291569 | 883 415,30 |
| 27/08/2010 | New Heights 326 Pty Ltd | 298586 | 8 885,37 |
| 27/08/2010 | New Heights 326 Pty Ltd | 298551 | 20 678,40 |
| 27/08/2010 | New Heights 326 Pty Ltd | 298067 | 108 170,37 |
| 27/08/2010 | New Heights 326 Pty Ltd | 298046 | 150 513,01 |
| 29/09/2010 | New Heights 326 Pty Ltd | 309345 | 8 885,37 |
| 29/09/2010 | New Heights 326 Pty Ltd | 309293 | 20 678,40 |
| 29/09/2010 | New Heights 326 Pty Ltd | 308683 | 108 170,37 |
| 29/09/2010 | New Heights 326 Pty Ltd | 308663 | 150 513,01 |
| 29/09/2010 | New Heights 326 Pty Ltd | 308610 | 883 415,30 |
| 28/10/2010 | New Heights 326 Pty Ltd | 317086 | 150 513,01 |
| 28/10/2010 | New Heights 326 Pty Ltd | 317815 | 9 773,90 |
| 28/10/2010 | New Heights 326 Pty Ltd | 317788 | 20 678,40 |
| 28/10/2010 | New Heights 326 Pty Ltd | 317102 | 118 987,41 |
| 26/11/2010 | New Heights 326 Pty Ltd | 327298 | 9 773,90 |
| 26/11/2010 | New Heights 326 Pty Ltd | 327247 | 22 332,67 |
| 14/12/2010 | New Heights 326 Pty Ltd | 332576 | 118 987,41 |
| 14/12/2010 | New Heights 326 Pty Ltd | 332563 | 162 554,06 |
| 05/01/2011 | New Heights 326 Pty Ltd | 340013 | 22 332,67 |
| 05/01/2011 | New Heights 326 Pty Ltd | 339859 | 118 987,41 |
| 05/01/2011 | New Heights 326 Pty Ltd | 339844 | 162 554,06 |
| 05/01/2011 | New Heights 326 Pty Ltd | 340033 | 9 773,90 |
| 27/01/2011 | New Heights 326 Pty Ltd | 345866 | 9 773,90 |
| 27/01/2011 | New Heights 326 Pty Ltd | 345841 | 22 332,67 |
| 27/01/2011 | New Heights 326 Pty Ltd | 345488 | 118 987,41 |
| 27/01/2011 | New Heights 326 Pty Ltd | 345471 | 162 554,06 |
| 01/02/2011 | New Heights 326 Pty Ltd | 347289 | 989 493,38 |
| 23/02/2011 | New Heights 326 Pty Ltd | 352964 | 118 987,41 |
| 23/02/2011 | New Heights 326 Pty Ltd | 352946 | 162 554,06 |
| 23/02/2011 | New Heights 326 Pty Ltd | 353258 | 9 773,90 |
| 23/02/2011 | New Heights 326 Pty Ltd | 353212 | 22 332,67 |
| 28/03/2011 | New Heights 326 Pty Ltd | 366679 | 162 554,06 |
| 28/03/2011 | New Heights 326 Pty Ltd | 366697 | 118 987,41 |
| 28/03/2011 | New Heights 326 Pty Ltd | 367026 | 9 773,90 |
| 28/03/2011 | New Heights 326 Pty Ltd | 366996 | 22 332,67 |
| 20/04/2011 | New Heights 326 Pty Ltd | 371826 | 22 332,67 |
| 20/04/2011 | New Heights 326 Pty Ltd | 371494 | 118 987,41 |
| 20/04/2011 | New Heights 326 Pty Ltd | 371479 | 162 554,06 |
| 13/05/2011 | New Heights 326 Pty Ltd | 378184 | 9 773,90 |
| 26/05/2011 | New Heights 326 Pty Ltd | 382675 | 118 987,41 |
| 26/05/2011 | New Heights 326 Pty Ltd | 382656 | 162 554,06 |
| 26/05/2011 | New Heights 326 Pty Ltd | 383141 | 9 773,90 |
| 26/05/2011 | New Heights 326 Pty Ltd | 383108 | 22 332,67 |
| 27/06/2011 | New Heights 326 Pty Ltd | 392245 | 118 987,41 |
| 27/06/2011 | New Heights 326 Pty Ltd | 392228 | 162 554,06 |
| 27/06/2011 | New Heights 326 Pty Ltd | 392659 | 9 773,90 |
| 27/06/2011 | New Heights 326 Pty Ltd | 392629 | 22 332,67 |
| 27/07/2011 | New Heights 326 Pty Ltd | 404031 | 9 773,90 |
| 27/07/2011 | New Heights 326 Pty Ltd | 404004 | 22 332,67 |
| 27/07/2011 | New Heights 326 Pty Ltd | 403688 | 118 987,41 |
| 27/07/2011 | New Heights 326 Pty Ltd | 403671 | 162 554,06 |
| 29/08/2011 | New Heights 326 Pty Ltd | 414059 | 9 773,90 |
| 29/08/2011 | New Heights 326 Pty Ltd | 414030 | 22 332,67 |
| 29/08/2011 | New Heights 326 Pty Ltd | 413408 | 118 987,41 |
| 29/08/2011 | New Heights 326 Pty Ltd | 413390 | 162 554,06 |
| 28/09/2011 | New Heights 326 Pty Ltd | 423649 | 9 773,90 |
| 28/09/2011 | New Heights 326 Pty Ltd | 423617 | 22 332,67 |
| 28/09/2011 | New Heights 326 Pty Ltd | 423118 | 118 987,41 |
| 28/09/2011 | New Heights 326 Pty Ltd | 423100 | 162 554,06 |
| 27/10/2011 | New Heights 326 Pty Ltd | 432945 | 130 886,15 |
| 27/10/2011 | New Heights 326 Pty Ltd | 432927 | 162 554,06 |
| 27/10/2011 | New Heights 326 Pty Ltd | 433525 | 10 751,29 |
| 27/10/2011 | New Heights 326 Pty Ltd | 433479 | 130 886,15 |
| 28/11/2011 | New Heights 326 Pty Ltd | 442425 | 10 751,29 |
| 21/12/2011 | New Heights 326 Pty Ltd | 449348 | 130 886,15 |
| 21/12/2011 | New Heights 326 Pty Ltd | 449631 | 10 751,29 |
| 27/01/2012 | New Heights 326 Pty Ltd | 458590 | 130 886,15 |
| 27/01/2012 | New Heights 326 Pty Ltd | 459310 | 10 751,29 |
| 02/02/2012 | New Heights 326 Pty Ltd | 461145 | 822 503,84 |
| 28/02/2012 | New Heights 326 Pty Ltd | 468859 | 130 886,15 |
| 28/02/2012 | New Heights 326 Pty Ltd | 469268 | 10 751,29 |
| 22/03/2012 | New Heights 326 Pty Ltd | 475544 | 130 886,15 |
| 22/03/2012 | New Heights 326 Pty Ltd | 475712 | 10 751,29 |
| 28/03/2012 | New Heights 326 Pty Ltd | 477341 | 184 886,77 |
| 26/04/2012 | New Heights 326 Pty Ltd | 485992 | 10 751,29 |
| 26/04/2012 | New Heights 326 Pty Ltd | 485948 | 22 332,67 |
| 26/04/2012 | New Heights 326 Pty Ltd | 485528 | 130 886,15 |
| 26/04/2012 | New Heights 326 Pty Ltd | 485513 | 162 554,06 |
| 21/05/2012 | New Heights 326 Pty Ltd | 490737 | 74 688,74 |
| 29/05/2012 | New Heights 326 Pty Ltd | 493432 | 162 554,06 |
| 29/05/2012 | New Heights 326 Pty Ltd | 493449 | 130 886,15 |
| 29/05/2012 | New Heights 326 Pty Ltd | 493834 | 10 751,29 |
| 29/05/2012 | New Heights 326 Pty Ltd | 493791 | 22 332,67 |
| 26/06/2012 | New Heights 326 Pty Ltd | 502131 | 162 554,06 |
| 26/06/2012 | New Heights 326 Pty Ltd | 502149 | 130 886,15 |
| 26/06/2012 | New Heights 326 Pty Ltd | 502334 | 10 751,29 |
| 26/06/2012 | New Heights 326 Pty Ltd | 502308 | 22 332,67 |
|  |  | Total | **14 353 224,86** |

Fruitless and wasteful expenditure of R14 353 224,84 was incurred due to an unutilised building.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. Measures were not in place to avoid fruitless and wasteful expenditure after the tenant vacated the building

The above will result in additional fruitless and wasteful expenditure of R14 353 224,84.  Furthermore the fruitless and wasteful expenditure disclosure note will be understated as not all fruitless and wasteful expenditure has been disclosed in the annual financial statements.

**Internal control deficiency**

**Leadership:**

The accounting officer did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control

**Financial and Performance Management:**

The accounting officer did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into.

(b)    The matter regarding the fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the Department or Trading Entity as per the requirements of the PFMA section 38(1)(h).

(c)   Management should ensure measures are in place to ensure tenants vacate buildings as agreed in the lease agreement. Payment should be stopped when the leased building is vacated.

(d)   Management should ensure measures are in place to monitor the space utilised by tenants

**Management response**

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

The amount disclosed as a fruitless and wasteful expenditure is inaccurate; the building was entirely vacated on October 2011.

Name: K Shati

Position: Acting D: Property

Date: 26/7/2012

**Auditor’s conclusion**

Management comments are noted however the correct amount for fruitless and wasteful expenditure and evidence of the accurate date on which the building was entirely vacated was not provided with the management response. The finding is not resolved and will be reported in the final management report as well as the audit report as fruitless and wasteful expenditure is not complete and the entity does not have appropriate procedures in place to identify such instances of fruitless and wasteful expenditure.

1. **COAF 170 - Deviations with the Supply Chain Management Practices: Redefine Properties, Watloo Building for Department of Home Affairs-6029/7008**

**Audit finding**

Laws, rules and regulations

a)    Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

b)    Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

c)    Treasury regulation 16A6.4 states that, “*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)      SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

f)     Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

g)    Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

h)    Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

i)      Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the processes followed for the procurement of the lease for Siemens Building for the Department of Home Affairs, the following was noted:

(a)    As per internal memo dated 19 April 2004 it was indicated that the aim was to obtain condonation from the normal office space procurement procedure and to request for an ex –post-facto approval by the Regional Bid Adjudication Committee to relocate Home Affairs to alternative accommodation.  The reasons for deviating indicated that the Department of Home Affairs was currently housed at Civitas which had been declared inhabitable by DPW due to continuous break downs and hazardous conditions and therefore due to these conditions, DPW had undertaken to extensively upgrade the entire Cevitas which could only be achieved by evacuating the Department of Home Affairs.  The request indicated office space of 30 858m2 for R1 115 516.70/month, 318 parking bays for R90 630.00/month with an 8% escalation rate for three years.

No Regional Bid Adjudication recommendation and National Bid Adjudication approval for deviating from the open procedure was included in the lease file.

(b)    The original lease agreement was entered into with Dream World Investment 39 (Pty) Ltd for 30 858m2 and 318 parking bays commencing on 1 October 2004 with a termination date of 31 September 2007, escalation rate of 8% for 3 years and a renewal period of 2 years

As indicated under point (a) above no National Bid Adjudication approval for the lease agreement signed could be obtained/found on file.

(c)    Per letter dated 13 February 2006 from JMIT Quantity Survey the recalculation of the total lettable area amounted to 28 582 and 370m2 ; not 30 858m2 as per the lease agreement.(difference of 1 906m2 ).  Per letter from Dream World Investment dated 2006 the rentals from 1 October 2004 to 30 September 2007 would be adjusted to a total amount of R5 079 987,12.  No evidence could be found on file or obtained indicating that an addendum was issued to the lease contract to adjust the square meters to 28 952m2, although the landlord had adjusted the rental amounts for the duration of the lease (three years).

(d)    *As per letter dated 30 January 2007* from Home Affairs it was indicated that the DPW should extend the lease at Watloo for two years commencing 1 September 2007 to 31 August 2009.

(e)    *Per letter dated 30 March 2007 from Dream World Investment 39(Pty) Ltd* it was noted that the property was sold to Apexhi Properties.

(f)     A new lease agreement was entered into between Apexhi Properties and DPW on 1 November 2007 for 30 858.72m2, 318 parking bays at a commencement rental of R1 780 293,23 with a 9% escalation rate for two years (1 October 2007 to 30 September 2009).

Based on the above it was noted that the new lease agreement was not adjusted to indicate square meters of 28 582 and 370 as per the recalculated area*.* Furthermore no approval by the Bid Adjudication Committee could be obtained/was included in the lease file for the renewal of the lease agreement*.*

*(g)* As perPA-12 *Approval by the Bid Adjudication Committee* dated 10 March 2010,the lease was renewed for the third time for 17 months from 1 October 2009 to 28 February 2011.  The floor area leased totaled 30 858.72m2, thus more than the 28 582m2 and 370m2as recalculated.

(i)     Per letter dated 3 March 2011 Public Works requested Home Affairs to indicate their willingness to renew the lease terminating on 28 February 2011.  Home Affairs confirmed per letter dated 16 March 2011 and 14 April 2011 from the renewal of the Watloo lease agreement for six months with three month exit clause.  It was further noted that the lease agreement for the six months was not signed as rentals for Watloo Building were made on a month to month basis.

(h)    It was also noted that the deviation was not reported to National Treasury and the AGSA within 10 days as required per PN 6 of 2007-08.

(i)     The following information relating to the above lease could not be obtained/found on file:

(i)      All PA forms indicating approval of bid specification and evaluation committee members and declarations

(ii)     All approvals by the Bid adjudication committee (PA-12), Procurement Instruction and Approval of Procurement Strategy (PA-01)

(iii)    SBD 4 and 8 or equivalent as used by the entity

(iv)   Original valid tax clearance certificate (Only copy was included in the lease file with expire date 5 May 2010)

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning as the lease had expired on 28 February 2011 and subsequently there was no lease agreement in place for the period1 March 2011 till 31 July 2012, thus rentals were paid on a month to month basis.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to R18 905 682.09 is classified as irregular expenditure and expenditure amounting to R12 542 526.22 is classified as fruitless and wasteful expenditure due to payments being made to the landlord for the differences in square meters.  The fruitless and wasteful expenditure as well as the irregular expenditure register is understated with the above mentioned amounts.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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.

The entity does not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(b)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(c)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee have approved the renewal/new lease agreements to thus avoid entering a month to month arrangement.

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(e)    The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular and fruitless and wasteful expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The non compliance will be reported on.

1. **COAF 171 - Deviations from Supply Chain Management Practices: Phomella Property Services, Department of Justice, Salu Building (6029/6672/2)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 1 of the PMFA states the following**:** “*fruitless and wasteful expenditure”**means expenditure which was made in vain and would have been avoided had reasonable care been exercised.”*

(c)  Section 38(1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)   SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(h)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(i)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of the lease for the Salu Building for new accommodation of 27 782 square meters (m2) office space, 2 375m2 stores and 368 parking bays and additional accommodation of 197,07 m2 for the Department of Justice, the following was noted:

(a)  The matter is currently under investigation by the Special Investigating Unit (SIU).

(b)  As per PA-01.1(LS) *Request for approval of the procurement strategy for a negotiated procedure* dated 27 July 2009 for Department of Justice: New hiring for 27 782 m2 offices, 2 375 m2 stores and 368 parking bays it was indicated that the request for approval to negotiate with Phomella Property Investment was subject to the Procurement Instruction and confirmation of funds from client.  Specific reasons for deviating from an open bid process were not stated.

(c)  Per the deeds of transfer (T03585609) it was indicated that the purchase price of the building was R163 million and that the mortgage was R270 million.  The NPV as per the PA-01.1(LS) was indicated as R416 825 793,46.  Thus the value of the lease well exceeds the value of the building.  The building was transferred on 1 July 2009 to the new landlord.

(d)  Per letter dated 28 July 2009 signed by the DG of the Department of Justice, the needs of the department were indicated as follows:

|  |  |
| --- | --- |
| **Unit** | **Extent (m2)** |
| Risk Management | 5 600 |
| Ministry (both Minister and Deputy Minister’s office) – to be adjusted once structure is finalized | 1 076 |
| Office of the DG | 1 827 |
| State Attorney’s office | 7 087 |
| Office of the Masters of the High Court | 7 700 |
| **Total** | **23 290** |

It was furthermore indicated that the Justice Precinct for the accommodation of the whole Justice Head office was being performed through a PPP and that it was anticipated that the precinct would be ready for occupation in the next four to five years. Thus the request for a lease was for five years with an option to renew in the case of the precinct not being ready by then.  Based on the lease agreement signed between DPW and the landlord, the lease was entered into for nine years and 11 months, thus not aligned to the initial request of the Department of Justice, although they subsequently agreed to the longer lease term.

Based on the need assessments found on the lease file it was noted that the need assessments were less than the total area to be leased at the Salu building.  No other need assessments could be obtained for the difference indicated below.  Refer to table below:

|  |  |  |
| --- | --- | --- |
| **Unit** | **Date of needs assessment** | **Extent (m2)** |
| Office of masters of the High Court | 05/06/2008 | 7 700,00 |
| Ministry, DG, Risk and General | 04/09/2009 | 11 808,42 |
| State Attorney offices | 26/11/2008 | 1 860,00 |
| **Total** | | **21 368,42** |
| Area as per lease agreement | | 27 782,00 |
| **Difference (excess m2)** | | **6 413,58** |

(e)  Letter dated 13 August 2009 from the Department of Public Works to the Department of Justice indicated that the initial commitment for the lease of the Salu Building was for nine years and 11 months for the Department of Transport for an area of 27 782 m2.

The Department of Justice was taking over the building that was first identified for the Department of Transport as possible alternative premises for the relocation of the Ministry and certain components within Department of Justice National office

(f)   Per letter dated 18 September 2009 from the then acting DG of the DPW to Phomella Property Services it was indicated that the letter serves to confirm that the approval of the National Special Bid Adjudication Committee for the procurement of the office accommodation in the Salu Building had been obtained and that approval is granted to the Director: Property Management as acting regional manager to sign the lease agreement, however the lease agreement was signed by the acting regional manager on 17 September 2009, the day before such delegation was indicated.  As indicated in point (i) below, approval subject to certain criteria was only obtained on 24 September 2009, thus subsequent to the date of the letter above.

(g)  The lease agreement for the Salu Building was signed by both parties on 22 September 2009 and 17 September 2009 for 27 782 m2 office, 2 375 m2 stores and 368 parking bays, commencement date 1 January 2010 with commencement rental of R3 360 042,60 (including operating costs and VAT),escalation rate of 9% and lease term of nine years and 11.months.  No evidence could be found on file indicating the grading of the building and thus justifying the rates charged by the landlord per m2.  An addendum to the lease agreement was signed on 10 and 20 November 2009 by the landlord and DPW respectively to correct the rental.  The commencement rental should have been indicated as R3 360 024, 60.

(h)  As per letter dated 17 September 2009 from the landlord to the Department of Public Works it was indicated that the rental relating to the 7 700m2 for the Master of the High Court, currently residing in another building for 30 months can deducted from the amount of rental for the Salu building until expiry of that lease or until another tenant is found.  The PMTE did not deduct this rental when making payments to the landlord.

(i)    As per PA-12 *Approval by the special national bid adjudication* *committee* for the request to secure the Salu Building on behalf of the Department of Justice and Constitutional Development was approved on 24 September 2009 subject to the needs assessment being dealt with prior to the lease agreement being signed.  However as indicated above, the lease agreement was already signed before the approval was obtained from the Special National Bid Adjudication Committee.

(j)    Per letter dated 9 April 2010 from Phommella Property Investment the following was stated: “

1. *We have raised invoices since 1 January for our rental no payment made to date*
2. *The tenants have to not moved into the building as yet due to delays with their space plans*
3. *We are willing and able to conduct tenant installation and have been ready since September 2009*
4. *In terms of Clause 9.2 of lease agreement we have three months to conduct tenant installation*
5. *We planned to conduct the tenant installation between September and December 2009 to enable tenants to occupy premises by 1 January 2010.To date we still await the space plans and were requested by DPW to assist with the space planning for which we duly appointed a space planner a space planner to assist the tenant.*
6. *We have been paying a bond of R2,5 million a month on the building to Investec Bank since we acquired the building*
7. *We acquired the building in December 2008 and vacated all the tenants in March 2009 due to request for accommodation by the tenants and Department of Public Works,*
8. *Since April 2009 we have not received income for building by reason of enabling occupation by Department of Public Works tenant*
9. *We anticipate the space plans to be handed to us this month with tenant installation taking place from May to July 2010 and*
10. *We would thus lose seven months of income in 2010 from the lease commencement date totaling an amount of R23 520 172,20*
11. *We would so long appreciate payment of the outstanding total of R13 440 098, 40 whose nonpayment is badly affecting us given we have a lease agreement and committed the premises since early 2009 for DPW*.”

(k)  As per letter dated 14 June 2010 from Phomella Property Investments it was indicated that the total cost for the Department of Justice to move into the Salu Building is R85 million which includes the tenant Installation overrun of R12 million as well as the rental provision for the period prior to moving into the building as contracted in terms of existing lease agreement.  Phomella Property Investments proposed to fund the R85 million over the term of the lease. However, as per letter dated 10 September 2010 from DPW it was indicated that Department of Justice will make a once off payment opposed to amortization and that this amount would be effected on completion of the work and professional services confirming the fairness and reasonableness of the work done and on submission of a practical completion certificate confirmed by the Department’s Professional Service unit.

(l)    As per PA-01.1(LS) *Request for approval of the procurement strategy for a negotiated procedure* dated 4 March 2011 additional office accommodation of 197,07 m2 was requested as a waiting area was required for the Master of High Court on the ground floor.  The waiting area would be utilized for most clients who would be visiting the office of the Master of the high court, as most of its serving points are located on the ground floor.  The reasons for deviating from the open bid process was due to the fact that the additional accommodation was required on the same premises (Salu Building) that would be occupied by client department.  This was to be included as an addendum to the current lease agreement for the Salu Building.

(m) The National Bid Adjudication Committee approved the additional accommodation for 197,07 m2 at a monthly rental of R23 263.55 (VAT inclusive) on 5 May 2011.  The lease period was to run concurrent with the main lease at 9% escalation rate per annum commencing on 1 May 2011 or occupation date.  The addendum referred to above could not be found on file, nor could it be obtained from the entity.  Only the letter of acceptance dated 7 June 2011 for 197,07 m2 at R82,63 totaling R16 284,48 and operating cost at R35,41 per m2 totaling R6 797,07 was on file.

(n)  Although the deviations from the competitive bidding process were approved by the Special National Bid Adjudication committee for new accommodation as well as the additional accommodation, the deviations were not reported to the National Treasury and the AGSA within 10 working days.  With regards to the deviation for acquisition of the additional accommodation, the contract was awarded on 7June 2011 and the AGSA was informed on 7 June 2012.

(o)  Per discussion held with the Assistant Director: Property Management, the Department of Justice only started moving into the Salu building from 21 November 2011.  Thus the building stood vacant from 1 January 2010.

(p)  The following supporting documents were not included in the contract file submitted for audit purpose.

(i)            SBD 4 and 8 or equivalent as used by the entity

(ii)           Original valid tax clearance certificate, only copy was included in the file and the copy of tax clearance has expired on 6 November 2008

(q)  As per letter dated 29 March 2012 from the regional manager to the landlord the following was stated:

(i)      Point 5.1 the square meters of the building are to be adjusted from 27 782 to 27 655,84 due to the DPW paying of office space occupied by the officials of the landlord and the rental for the difference in this space is to be offset against the May 2012 rental for all overpayments from the inception of the lease.  The amount was calculated as R346 406, 91 by PMTE.

(ii)     Point 5.2 the entity should not have an addendum for the Mezzanine area as it is already included in the total square meters of the building.

(iii)    Point 5.3 the number of parking bays have reduced to 335 (previously 368) and therefore the rental paid for the parking bays from the inception of the lease is to be offset against the May 2012 rental for all overpayments made from the inception of the lease.  The amount was calculated as R665 939, 46 by PMTE.

(iv)   It was also indicated that the above mentioned changes would be effected in another addendum.  No such addendum could be obtained/found on file.

(v)    Point 6 the department intends to implement the letter dated 17 September 2009 from the landlord indicating that the rental paid from date of inception until 21 November 2011 (date Master moved in) for the Master of the High Court totaling R21 792 870,24 (corrected to R27 987 154,72 as per letter dated 4 April 2012) be set off against future rentals to recover the money.

By comparing the amounts for rental and parking (excl. VAT) as per the letter dated 29 March 2012 to the amounts as per the addendum correcting the rental signed 20 November 2009, it was noted that the amounts did not agree, thus the basis for the calculation was not correct.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The property management officials did not take appropriate action and perform sufficient follow up to ensure that the new lease agreement (addendum) was signed by both parties subsequent to the letter of acceptance being issued.

(c)  Management does not have appropriate policies and procedures in place that are effectively implemented i.e. officials to perform utilization inspections to identify fruitless and wasteful expenditure due to buildings being underutilized or not utilized at all.  Inspections to determine whether the area leased is in line with the lease agreement.

(d)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as various documents as listed above could not be obtained.

The expenditure paid for the vacant Salu building amounts to fruitless and wasteful expenditure of R94 599 603,61 (payments made from 1 January 2010 to 30 November 2011 as per BAS/PMIS report for Salu Building). The fruitless and wasteful expenditure it thus understated with R94 599 603,61 in the fruitless and wasteful disclosure note as per the annual financial statements.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure for the period 1 December 2011 to 31 March 2012 amounting to  R19 060 286.98 (payments per BAS report/PMIS report) should be classified as irregular expenditure. The irregular expenditure is thus understated in the financial statements disclosure note.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE/DPW should in each instance compile a cost vs. benefit calculation and should consider utilising their own state owned buildings before leasing from the private sector as can be seen above, the value of the lease entered into is far more than the purchase price of the building.  These considerations should be comprehensively documented and filed in conjunction with procurement documentation.

(b)    The PMTE should only deviate from inviting competitive bids for procurement above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved.  Management should ensure that emergency cases are not as a result of poor planning.

(c)  Management should ensure that acceptable market related rates are obtained when negotiating with the landlord to ensure that the entity is not exploited by rates required by the landlord.

(d)    Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into before the PMTE commits to the lease with the landlord i.e. the lease term as well as the area (office, storage space, parking bays etc.).  Management should ensure that payments made to the landlord are in terms of a valid signed lease agreement.

(e)    Management should ensure that the square meters and parking bays leased from the landlord are a true reflection of the actual square meters and parking bays available at the premises.  Management should assign officials with the responsibility of confirming the available office and storage space as well as the parking bays before signing the lease agreement.  This will ensure that payments are not made just based on a lease agreement that does not coincide with the actual building as can be noted above.  It is further suggested that the entity reviews the number of square meters and parking bays available at the Salu building to ensure that the lease is accurate going forward.

(f)     Management should have a team of officials responsible for utilisation inspections on a rotational basis to ensure that vacant buildings are timeously identified and addressed to prevent fruitless and wasteful expenditure.

(g)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  The requirements are to be communicated to the relevant officials to ensure that the requirements are clearly understood and implemented.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  In addition, management should include evidence of the grading of the building on file to support the rate charged by the landlord per m2.  This will also enable management to ensure that the rates charged by the landlord are reasonable and that government is not paying excessive rentals to the landlords.

(h)    Management must review the entire lease for the Salu building in detail to determine accurate amounts to be recovered from the landlord (as noted above differences in rates were noted between the revised signed addendum and the rates used by management for the calculation as per the letter to the landlord).  This calculation is to be reviewed by management.  Detailed workings and evidence supporting all workings as well as evidence of all adjustments made must be maintained and filed on the lease file.

(i)     The matter regarding the irregular and fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the department or trading entity as per the requirements of the PFMA section 38(1)(h).

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 16/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 172 - Deviations from Supply Chain Management Practices: Majestic Silver Trading, Independent Complaints Directorate, City Forum Building (6029/6810)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 1 of the PMFA states the following**:** “*fruitless and wasteful expenditure”**means expenditure which was made in vain and would have been avoided had reasonable care been exercised.”*

(c)  Section 38(1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)  Treasury regulation 16A.6.1 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.”*

(e)  Treasury regulation 16A6.4 states that, “*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.”*

(f)    SCM Practice note 4 of 2006 states that, “*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.”*

(g)    Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(h)  Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(i)    Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.

(j)    Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(k)  Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement of the City Forum Building for the Independent Complaints Directorate (IDC), the following was noted:

(a)    This lease is currently under investigation at the SIU.

(b)    As per PA-01 *Request for Procurement Strategy* approved by Regional Bid Adjudication Committee on 31 January 2008 for the procurement of additional accommodation for the Department of Housing, an open procedure was approved with evaluation method indicated as financial, functionality and preference offer and a 90/10 preference point scoring system. The procurement strategy further indicated that the tender would be advertised for two and half weeks.  This shortened period was recommended due to the vacations between 15 December 2007 and 15 January 2008 which would cause delays and thus negatively impact on service delivery.

(c)    As per DPW-08.1 the tender was advertised from 11 February 2008 to 22 February 2008 for 5 833,75 square meters(m2) and 349 parking bays.  The shortened period was to avoid delays and a negative impact on service delivery as indicated above; however the lease contract was only signed on 14 April 2009, thus more than a year later.  Therefore the circumstances indicate that this could under no circumstances have been an emergency and thus the reasons for the shortened tender advertising period did not warrant the approval of a deviation.  The following suppliers submitted their bids for PT08/010:

(i)     Mati Properties P O Box 652610 Benmore 2010 amount R505 042,80

(ii)     Foschurch Properties P O Box 15 Pretoria 0001 amount R494 321,10

(d)    The first evaluation was performed by the Bid Evaluation Committee and as per PA-21 *Bid evaluation report* dated 18 April 2008, it was indicated that the bidders were disqualified and administratively non-responsive due to the following:

(i)    Foshchurch Properties did not have parking

(ii)   Mati Properties functionality points were 48.82 which is less than 50%

(e)    The second evaluation performed as per the Bid Evaluation Report revealed that both bids were disqualified as Foshchurch Properties and Mati Properties’ functionality criteria was less than 50%.

(f)   As per the third evaluation conducted by the Bid Evaluation Committee the outcomes of the Bid Evaluation Report indicated that both bidders i.e. Foschcurch Properties and Mati Properties were disqualified as result of functionality criteria being less than 50%.  An Internal Memorandum dated 8 May 2008 was attached requesting approval to be obtained from the Regional Bid Adjudication Committee to lapse the tender for the procurement of accommodation of 5 833,75m2 for DHS and that a negotiated procedure between DPW, Mati Properties City Forum Building and Foshchurch Properties, Ad Astra Building is conducted. The buildings were not occupied as the landlords were busy renovating the buildings. The Regional Bid Adjudication Committee granted approval on 14 May 2008 of the internal memorandum to lapse the tender subject to the scoring model and PA- 21 being correctly captured and the total amount being based on the tender price.

(g)    As per PA-01 *Request for approval of procurement strategy* dated 7 May 2008 theRegional Adjudication committee approved the new procurement strategy on 14 May 2008 subject to the method being changed from negotiated procedure to nominated procedure.

(h)    As per Internal memo dated 19 May 2008 the following was noted: the tender was advertised and only two bidders submitted i.e. Mati Properties and Foshchurch Properties. The bidders did not meet the 50% functionality criteria. The Regional Bid Committee approved the nominated procedure. The Regional Bid Adjudication Committee approved Property Management to request Mati Properties and Foshchurch Properties to resubmit their offer. This request was forwarded to them on 14 May 2008 to respond by 30 May 2008.  Property Management received a revised offer from Mati Properties and Foshchurch Properties did not resubmit.  Mati has 100% BEE status. The landlord was willing to spend R550/m2 amounting to R3 208 562,50 for tenant installation (excl. VAT).  Before the tender was advertised the client confirmed that they preferred 114 Vermeulen Street and that it is therefore recommended that approval be granted to lease the accommodation as per approved need assessment for an area of 5 833,75m2 @R62, 70/m2, 349 parking bays@ R456/parking bay VAT inclusive for nine years and 11 months with an escape clause after 5 years and 8% escalation rate per annum.  The proposal was referred back by the Bid Adjudication Committee on 11 June 2008 to negotiate for R400/bay (VAT incl.)

(i)     Per PA-12 dated 13 June 2008 the offer was recommended to Director General for approval and the recommendation was stated as following, “*it is recommended that approval be granted to lease accommodation as per need assessment for an area of 5 833.75m2 @ R62.70/m offices ,349 parking bays @ 400 square meter per parking pay VAT inclusive for a period of 9 and 11 months and 8% escalation rate per annum and the share certificate, memorandum of association, articles of association, certificate to commence business, CIPRO registration, certificate of change of name of company from Randmark Holdings Properties to Mati Properties and copy of tax Clearance certificate*.”

No evidence could be found on file/obtained indicating that as per the recommendation of the Bid Adjudication Committee that the DG approved the procurement for the lease.

(j)     On 18 June 2008 an acceptance of offer was issued to Mati Properties by the Director: Property Management for office accommodation and parking bays as listed per point (h) above.  The period was indicated as two years pending registration of the property in the name of Mati Properties; after which the lease shall continue for a period of nine years and 11 months

(k)    It was further noted that the lease agreement was signed on 14 April 2009 with commencement date 1 March 2009 by both DPW and the landlord.  As per letter dated 19 August 2009 it was stated that the landlord had changed to Majestic Silver Trading as 114 Vermeulen Street building was bought by Majestic Silver Trading due to Mati Properties failing to obtain ownership of City Forum Building.  The following discrepancies were noted between the lease agreement signed and acceptance of offer sent to Mati Properties.

|  |  |  |
| --- | --- | --- |
| **Commencement Details** | **Acceptance of Offer** | **Lease Agreement Signed** |
| Office Space | R365 776.12 | Not indicated |
| Parking | R159 144.00 | Not indicated |
| Lease term | 9 years 11 months | 9 years and 11 months |
| Number of Parking Bays | 349 | 102 |
| Square Meters | 5 844,75m2 | 7 614m2 |
| Escalation | 8% | 10% |
| Commencement Rental | Not indicated | R729 280,75 per month |

(l)     Although the pre bid amount was indicated as R21 733 123, 67, the contract amount awarded totaled to R137 754 687, 18, thus R116 021 563 above estimated amount.

(m)  Per letter dated 9 January 2009 from Roux Property Management, the landlord requested that the department grant approval for the entire building i.e.to include the two remaining floors, thus totaling 7 614m2 , in order for the financiers to fund all alterations for the entire building as per the DHS’s requirements.  The Regional Bid Adjudication Committee approved the additional square meters of 1 780, 26 on 14 January 2009.  It was further noted that Majestic Silver Trading submitted all relevant documents such as share certificate indicating that Ngwane Roux Shabangu is 100% share owner, CIPRO registration and tax clearance certificate.  The needs assessment included in the lease file from the DHS was for additional space of 996m2 and not 1 780,26m2 as indicated above.

(n)    Per letter dated 21 May 2009 from the Department of Human Settlements it was indicated that due to government’s decision to restructure and rationalize ministries/department functions, the personnel complement and functions of the Department of Human Settlement will increase tremendously as a consequence thereof, and therefore 114 Vermeulen Street would no longer be ideal nor appropriate to accommodate the envisaged additional staff complement.

(o)    Per letter dated 5 February 2010 it was indicated that alternative accommodation for the Independent Complaints Directorate was changed from Structura to 114 Vermeulen Street due to size and that DHS had confirmed in writing that Structura would be suitable for their office accommodation and thus the process of relocation had begun.

(p)    PA-12 *Approval by Bid Adjudication Committee* dated 1 December 2010 requested approval for the ratification of the payments to Bankuna Engineering and construction for tenant installations performed by Mafanywa Mphage Quantity Surveyors Project Management at 114 Vermeulen Street.  Perinternal memorandum dated 26 November 2010 the following was noted, *“…building was procured for Department of Human Settlement the above mentioned property was not occupied because refurbishment was not completed and the landlord indicated that the building was ready for occupation as he provided certificate, Department of Human Settlement did not occupy building only took possession on but raised a few non compliance issues and the landlord was therefore placed on mora in line with contract*…”  It was also indicated that the total cost of work executed by Bankuna Engineering and Construction and Mafanywa/Mphange Quantity Surveyors amounted to R14 405 342,84.  This amount should be included as fruitless wasteful expenditure as it was for the installation costs for the Department of Human Settlements that was not suitable for the Independent Complaints Directorate when they moved into the building.

(q)    Furthermore the following were noted on leas*e* agreements for Independent Complaints Directorate and Human Settlement

|  |  |  |
| --- | --- | --- |
| **Commencement Details** | **ICD (Structura) now taken over by DHS** | **DHS lease (114 Vermeulen Str) now taken over by IDC** |
| Office Space | 272 090.00 | 609 120.00 |
| Parking | 11841.92 | 30 600 |
| Lease term | 8 years and 11 months | 9 Years and 11 mont*hs* |
| *Number of Parking Bays* | *27* | *102* |
| *Square Meters* | *3 887* | *7 614* |
| *Escalation* | *9%* | *10%* |
| *Commencement date* | *Date of occupation* | *1 March 2009* |
| *Commencement Rental* | *323 682.40(vat inclusive)* | *729 280.75* |

1. IDC required 3 887m2 office  and 27 parking bays and the contract that that was taken over was 7 614m2 office and 102 parking bays at 10% escalation rate which means ICD will be paying more for square meters that are not as per initial needs assessment and the office space might not be fully occupied.
2. DHS initially required 5 833.75 and additional space of 996m2 office and 349 parking bays and the lease contract that was taken over was 3 887m2 office and 27 parking bays at 9% escalation rate which means DHS will be paying less however there is no indication that the building will cater for their needs as the square meters for Structura Building are less than their initial needs assessment.

(r)     It was further noted that no addendum was issued to the current lease agreement for 114 Vermeulen Street that was taken over by ICD to amend the square meters office and number of parking bays to the needs assessment of the department.  The department has thus been paying the landlord as per the initial signed lease agreement for the City Forum Building 114 Vermeulen Street.

(s)    The department commenced payment for the lease rentals for City Forum Building, 114 Vermeulen Street on 1 June 2009, although the building was only occupied by the ICD during September 2010

(t)     As per the lease agreement, the PMTE should pay R970 672.75 per month for year three; however it was noted that payments made per month for year three on PMIS e.g. 2011/12 was R1 005 969,88, thus resulting in payments of R35 297.13  in excess of the lease agreement amount being made.

(u)    The deviation as approved by the Bid Adjudication committee was not reported to the National Treasury and the AGSA within 10 working days.

(v)    The following information relating to the above lease could not be obtained:

(i)      SBD 4 and 8 or equivalent as used by the entity, as the building changed ownership during procurement process.

(ii)     Valid tax clearance certificate; only a copy was included in the lease file for Majestic Silver Trade.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The property management officials did not take appropriate action and perform sufficient follow up to ensure that the new lease agreement (addendum) was signed by both parties subsequent to the letter of acceptance being issued.

(c)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as numerous documents as listed above could not be obtained.

(d)  Bidders being considered for the lease of buildings that are not owned by the respective bidder at the time of submitting their proposals/bids to the PMTE for evaluation.

(e)  Proper/adequate needs assessments of the client departments not being performed and matched to the building to be leased before the lease agreement is signed and committed with the landlord.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to R5 856 124,88 2010/11 and R16 982 761,47 in 2011/12 is classified as irregular expenditure.

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure incurred amounting to R25 927 979,13 is classified as fruitless and wasteful expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and appropriately approved.

(b)    The PMTE should only award leasing contracts to suppliers that own the property by requesting the landlords to submit title deeds or proof of ownership of the building as part of the bidding documents in order to avoid awarding the contract to a supplier that does not have ownership of the property tendered for.  This will ensure that that the SCM processes followed are fair, transparent and cost effective.

(c)  Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into before the PMTE commits to the lease with the landlord i.e. the lease term as well as the area (office, storage space, parking bays etc.).  Management should ensure that payments made to the landlord are in terms of a valid signed lease agreement

(d)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  The requirements are to be communicated to the relevant officials to ensure that the requirements are clearly understood and implemented.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  In addition, management should include evidence of the grading of the building on file to support the rate charged by the landlord per m2.  This will also enable management to ensure that the rates charged by the landlord are reasonable and that government is not paying excessive rentals to the landlords.

(e)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(f)     The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the fruitless and wasteful and/or irregular expenditure.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 22/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 173 - Operating Leases : Incorrect classification of refurbishment/upgrade/maintenance**

**Audit finding**

In terms of the *Framework* paragraph 94, the following is stated with regards to the recognition of an expense*, “Expenses are recognised in the income statement when a decrease in future economic benefits related to a decrease in an asset or an increase of a liability has arisen that can be measured reliably.”*

In terms of IAS 17 *Leases* paragraph 33 and 34 the following is stated:

*“33. Lease payments under an operating lease shall be recognised as an expense on a straight-line basis over the lease term unless another systematic basis is more representative of the time pattern of the user’s benefit.\**

*34. For operating leases, lease payments (excluding costs for services such as insurance and maintenance) are recognised as an expense on a straight-line basis unless another systematic basis is representative of the time pattern of the user’s benefit, even if the payments are not on that basis.”*

In terms of SIC 15 *Operating leases – incentives* paragraph 6, the following is stated, *“Costs incurred by the lessee, including costs in connection with a pre-existing lease (for example costs for termination, relocation or leasehold improvements), shall be accounted for by the lessee in accordance with the Standards applicable to those costs, including costs which are effectively reimbursed through an incentive arrangement.”*

During the review of operating lease expenditure it was identified that the amount paid by the PMTE for refurbishment and maintenance of leased buildings (over and above the amount paid and agreed by the landlord) i.e tenant installation overruns and handback costs was classified as operating lease expenditure.  The transactions identified are listed per the tables below:

Table 1:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Payment number** | **Client Department** | **Supplier** | **Description of goods or services** | **Incorrect general ledger account used** | **Correct general ledger classification** | **Amount**  **R** |
| 1 | 370607 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 6 191 935,60 |
| 2 | 373606 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 9  318 781,28 |
| 3 | 377749 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 7 644 103,56 |
| 4 | 416795 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 5 468 003,63 |
| 5 | 395604 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 1  706 049,34 |
| 6 | 453078 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 3 414 442.03 |
| 7 | 386916 | Department  of Tourism | Bono infrastructure and project management / Bay Breeze trading 263cc | Advisory consulting services: Project management and construction of tenant installation |  | Property payment: PP CON REFURBISH/REHAB PROP | 3 225 925,80 |
| 8 | 410390 | Home Affairs | Manaka Properties | Refurbishment Hallmark Building for department of home affairs | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 4 211 107.52 |
| 9 | 387239 | Home Affairs | Manaka Properties | Refurbishment Hallmark Building for department of home affairs | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 12 748 426.00 |
| 10 | 460858 | Department of Woman, Children and Person with Disability | Sugar Greek Trading | Supply of install Automated garage door, Supply, install  crossly sandcape carpet, Supply install balgotex  carpet, ariconditioners | Operating lease payment | Property payment: PP CON REFURBISH/REHAB PROP | 1 248 877,16 |
| **Total** | | | | | | | **55 177 651,89** |

Table 2:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Payment number** | **Supplier Name** | **Description of goods or services** | **Incorrect general ledger account used** | **Correct general ledger classification** | **Amount**  **R** |
| 1. | 477970 | Mr. R.E Nyalungu | Painting on existing ceiling, painting on doors and windows, replace existing ceiling  fan and lights, replacing an existing stove hob and with new oven ,replacing striker place to doors, replace wardrobe lock, replacing roll up garage door | Operating lease payment | P/P: CONTRACTD MAINTNNCE PROP | 54 577.00 |
| **Total** | | | | | | **54 577,00** |

Management did not implement controls over daily and monthly processing and reconciling of transaction as the above mentioned transaction were incorrectly classified.  Officials responsible for approving the payments did not evaluate the appropriateness of the classification of the payments before effecting the transaction for processing.

The above results in operating lease expenditure being overstated by R55  232 228,89 and property payments PP CON REFURBISHMENT/REHAB PROP being understated by R55 177 651,89 and property payments P/P: CONTRACTD MAINTNNCE PROP being understated by R54 577,00.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should revisit the population to ensure that all payments made for operating lease expenditure is correctly classified as a PP CON REFURBISHMENT/REHAB PROP and  P/P CONTRACTD MAINTNNCE PRO .The necessary journal entries should be passed to correct the incorrect classification.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 03/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The misstatement will be taken to the overs and unders schedule.

1. **COAF 177 - Deviations with the Supply Chain Management Practices: Ons Tuis Beleggings (Pty) Ltd, Department of Defence, Rietfontein: Interim Building (6029/1377)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 16A6.4 states that, “*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)  SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

(h)  Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(i)    Preferential Procurement Regulations, 2001, section 16 states that: *“No contract may be awarded to a person who has 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.”*

During the review of the procurement for the renewal of the lease of 6 413 square meters (m2) and 182 parking bays for the Rietfontein: Interim Building for Department of Defence, the following was noted:

(a)  The department entered into lease agreement for Department of Defence with Human Resource Research Council in 1994 and the procurement process was a negotiated procedure.  There was no indication that the open tender process was followed since 1994 to 31 June 2010.  Subsequent to inception the lease had been renewed for five years commencing 1 August 1997, 1 July 2003 and 1 July 2008 and then for a further  two years. The letter dated 29 March 2005 indicated that the building was sold to Nederduitsch Hervormde Kerk under Ons Tuis Belegging (Edms) Bpk by the Human Resource Research council.

(b)  As per PA-01.1(LS): R*equest for approval of the procurement strategy for a negotiated procedure* approved/supported by the Regional Bid Adjudication Committee on 2 November 2010 for the renewal of the lease agreement for two years, the following reasons for the negotiated procedure were indicated, “*The client, DOD is currently located at the subject premises and has confirmed that the premises still complies with their needs.  The current lease has expired on 30 June 2010 and the client has indicated that they would like the lease to be renewed*.”  In addition to the above it was also indicated that rates are favorable and that highly successful negotiations were conducted in the past.  Although reasons to follow a negotiated procedure to renew the lease were supported by National Bid Adjudication Committee, the reasons for deviating did not constitute an emergency, urgency or sole supplier and thus not in line with the principles of supply chain management i.e. fair, transparent, cost effective and equitable.  It was also noted that the request was approved subsequent to the expiry of the lease.

(c)  As per PA-12 *Approval by National Bid Adjudication Committee* dated 9 December 2010, the renewal of the lease was not approved as the rentals were not market related. The office rentals were indicated as R754 425.32 for office (VAT inclusive) (prior lease equivalent R637 785,47) and R37 278.00 for parking (VAT inclusive) (prior lease equivalent R29 312,86) at an escalation rate of 9% (prior lease 8.5%) for two years.

(d)  As per PA-12 *Approval by National Bid Adjudication Committee* dated 17 February 2011 the negotiated procedure to renew the lease was referred back for the negotiation of the rate which was not in line with the market office rentals were indicated as R657 973,80 (VAT inclusive)(prior lease equivalent R637 785,47) and R31 122,00 for parking (VAT inclusive)(prior lease equivalent R29 312,86) at an escalation rate of 9% for two years.

(e)  As per PA-12 *Approval by National Bid Adjudication Committee* dated 12 May 2011, the motivation was sent back again for a motivation on the price on the parking.

(f)   The PA-12 *Approval by National Bid Adjudication Committee* dated 22 July 2011 for renewal of lease agreement was approved per evaluation report dated 29 April 2011 subject to the funding certificate being reconciled with the offer; however the evaluation report and reconciliation of funding certificate with the offer was not included in the lease file.

(g)  The letter of acceptance dated 14 September 2011 was issued to the landlord indicating the following: square meters 6413 for office at R91,20 totaling R584 865,60(VAT inclusive) and 182 parking bays at R399,00 totaling to R72 618.00 (VAT inclusive) with an escalation rate of 8,5% for a period two years; however there was no signed lease agreement in place.

(h)  It was further noted that the lease has been running on month to month bases from 1 July 2010 as there was no lease agreement in place and the letter of acceptance was only signed on 14 September 2011.

(i)    The deviation as approved by the Special National Bid Adjudication committee was not reported to the National Treasury and the AGSA within 10 working days as the contract was awarded on 22 July 2011 and the AGSA was informed on 7 June 2012.

(f)   The following information relating to the above lease could not be obtained:

(i)            SBD 4 and 8 or equivalent as used by the entity, as the building changed ownership during the period

(ii)           Valid tax clearance certificate; only a copy was included in the lease file

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  The property management officials did not take sufficient action and perform sufficient follow up to ensure that the new lease agreement was signed by both parties subsequent to the letter of acceptance being issued.

(c)  Poor planning as the lease had expired in June 2010, however the PA-01 *Request for a negotiated procedure* was only supported and signed in November 2010 which is subsequent to the expiry of the lease.  The lease subsequently ran on a month to month basis from 1 July 2010 as the letter of acceptance was only signed on 14 September 2011.

(d)  The PMTE does not have proper controls and processes in place for filing of procurement and lease documentation as various documents as listed above could not be obtained/found on file.

The above deviations constitute non compliance with the applicable laws, rules and regulations as listed above and as a result expenditure of R10 906 217,56 incurred from 1 July 2010 till 31 March 2012 in relation to the contract should be classified as irregular expenditure.  Of the amount indicated above, R2 767 075,20 was disclosed in the irregular expenditure register.  The irregular expenditure disclosure note is understated by R8 139 142,36.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)  Management should identify contracts nearing their termination date well in advance (more than six months) to ensure that sufficient time is available to apply the correct SCM processes, thus ensuring that market related rentals are obtained and that new lease agreements are entered into timeously to prevent ongoing month to month leases.

(b)    The PMTE should only deviate from inviting competitive bids for procurement above R500 000 in cases where it is impractical, such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved in line with PN 8 of 2007-08.

(c)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(d)  Property Management officials should ensure that lease agreements are signed immediately after the National/Regional bid adjudication committee has approved the renewal/new lease agreements to thus avoid entering a month to month arrangement.  Regular follow up should be made by officials to ensure that such signed agreements are indeed obtained and filed.

(e)  Property Management officials should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

(f)     The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular expenditure.

**Management response**

a)    I am [not] in agreement with the finding for the following reasons:

Supply Chain Management prescripts make provision for deviation of a competitive process, therefore the process to embark on a negotiated process was approved by the delegated authority (Regional Bid Adjudication Committee).

Name: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

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

The Department of Public Works has a standard lease agreement. The mentioned lease agreement has been drafted and signed within the delegated authority. In this case the landlord is not in agreement with the contents of the department lease and therefore is unwilling to sign.

Name: S Kutu

Position: Acting D: Property

Date: 26/7/2012

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

The department only drafts submission to the bid after receiving an approved Procurement Instruction from Head Office.

Name: S Kutu

Position: Acting D: Property

Date: 26/7/2012

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

 Cause: Bid documents were filed at Registry and other files kept with project managers.

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| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | All documents and lease contracts will be filed at Legal Services office subsequent to both parties having signed the lease agreement | | |
| 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 | D: Finance & SCM | | |
| Estimated completion date of 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: K Tlhakudi

Position:  D: Finance & SCM

Date: 26/7/2012

**Auditor’s conclusion**

1. Management comments are noted however Supply Chain Management prescripts make provision for deviation of a competitive process in cases where it is impractical to invite competitive bids, emergency case or procurement available from sole provider. The finding is not resolved and will be reported in the final management report.
2. Management comments are noted however there is no binding agreement between the department and landlord as the lease agreement is signed by landlord due to disagreement with content. The finding is unresolved and will be reported in the final management report.
3. Management comments are noted however comments are not addressing the finding. The finding is unresolved and will be reported in the final management report.
4. Management is in agreement with finding. The finding is unresolved and will be reported in the final management report
5. **COAF 189 - Deviations from Supply Chain Management Practices: Manaka Property Management, Department of Home Affairs, Hallmark Building (6029/0059)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: *“irregular expenditure**means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)    Section 1 of the PMFA states the following**:** “*fruitless and wasteful expenditure”**means expenditure which was made in vain and would have been avoided had reasonable care been exercised.”*

(c)  Section 38(1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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)   SCM Practice note 4 of 2006 states that, “*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 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

(f)   Practice note 8 of 2007/2008 paragraph 3.4.1 states that, “*Accounting officers / authorities should invite competitive bids for all procurement above R 500 000.”*

(g)  Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”

During the review of the procurement of the lease for the Hallmark Building for new accommodation of 20 538 square meters (m2) office, 2 823,5m2 stores and 300 parking bays for the Department of Home Affairs (DHA), the following was noted:

(a)  The matter is currently under investigation by the Special Investigating Unit (SIU).

(b)  Per letter dated 13 March 2008, the Director General (DG) of DHA informed the DG of DPW that DHA gives notice to terminate the lease (Watloo) at the end of the current term and requested DPW to find suitable accommodation for the DHA. Per letter dated 7 March 2008, the DG of DHA informed the DG of DPW of their official accommodation needs and status.

(c)  A Procurement Instruction (PI) was sent to the Regional Manager, Pretoria (KAM Manager), indicating that DHA was currently situated in the Siemens Building and that  alternative accommodation should be procured to suit their needs, as they(DHA) would like to start with the relocation processes in January 2009.

(d)  The submission for the procurement of new leased accommodation for the DHA was recommended by the Regional tender Bid Adjudication Committee (RBAC) for the approval by the Director General to procure accommodation for a lease amount exceeding R2million and period exceeding two years, in line with the Departments Policy.

(e)  The then Director General approved (23 June 2008) the lease of the Hallmark Building for the DHA for a period of eight years at an amount of R1 934 232,30 per month for the period 1 November 2009 – 2017.

(f)   The reason for these negotiated procedures was included as follows: “*DHA is currently located at Watloo building. They indicated that the Watloo building is currently 30 585 square meters and 315 parking bays. The client is not satisfied with the conditions of the Watloo building and has decided to get alternative accommodation. The client has also increased in terms of employment structure and will ultimately need an accommodation of around 70 000 m2, this is a project that is handled by Head Office and Rekgabisa Tshwane Project. In the mean time the client wants to relocate some of their employment to the CBD*.”

(g)  Furthermore, they indicated that the reason for deviating from following the open tender procedure was due to the scarcity of a building of that size in the CBD and they indicated that: “*This Office together  with the client identified two buildings, Hallmark and City Place building which are owned by BEE. The buildings were viewed and the client was satisfied with Hallmark building. The client did not send DPW confirmation for procurement of this building. The RBAC also indicated that the building is currently utilized by the Department of Health and will be vacated by end of September 2008. The landlord will then provide an estimated amount of R28million towards refurbishment of the building, this is equivalent of R1198/m2*.”

(h)  On 9 July 2008, the submission to the RBAC was referred back to rectify the amount to be circulated Ad-hoc. It was then recommended by the regional manager to the bid committee that approval is granted to rectify an amount wrongly captured on the approval submission.

The amount should have been R2 066 202,59 per month and not R 1 934 232,20 per month as incorrectly calculated and presented to the RBAC.  The submission for the ratification of amount wrongly captured on the approved submission was approved by the RBAC on 10 July 2008.

(i)    The approval from the Regional Bid Adjudication Committee was obtained after the lease agreement was signed.  The letter of acceptance signed by the Regional Manager (on behalf of the DG) was sent to Manaka Property Investments indicating that their offer had been accepted on 31 July 2008.

(j)    As indicated in the submission to the Regional Bid Adjudication Committee, the Department of Health was occupying the Hallmark Building at that point in time.  They had planned to vacate the building by end September 2008 to move into the Civitas Building. At such time of Health vacating the building, the landlord (Manaka Property Investments) would provide the agreed upon R28 million towards refurbishments to the building.

(k)  Per letter dated 6 July 2009 to the Acting Regional Manager from Manaka Property Investments ( Pty) Ltd (lessor), the lessor indicated the cumulative amount for closing the ground Arcade and ground floor alteration to be R1 114 782,92 for the expenses incurred while adhering to the lease agreement. The lease agreement required that the lessor refurbish the Hallmark building before the DHA took occupation, but with the delay in the completion of the Civitas building and the improper planning from DPW , DHA could not take occupation on 1 November 2009.

(l)    As per letter dated 9 December 2011 from the Acting Regional Manager of DPW to Manaka Property Investment, the following was indicated:

         Department of Health was still occupying the Hallmark Building as a result of the Civitas building project not being completed.

         They acknowledge the inconvenience caused to the planning and implementation of the refurbishment project.

         Department realised that the new rental was due and payable from 1 November 2009 to the landlord.

         They further confirmed that the new rental would be paid with the loss of income on the ground floor (cost thereof).

The above is in contravention of the above mentioned prescripts in view of the following:

(a)  Department of Public Works did not comply with PN 8 of 2007/08, although they did obtain approval to deviate from the competitive bidding process, it was not impractical as it was not an emergency.  The Department of Home Affairs already informed the Department of Public Works in March 2008 that they required new accommodation and accommodation was not only available from a sole supplier. Furthermore, it should be noted that improper planning does not constitute an emergency.

(b)  Although the deviations from the competitive bidding process were approved by the Regional Bid Adjudication committee for new accommodation for the DHA, the deviations were not reported to the National Treasury and the AGSA within 10 working days.

(c)  No proof could be obtained that the declaration of bidder's past SCM practices (SBD 8) was completed and signed by the winning supplier and to declare fraud and/or abuse of the SCM system or non-performance in previous contracts as required by Practice note SCM 4 of 2006.

(d)  Fruitless and wasteful expenditure incurred of R 1 114 782,92 by the Department of Public Works for the payment made to Manaka Property Investment for the loss of income , as Manaka Property Investments vacated private clients to start with the refurbishment of the Hallmark Building as agreed in the lease contract. The fruitless and wasteful expenditure of the 2009/10 financial year is thus understated with R1 114 782,92.

(e)  The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result expenditure should be classified as irregular expenditure for the following periods

(i)      Financial period 2009/10 – R 11 404 282.53

(ii)     Financial period 2010/11 – R 28 982 380.65

(iii)    Financial period 2011/12 – R 51 351 142.45

The irregular expenditure is thus understated in the financial statements disclosure note by the above amount.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that contracts awarded to landlords for leases are in terms of the principles of SCM i.e. ensuring that the processes are fair, transparent, cost effective and equitable before allowing deviations.

(b)  Poor planning and coordination with regards to the termination and commencement of the leases, thus resulting in fruitless and wasteful expenditure being incurred.

**Internal control deficiency**

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| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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 PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers.  Management should ensure that such cases are appropriately motivated, documented and approved.  Management should ensure that emergency cases are not as a result of poor planning.

(b)  Management should ensure that all deviations approved by the entity are reported to the AGSA and National Treasury within 10 working days.

(c)  Management should ensure that acceptable market related rates are obtained when negotiating with the landlord to ensure that the entity is not exploited by rates required by the landlord.

(d)    Management should ensure that the needs of the client department are adequately addressed and aligned to the building for which the lease is to be entered into before the PMTE commits to the lease with the landlord i.e. the lease term as well as the area (office, storage space, parking bays etc.).  Management should ensure that payments made to the landlord are in terms of a valid signed lease agreement.

(e)    Management should have a team of officials responsible for utilisation inspections on a rotational basis to ensure that vacant buildings are timeously identified and addressed to prevent fruitless and wasteful expenditure.

(f)     The matter regarding the irregular and fruitless and wasteful expenditure should be investigated and effective and appropriate disciplinary steps must be taken against any official in the service of the department or trading entity as per the requirements of the PFMA section 38(1)(h).

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 16/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 214 - Leases: Assessment to determine whether a lease is a finance or operating lease not performed/supported by evidence**

**Audit finding**

Laws, rules and regulations

In terms of the IAS 17 *Leases* paragraph 4 defines finance and operating leases as follows:

“*A finance lease is a lease that transfers substantially all the risks and rewards incidental to ownership of an asset. Title may or may not eventually be transferred.*

*An operating lease is a lease other than a finance lease”*

In terms of IAS 17 *Leases* paragraph 10 the following is stated, *“Whether a lease is a finance lease or an operating lease depends on the substance of the transaction rather than the form of the contract.\* Examples of situations that individually or in combination would normally lead to a lease being classified as a finance lease are:*

*(a) the lease transfers ownership of the asset to the lessee by the end of the lease term;*

*(b) the lessee has the option to purchase the asset at a price that is expected to be sufficiently lower than the fair value at the date the option becomes exercisable for it to be reasonably certain, at the inception of the lease, that the option will be exercised;*

*(c) the lease term is for the major part of the economic life of the asset even if title is not transferred;*

*(d) at the inception of the lease the present value of the minimum lease payments amounts to at least substantially all of the fair value of the leased asset; and*

*(e) the leased assets are of such a specialised nature that only the lessee can use them without major modifications.”*

In terms of IAS 17 *Leases* paragraph 13 the following is stated, *“Lease classification is made at the inception of the lease. If at any time the lessee and the lessor agree to change the provisions of the lease, other than by renewing the lease, in a manner that would have resulted in a different classification of the lease under the criteria in paragraphs 7–12 if the changed terms had been in effect at the inception of the lease, the revised agreement is regarded as a new agreement over its term. However, changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property), or changes in circumstances (for example, default by the lessee), do not give rise to a new classification of a lease for accounting purposes*.”

During our review of leases, the following was noted:

(a)  Per the 2011-12 Annual Financial Statements submitted for audit purposes it was noted that the entity disclosed and accounted for all leases as operating leases and thus did not disclose or account for any finance leases.

(b)  Per RFI no. 236 dated 26 July 2012 the entity was requested to provide the AGSA with the PMTE’s assessment performed to determine whether a particular lease should be classified as an operating lease or a finance lease.  The PMTE’s year end procedures for reporting date 31 March 2012 approved by the CFO on 27 March 2012 was provided in response to the above and it was noted that the following guidance was provided as per the above mentioned document for the classification of leases:

Paragraph 6.3.10.13, “Finance *lease refers to a lease that transfers all the risks and rewards inherent to ownership of the asset”*

Paragraph 6.3.10.14, “*Operating lease refers to any lease other than the finance lease e.g. the lease agreement.”*

(c)  Thus based on the above, the entity was unable to provide us with evidence that the requirements of IAS 17, other than the broad definition of a finance or operating lease, were considered/ taken into account when evaluating whether the leases of the entity were to be classified as an operating or finance lease.  I.e. as per IAS 17 par. 10(d), the entity did not consider and calculate whether the total present value of the leases entered into on a long term basis at least substantially equalled the fair value of the leased building.

The above is a result of the PMTE not having an appropriate accounting system, policies and procedures in place to evaluate and assess the classification of leases as either finance or operating leases.

The above results in a possible overstatement of operating lease expenditure, operating lease commitment note, understatement of finance lease asset and liability as well as finance cost and rental income.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should revisit the population to ensure that leases are assessed and correctly classified either as an operating or finance lease.  Assessments performed to support the classification of leases should be documented and reviewed by management.  This should be filed as supporting evidence to the financial statements.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | Leases will be reviewed and assessed in order to determine their proper classification as either as an operating or finance lease.  The assessments performed to support the classification of leases will be documented, reviewed and filed by management as supporting evidence to the financial statements.  National Treasury is currently busy with the review of all leases which inform the 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? | 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 of 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: Chief Director: Planning and Reporting

Date: 7/8/2012

**Auditor’s conclusion**

Management agrees with the finding and their comment is noted.  Management is encouraged to assess leases in terms of IAS 17 and report accordingly.  Due to the fact that the assessment was not performed we are unable to determine the extent of the lack of assessment on the operating lease commitment note, finance lease commitment note, finance cost, rental income, operating lease expense, finance lease expense and finance lease asset and liability.

1. **COAF 244 - Operating Lease debtor/creditor: misstatements identified in the straight-lining of leases and PMIS data use**

**Audit finding**

Laws, rules and regulations

In terms of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* paragraph 42, the following is stated, “*Subject to paragraph 43, an entity shall correct material prior period errors retrospectively in the first set of financial statements authorised for issue after their discovery by:*

*(a) restating the comparative amounts for the prior period(s) presented in which the error occurred; or*

*(b) if the error occurred before the earliest prior period presented, restating the opening balances of assets, liabilities and equity for the earliest prior period presented.”*

In terms of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* paragraph 49, the following is stated, “*In applying paragraph 42, an entity shall disclose the following:*

*(a) the nature of the prior period error;*

*(b) for each prior period presented, to the extent practicable, the amount of the correction:*

*(i) for each financial statement line item affected; and*

*(ii) if IAS 33 applies to the entity, for basic and diluted earnings per share;*

*(c) the amount of the correction at the beginning of the earliest prior period presented; and*

*(d) if retrospective restatement is impracticable for a particular prior period, the circumstances that led to the existence of that condition and a description of how and from when the error has been corrected.*

*Financial statements of subsequent periods need not repeat these disclosures.*”

In terms of the IAS 17 *Leases* paragraph 33 and 34 the following is stated:

*“33. Lease payments under an operating lease shall be recognised as an expense on a straight-line basis over the lease term unless another systematic basis is more representative of the time pattern of the user’s benefit.\**

*34 For operating leases, lease payments (excluding costs for services such as insurance and maintenance) are recognised as an expense on a straight-line basis unless another systematic basis is representative of the time pattern of the user’s benefit, even if the payments are not on that basis.”*

During the review of the operating lease debtor and creditor (straight-lining of operating lease expenditure), the following was noted:

(a)  The correction of the prior period error i.e. Debtor operating lease and lease creditor as well as Lease rentals on operating leases was not disclosed in terms of IAS 8 paragraph 49 as the prior period error disclosure note did not disclose the nature of the prior period errors.  This narrative disclosure was omitted in the annual financial statements.

(b)  Per the lease smoothing schedule provided with the annual financial statements for audit purposes, the rand values used in the calculation were the rand values as per the PMIS start rental + service charges.  Service charges are not applicable for the calculation of the straight-lining and therefore should not have been included in the calculation.  The start rental amounts were also not accurate to reflect the commencement rental as per the lease agreements.  Refer below for further detail.

(c)  The lease agreement for Dasport farm (Property Code 103) could not be provided for audit purposes, thus resulting in a limitation of scope.  Therefore the rights and obligations, valuation and existence of the operating lease debtor/creditor(R343 120,40, extrapolated amount of R2 588 480,39) for this item could not be determined.

(d)  Differences were noted between the restated 2011 smoothing schedule data and the valid signed lease agreements information i.e. commencement rental, parking bays, start and end dates and escalation rates.  Refer to Table 1 below.

**Table 1: 2011 differences**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Name Of The Supplier** | **Building/Address** | **Prop Code** | **Differences (Lease Contract Details - Lease Smoothing Schedule Details)** | | | | | | |  |  |
| **Square Meters** | **Parking Bays** | **Commencement Monthly Rental**  **R** | **Escalation %** | **Lease Start Date** | **Lease End Date** | **Lease Term** | **Operating Lease Debtor/Liability (-Overstated/+Understated)**  **R** |  |
|  |
| **1** | Phomella Property Pty Ltd | Salu Building | 316698 | 30157 | 368 | 1,512,521.60 | 0 | No Difference | No Difference | 0.01 | 19,380,568.13 |  |
|  |  |  |  | **Note:** Lease Term Indicated As 9 Years And 11 Months As Per The Contract; However This Does Not Coincide With The Start And Termination Date Of The Lease Which Is For A Full 10 Years. | | | | | | | |  |
| **2** | Phomella Property Pty Ltd | Liberty Life Building | 301745 | 0 | 0 | 947,466.61 | -1 | No Difference | No Difference | 0 | (4,420,413.71) |  |
|  |  |  |  | **Note:** Lease Term Indicated As 9 Years And 11 Months As Per The Contract; However This Does Not Coincide With The Start And Termination Date Of The Lease Which Is For A Full 10 Years. | | | | | | | |  |
| **3** | Dreamfair Properties 26 (Pty) | Waterbron Building - Premises A | 301659 | 340.5 | 100 | 425,579.55 | 0 | No Difference | No Difference | 1month | 4,557,537.03 |  |
| **4** | Manaka Property Investments (P | Hallmark | 44 | 9,225.50 | 220 | 474,507.69 | 0 | No Difference | No Difference | 0 | 9,152,574.29 |  |
| **5** | Tuffsan 89 Investment Holdings | Forum Building | 99 | 19634.32 | 232 | 2,993,923.64 | 0 | No Difference | No Difference | 0 | 6,296,735.40 |  |
| **6** | Zambli 216 (Pty) Ltd | Sterkolite Factory | 100 | -1 | 32 | 805,848.80 | 0 | No Difference | No Difference | 0 | (8,667.76) |  |
| **7** | Tacora Investments Pty Ltd | Merino - Rentmeester Building | 305423 | 0 | 35 | 282,344.41 | 0 | No Difference | 3years | -3 | 1,707,082.36 |  |
| **8** | Redefine Properties Limited | Fedsure Forum Building | 276676 | 531.21 | 36 | 596,002.84 | 0 | No Difference | No Difference | 0 | 317,543.06 |  |
| **9** | Fountainhead Property Trust | Walkerstr 240 | 96 | 5279 | 0 | 979,834.62 | 0 | No Difference | No Difference | 0 | 552,852.51 |  |
| **10** | Encha Properties Pty Ltd Trust | Thibault Navarre Complex | 5 | -1.4 | -17 | 507,315.18 | 0 | No Difference | No Difference | 0 | 16,015,617.52 |  |
| **11** | Midcity Property Service Pty | Dynamech Office Park | 300611 | 0 | 0 | 63,632.48 | 0 | No Difference | No Difference | 0 | (581,648.05) |  |
| **13** | Old Mutual Properties | Prodinsa Building | 304367 | 2898 | -230 | 2,436,293.12 | 0 | No Difference | No Difference | 0 | 17,551,266.58 |  |
| **14** | Midcity Property Service Pty | Planburo Consillium Building | 312190 | -1342.02 | -43 | (82,787.17) | 2 | No Difference | No Difference | N/A | (280,537.57) |  |
|  |  |  |  | Note: Lease Is Running On Month To Month As Per Lease Agreement | | | | | | | |  |
| **15** | Four Rivers Trading 422 (Pty) | Tulbagh Park Building | 315986 | 0 | 0 | 676,770.93 | 0 | No Difference | No Difference | 0 | 11,196,882.58 |  |
| **16** | Redefine Properties Limited | Poyntons Building | 301672 | 22727 | 112 | 125,637.00 | 0 | No Difference | 6 Months | 0.06 | (659,282.13) |  |
| **17** | Erf 1214 Arcadia Cc | 535 Proes Street | 312646 | 3043 | 45 | (85,250.43) | 0 | 5 Momths | 4 Months | 0 | (9,082,450.54) |  |
| **18** | Redefine Properties Limited | Watloo Building | 303716 | 0.72 | -318 | 236,906.46 | 0 | No Difference | 12 Months | 1.89 | (1,792,945.46) |  |
| **19** | Redifine Properties Limited | Shorburg Building | 164585 | 617 | -42 | 95,568.60 | 0 | No Difference | 12 Months | 1 | (383,450.57) |  |
| **20** | Tacora Investments Pty Ltd | Nedpark Building | 315298 | 0 | 270 | 332,307.08 | 0 | 12  Months | 12 Months | 0 | (720,308.21) |  |
| **21** | Arena Props 40 (Pty) Ltd | North State Building | 139766 | 0 | 0 | 215,728.00 | -7.92 | No Difference | No Difference | 0 | (68,189.24) |  |
| **22** | Watervliet Properties Pty Ltd | Erenhof Building | 303817 | 0 | 0 | - | 0 | No Difference | No Difference | 0 | (174,058.11) |  |
| **23** | Wessel Van Vurren Trust | Expo Corporate Bldg | 311868 | 0 | 0 | 8,320.00 | -7.92 | No Difference | No Difference | 0 | (4,382.45) |  |
| **24** | Landsec | Fortuna House | 307367 | 0 | 0 | 19,006.10 | -8.92 | No Difference | No Difference | 0 | (2,110.87) |  |
| **25** | The Maponya Mall Property Trus | Maphonya Mall | 312727 | 0 | 0 | 25,742.98 | -7.92 | No Difference | No Difference | 0 | (125,904.92) |  |
| **26** | Eris Property Group (Pty) Ltd | Oracle Building | 315054 | 0 | 0 | 156,612.92 | -7.92 | No Difference | No Difference | 0 | 333,970.42 |  |
| **27** | Karimu 2005 Investments (Pty) | Home Affairs Building | 167207 | 0 | 0 | - | 0 | No Difference | No Difference | 0 | (22,022.20) |  |
| **28** | Four Rivers Trading 422 (Pty) | Okim Building | 309 | 0 | 0 | - | 0 | No Difference | No Difference | 0 | (191,565.37) |  |
| **29** | Hermans & Roman Property Solut | Home Affairs | 164587 | 0 | 0 | 4,687.20 | -7.92 | No Difference | No Difference | 0 | (3,619.89) |  |
| **30** | Dynamic Expressions | Umzimkhulu House | 312583 | 0 | 0 | (24,608.61) | -9.9 | No Difference | No Difference | 0 | (148,842.83) |  |
|  | **Total Misstatement** | | | | | | | | | | **68,392,230.02** |  |
|  | **Extrapolated Error** | | | | | | | | | | **1,077,298,726.67** |  |

(e)  Differences were noted between the restated 2010 smoothing schedule data and the valid signed lease agreements information i.e. commencement rental, parking bays, start and end dates and escalation rates.  Refer to Table 2 below.

**Table 2: 2010 differences**

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Name Of The Supplier** | **Building/Address** | **Prop Code** | **Differences (Details As Per Lease Agreement - 2010 Smoothing Schedule)** | | | | | | |  |  |
| **Square Meters** | **Parking Bays** | **Commencement Monthly Rental** | **Escalation %** | **Lease Start Date** | **Lease End Date** | **Lease Term** | **Operating Lease Debtor/Liability (-Overstated/+Understated)** |  |
|  |
| Phomella Property Pty Ltd | Salu Building | 316698 | 30157 | 368 | 1,512,521.60 | 0 | No Difference | No Difference | 0.01 | (650,271.08) |  |
|  |  |  | **Note:** Lease Term Indicated As 9 Years And 11 Months As Per The Contract; However This Does Not Coincide With The Start And Termination Date Of The Lease Which Is For A Full 10 Years. | | | | | | | |  |
| Phomella Property Pty Ltd | Liberty Life Building | 301745 | 0 | 0 | 947,466.61 | -1 | No Difference | No Difference | 0 | (10,860,477.01) |  |
|  |  |  | **Note:** Lease Term Indicated As 9 Years And 11 Months As Per The Contract; However This Does Not Coincide With The Start And Termination Date Of The Lease Which Is For A Full 10 Years. | | | | | | | |  |
| Dreamfair Properties 26 (Pty) | Waterbron Building - Premises A | 301659 | 340.5 | 100 | 425,579.55 | 0 | No Difference | No Difference | 1month | 19,515,135.31 |  |
| Manaka Property Investments (P | Hallmark | 44 | 9,225.50 | 220 | 474,507.69 | 0 | No Difference | No Difference | 0 | (463,186.22) |  |
| Encha Properties Pty Ltd Trust | Thibault Navarre Complex | 5 | -1.4 | -17 | 507,315.18 | 0 | No Difference | No Difference | 0 | (1,212,247.14) |  |
| Midcity Property Service Pty | Dynamech Office Park | 300611 | 0 | 0 | 63,632.48 | 0 | No Difference | No Difference | 0 | (226,716.40) |  |
| Old Mutual Properties | Prodinsa Building | 304367 | 2898 | -230 | 2,436,293.12 | 0 | No Difference | No Difference | 0 | 4,310,919.38 |  |
| Midcity Property Service Pty | Planburo Consillium Building | 312190 | -1342.02 | -43 | (82,787.17) | 2 | No Difference | No Difference | N/A | N/A |  |
|  |  |  | Note: Lease Is Running On Month To Month As Per Lease Agreement | | | | | | | |  |
| Four Rivers Trading 422 (Pty) | Tulbagh Park Building | 315986 | 0 | 0 | 676,770.93 | 0 | No Difference | No Difference | 0 | (186,368.50) |  |
| Apexhi Properties (Lh) | Mineralia Building | 307640 | 0 | 0 | 414,835.40 | -9.9 | No Difference | No Difference | 0 | 769,104.76 |  |
| Airports Company Ltd (Lh) | Wildlife | 299722 | 0 | 0 | 558.84 | -9.405 | No Difference | No Difference | 0 | (5,717.13) |  |
| Superbia Four (Pty) Ltd | Oranje Nassau | 310492 | 12500 | 200 | 786940 | -9.9 | No Difference | 2years | 2 | (R588,342.91) |  |
| Firstrand Bank Ltd | Saps Provincial Head Quarters | 302662 | 4101 | 0 | 467331.63 | -9.9 | No Difference | No Difference | 0 | (R15,922,562.46) |  |
| Broll-Redefine (Lh) | Aig Building | 312655 | 0 | -47 | 12650 | -9.9 | No Difference | No Difference | 0 | (R1,418,442.75) |  |
| Redefine Properties Limited | Poyntons Building | 301672 | 22727 | 112 | 125637 | 0 | No Difference | 6 Months | 0.06 | (R563,116.51) |  |
| Erf 1214 Arcadia Cc | 535 Proes Street | 312646 | 3043 | 45 | -85250.43 | 0 | 5 Months | 4 Months | 0 | R234.28 |  |
| Redefine Properties Limited | Watloo Building | 303716 | 0.72 | -318 | 236906.46 | 0 | No Difference | 18 Months | 1.89 | (R817,688.75) |  |
| Redifine Properties Limited | Shorburg Building | 164585 | 617 | -42 | 95568.6 | 0 | No Difference | 12 Months | 1 | (R149,801.01) |  |
| Arena Props 40 (Pty) Ltd | North State Building | 139766 | 0 | 0 | 215728 |  | No Difference | No Difference | 0 | (R32,114.40) |  |
| Watervliet Properties Pty Ltd | Erenhof Building | 303817 | 0 | 0 | 0 |  | No Difference | No Difference | 0 | (R184,468.60) |  |
| Wessel Van Vurren Trust | Expo Corporate Bldg | 311868 | 0 | 0 | 8320 |  | No Difference | No Difference | 0 | (R3,812.29) |  |
| Landsec | Fortuna House | 307367 | 0 | 0 | 19006.1 |  | No Difference | No Difference | 0 | R7,086.59 |  |
| The Maponya Mall Property Trus | Maphonya Mall | 312727 | 0 | 0 | 25742.98 |  | No Difference | No Difference | 0 | (R202,982.00) |  |
| Eris Property Group (Pty) Ltd | Oracle Building | 315054 | 0 | 0 | 156612.92 |  | No Difference | No Difference | 0 | R223,333.48 |  |
| Karimu 2005 Investments (Pty) | Home Affairs Building | 167207 | 0 | 0 | 0 |  | No Difference | No Difference | 0 | (R18,292.66) |  |
| Four Rivers Trading 422 (Pty) | Okim Building | 309 | 0 | 0 | 0 |  | No Difference | No Difference | 0 | (R25,478.73) |  |
| Hermans & Roman Property Solut | Home Affairs | 164587 | 0 | 0 | 4687.2 |  | No Difference | No Difference | 0 | (R3,010.03) |  |
| Dynamic Expressions | Umzimkhulu House | 312583 | 0 | 0 | -24608.61 |  | No Difference | No Difference | 0 | (R100,363.53) |  |
| Defence & Military Vet | Vintonia Stands 5 & 6 | 318 | 0 | 0 | 12517.7208 |  | No Difference | No Difference | 0 | (R63,085.02) |  |
| **Total Misstatement** | | | | | | | | | | **(8,872,731.35)** |  |
| **Extrapolation Amount** | | | | | | | | | | **(66,935,371.48)** |  |

The above is a result of the PMTE not having appropriate policies and procedures in place to ensure data is captured correctly on PMIS and is therefore reliable for calculating the straight-lining of leases.  Lack of an appropriate accounting system to assist in the calculation of the straight-lining of leases (accrual basis of accounting).

The above results in an understatement of operating lease debtor/creditor of R68 392 230,02  in 2011 (extrapolated misstatement totals R1 077 298 726,67) and an overstatement of operating lease debtor/creditor of R8 872 731,35 in 2010 (extrapolated amount R66 935 371,48).  The Lease rentals on operating lease expenditure for 2011 restated amount will also be misstated based on the above.  This is a material misstatement that will have an impact on the audit opinion.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should ensure that sufficient appropriate documented processes are in place and implemented by all officials to ensure that the data captured on PMIS is accurate and in agreement with the valid signed lease agreement.  This will ensure that the calculations based on the PMIS data is accurate should the correct formula be applied.

(c)  Management should revisit the PMIS data to ensure the accuracy thereof and subsequently revise the straight-lining calculations to correct the errors therein.

(d)  Management should implement a checklist to ensure that all disclosures required as per the GAAP statements are included and that all requirements are adhered to.

(e)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(f)   Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(g)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**Management response**

Management does not fully agree with the audit finding and where we do not fully agree as set out below. From the outset, management would like to acknowledge that an error occurred when downloading the information from PMIS to prepare the lease commitments calculation. We are in the process of rectifying this erroneous download and then reperforming the lease commitment and operating lease smoothing calculations. We are therefore of the opinion that any errors on the PMIS download cannot be used to infer that the entire PMIS system is incorrect.

Management is therefore of the opinion that the lease schedule provided should not be used as a benchmark for stating that the data as loaded onto PMIS is incorrect. We would therefore like to propose that the AG compares the information as per the lease agreements to the live PMIS system.

a)    Management agrees with the audit finding.

b)    Management agrees that the “service charges” do not form part of the strict definition of a “Lease asset”. We would like to advise that our rationale behind it’s inclusion in all lease expenditure is due to the fact that our mandate is to procure habitable accommodation for our client departments. Our rationale further informed us that a building which is not clean is not habitable for office accommodation and we would therefore have failed in the execution of our duties. With reference to our opening statement above, this separation will be taken into account in the recalculation of lease commitments and lease straight lining once the correct data download has occurred

c)    The regions are the custodians of the lease contracts, therefore Pretoria should assist.

d)    Management agrees with the finding, please refer to the opening statement above.  Management would, however, like to advise that the square meterage and number of parking bays does not impact on the lease smoothing calculation and should therefore not be an audit finding.

e)    Management agrees with the finding, please refer to the opening statement above.  Management would, however, like to advise that the square meterage and number of parking bays does not impact on the lease smoothing calculation and should therefore not be an audit finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | Please see detail above. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | Please see above, management will rectify the lease commitment and other commitment (service charges) on completion of the re-performed calculations. | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 31 August 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 | Management is of the opinion that the download might be accurate. It will be approached to re-extract data and compare to PMIS. | | |
|  |  |  |  |

Name:   J Prinsloo

Position:  Chief Director – Planning and Reporting

Date: 16/8/2012

**Auditor’s conclusion**

Management agrees with the finding and their comment is noted.  Due to the material impact of the finding on the operating lease debtor disclosed in the financial statements, the finding is unresolved and will be reported in the final management report and the audit report. The above resulted in an understatement of operating lease debtor/creditor by a projected amount of R1 077 298 726,672 in 2011 and an overstatement of operating lease debtor/creditor by a projected amount of R66 935 371, 48. The Lease rentals on operating lease expenditure for 2011 restated amount will also be misstated based on the above.

Operating expenditure

1. **COAF 22 - Opening balance – Irregular and fruitless and wasteful expenditure**

**Audit finding**

1. Section 38(1) (g) of PFMA states that, “*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*."
2. Section 40(1) of the PFMA states that, “*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;”*
3. Section 41 of the PFMA states that, *“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”*
4. Treasury Regulation 9.1.1 states that, “*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.*”
5. Treasury Regulation 9.1.2 states that, “*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 applicable.*”
6. Treasury Regulation 9.1.3 states that, “*When an accounting officer determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(g) of the Act, the accounting officer must take into account  (a) the circumstances of the transgression;  (b) the extent of the expenditure involved; and (c) the nature and seriousness of the transgression*”.

The following matters pertaining to the completeness of irregular and fruitless and wasteful expenditure of prior years were noted:

During the 2009-10 and the 2010-2011 financial years sufficient appropriate audit evidence to determine the completeness of irregular expenditure could not be obtained.

During the 2010-2011 financial year sufficient appropriate audit evidence to determine the completeness of fruitless and wasteful expenditure could not be obtained.

In the audit conclusion meeting with the department of 21 September 2011 it was confirmed that the department has to go through the populations of the 2009-10 and 2010-2011 financial years to identify other irregular expenditure that were not disclosed in the financial statements. The 2010-11 population for fruitless and wasteful expenditure also had to be re-interrogated to identify fruitless and wasteful expenditure not previously identified and disclosed.  The department was advised to get internal audit involved in the aforementioned process. The department was also requested to inform the auditors once the process was completed so that the team can audit the completeness of irregular expenditure pertaining to the prior years.

It was noted in the current year that the register for irregular and fruitless and wasteful expenditure was prepared for the period 1 April 2011 to 30 November 2011, which also included cases of identified irregular and fruitless and wasteful expenditure relating to the prior year either identified by PMTE or the auditors.  The population for 2009-10 and 2010-11 for irregular expenditure and 2010-11 for fruitless and wasteful expenditure was however not revisited to ensure that the opening balance as disclosed in the interim financial statements is complete.

The list of suspected cases of irregular and fruitless and wasteful expenditure as indicated above was reported to National Treasury for the first time in January 2011 due to processes for recording and reporting of such expenditure not being in place previously.  Upon inspection of the list it was noted that the opening balance of R264 180 000 irregular expenditure of the prior year i.e. 2010-11 was not included in the list of cases reported to National Treasury.

The accounting officer did not immediately upon the discovery of the irregular expenditure report it to the relevant treasury as per the requirements of section 38(1)(g) of the PFMA.

Note should be taken that an opinion will not be expressed on the interim financial statements for the six months ended 30 September 2011.

The action plan of PMTE does not address revisiting the population for 2009-10 and 2010-11 to ensure that the opening balance for the 2011-12 year is complete.

The list of irregular and fruitless and wasteful expenditure is not complete which could result in the opening balance of irregular and fruitless and wasteful expenditure being materially misstated in the 2011-12 financial year.

Not reporting all cases of irregular expenditure to National Treasury or not reporting it timeously results in non-compliance with section 38(1)(g) of the PFMA.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

Management does not develop and monitor the implementation of action plans to address internal control deficiencies

**Recommendation**

(a)  Management should implement controls to prevent irregular and fruitless and wasteful expenditure i.e. holding officials responsible for the occurrence of the irregular or fruitless and wasteful expenditure accountable for their actions, training should be provided to ensure that all officials clearly understand what constitutes irregular or fruitless and wasteful expenditure so that such situations that could lead to possible irregular or fruitless and wasteful expenditure is timeoulsy identified and avoided.

(b)  Management should ensure that all cases of irregular and fruitless and wasteful expenditure identified are included in the irregular and fruitless and wasteful expenditure register and timeously reported to the National Treasury in terms of PFMA section 38(1)(g).

(c)  There should be a team of delegated officials responsible for the collation and reconciling of irregular expenditure cases identified, due to the extent of the cases reported.

(d)  Each region should have a responsible person specifically allocated for the co-ordination, collation and reporting of irregular expenditure to Head Office.

(e)  The population for 2009-10 and 2010-11 should be revisited and all cases identified should be included in the list of cases of irregular expenditure and reported to National Treasury.  This will ensue that the opening balance for irregular and fruitless and wasteful expenditure is complete to address the prior year disclaimer.  Timelines should be set for this task to be completed.

(f)   It is also advisable that the registers clearly indicate the amounts relating to the prior year constituting the opening balance as per the financials, as well as the transactions pertaining to corrections as identified per the audit or by PMTE management, to assist is easily tracing and reconciling the amounts recorded in the register.

**Management response**

I am partly in agreement with the finding as the irregular expenditure disclosed in the register was inclusive of all the irregular expenditure discovered during the year 2011-12, reported by Auditor General for 2010-11 financial period and irregular expenditure discovered during 2010-11 . The amount disclosed was based on inputs received from the regions, consolidated for the whole year following reasons. The closing balance of R 264 180 000 for 2009-10 was not included however the register has been updated accordingly for January 2012 reporting to National Treasury.

The inspectorate directorate has advertised several of post in the regional offices to be responsible for collation and reconciliation of both irregular expenditure and fruitless cases identified. Each will have responsible person specifically allocated for the co-ordination, collation, reconciliation and reporting to Head Office.

The population of 2009-10 and 2010-11 has been relooked and special attention has been given to condoned cases. The population will also be relooked during the verification of the Annual Financial Statement inputs from the region.

Name: Juanita Prinsloo

Position: Chief Director: Trading Account

Date: 5/3/2012

**Auditor’s conclusion**

Management comment noted.

The updated register of irregular expenditure is currently awaited to determine whether the R264 180 000 was reported to the National Treasury as indicated above.

For the entity to remove the disclaimer of the prior years relating to the completeness of irregular expenditure disclosed in the financial statements, the entity is to revisit at the entire population to ensure that all transactions/contracts that result in irregular expenditure for the 2009-10 and 2010-11 financial years is disclosed.  This process for revisiting the population does not only entail relooking at irregular expenditure that was previously disclosed and/or reported by the AGSA.  Based on discussion held with management, this detailed process of revisiting the population has not been performed.  Thus the completeness of the opening balance of irregular expenditure is not resolved.

1. **COAF 41, 143 and 157 - Non compliance with TR 8.2.3 Payment not made within 30 days (PTA region)**

**Audit finding**

Laws, rules and regulations

1. Treasury Regulations par 8.2.3 states that, *“Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from receipt of an invoice or, in the case of civil claims, from the date of settlement or court judgment.”*
2. PFMA paragraph 38(1)(f) states that, “*The accounting officer for a department, trading entity or constitutional institution must settle all contractual obligations and pay all money owing, including inter-governmental claims, within the prescribed or agreed period;”*

Non compliance with TR 8.2.3 was noted for the following payments as per tables below:

Table 1: Cleaning and Gardening expenditure

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **NO** | **Supplier name** | **Fano** | **Invoice number** | **Invoice stamped date** | **Invoice payment date (Approval date)** | **Time lapse** |
| 1 | MOTSENG FACILITIES MANAGEMENT | 380310 | INV104126 | 25 February 2011 | 13 May 2011 | **77** |
| 2 | MOTSENG FACILITIES MANAGEMENT | 408880 | MAN09.1234 | 27 May 2011 | 3 August 2011 | **68** |
| 3 | MOTSENG FACILITIES MANAGEMENT | 408912 | MAN09.1241 | 31 May 2011 | 3 August 2011 | **64** |
| 4 | MOTSENG FACILITIES MANAGEMENT | 417310 | MAN09.1286 | 4 July 2011 | 25 August 2011 | **52** |
| 5 | MOTSENG FACILITIES MANAGEMENT | 378699 | MAN09.1162 | 15 March 2011 | 19 April 2011 | **35** |

Table 2: Cleaning and Gardening expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | Motseng Facilities Management | 430266 | MAN09 1325 | 12/08/2011 | 27/09/2011 | 46 | 1 976 968,05 |
| 2 | Siliwelile Business Enterprise | 427689 | 159 | 27/09/2011 | 05/11/2011 | 39 | 79 460,00 |
|  | **Total** | | | | | | **2 056 428.05** |

Table 3: Construction CA Claims expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | JP Partnership | 446684 | L-08-12-05 | 01/11/2011 | 12/12/2011 | 41 | 437 178,37 |
|  | **Total** | | | | | | **437 178,37** |

Table 4: Planned Maintanance expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | Llale & Company | 377582 | 00419 | 04/04/2011 | 09/11/2011 | 35 | 1 245 053,10 |
| 2 | Maree Els & Partners | 377583 | 2011-028 | 04/04/2011 | 09/11/2011 | 35 | 1 571 919,46 |
|  | **Total** | | | | | | **2 816 972,56** |

Table 5: Construction PACE expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | Mvela Phanda Construction | 429160 | 4479 | 14/09/2011 | 18/10/2011 | 34 | 13 454 466,63 |
|  | **Total** | | | | | | **13 454 466,63** |

Table 6: Construction CA Claims expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | JH Systems Engineers | 390393 | 1256/M01/l-1 | 15 March 2011 | 20 June 2011 | 97 | 748 766,14 |
| 2 | JH Systems Engineers | 383517 | 1255/M01/l-3 | 10 March 2011 | 26 May 2011 | 77 | 777 096,11 |
|  | **Total** | | | | | | **1 525 862,25** |

It was further noted that invoice number INV104126 (payment number 380310) was not stamped or dated by the department on the date of receipt.

The deviation is a result of the department’s officials not employing monitoring measures to ensure that all the invoices received by the registry from the suppliers are identified, stamped and paid within the stipulated period of 30 days. Where there were issues pending that resulted in the delay of the payment of the invoices, the motivations/reasons are not properly documented and attached to the invoice/batch.

Non compliance with TR 8.2.3 (payments not made within 30 days) was reported in the prior year audit report.

The finding above results in non compliance with TR 8.2.3.  The late payments may result in the suppliers charging interest or penalties on overdue accounts which will constitute fruitless and wasteful expenditure

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  Officials must ensure that the invoices are paid timeously by sending the invoices to finance division to be processed for payment immediately after the receipt and certification that the goods and services have been received satisfactorily.

(b)  If a valid reason exists for delaying a payment, such as a dispute with a supplier, the reason for not paying within the required timeframe must be documented on the supporting documentation, supported by relevant correspondence with the supplier and approved by a relevant senior official.

**Management response**

Table 1:

Management agrees with the finding as the delay was caused by the 415 forms which were not fully completed and signed.

Name: K Tlhakudi

Position: Head Finance & SCM

Date: 29/2/2012:

Table 2 - 5

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: | Finance will put in place tracking system to avoid further delays in payments. | | |
| 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 | Director: Finance & SCM | | |
| Estimated completion date of corrective action: | The due date is 1st of April 2013. | | |
| 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:   Mpho Selepe

Position:  Deputy Director

Date:   18/7/2012

Table 6

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: | Finance will put in place tracking system to avoid further delays in payments. | | |
| 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 | Director: Fin & SCM | | |
| Estimated completion date of corrective action: | The due date is 1st of April 2013. | | |
| 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:   Mpho Selepe

Position:  Deputy Director

Date:   18/7/2012

**Auditor’s conclusion**

Management agrees with finding and comments are noted.  The non compliance will be reported in the management report.

1. **COAF 110 - Deviations with the Supply Chain Management Practices: Autumn Star Duct Cleaning & Indoor Air Quality (Pretoria region)**

**Audit finding**

Laws, rules and regulations

1. National Treasury Practice note 8 of 2007/2008, paragraph 3.4.1 states that: *“Accounting officers/ authorities should invite competitive bids for all procurement above R500 000.”*
2. National Treasury Practice note 8 of 2007/2008 paragraph 3.4.3 states that “*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*.”
3. Practice note 6 of 2007/2008, paragraph *2.*3 states that *“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 reason for such action must be recorded and approved by the accounting officer or accounting authority.”*
4. Practice note 6 of 2007/2008, paragraph 3.1 states that “*With effect from the date on which this practice note takes effect, 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.”*

During the review of the below mentioned payment batches and supporting documents for property maintenance expenditure to Autumn Star Cleaning & Indoor Air Quality, the following were noted:

(a)       The entity followed an urgent/emergency SCM process which constitutes a deviation from the normal procurement processes. Although the deviation was approved by the Regional Bid Adjudication Committee (RBAC), the reasons do not justify an urgent/emergency case.  The reason for the extension was to allow Facilities Management sufficient time to conclude on the procurement processes etc. and reference was made to attached correspondence.  Please refer to point (b) below for further detail.

(b)       Furthermore, during review of the supporting documents attached to payment advice no: 381122 dated 19 May 2011, it was noted in an email dated 11 March 2011 from the Head of KAM that the urgent/emergency procurement process was due to poor planning, refer to extract out of e-mail quoted below:

“*Dear Colleagues;*

*The current agreement of Autumn Star to do facilities Management at Civitas Building will be coming to an end on 15 March 2011. Head office – Special and Major Projects was supposed to invite Tenders but seemingly they were not able to meet that deadline. Because Pretoria Region MUST have a contract in place at this A category facility, we would have no option but to extend the current contract of Autumn Star. They have previously been paid from the Day to Day Maintenance Budget and we are aware that it should actually be funded under PMTE*

*If we reappoint the current Service Provider, should we for the interim period continue to pay them from Day to Day Maintenance? The Guidelines for Facilities Management is not very clear on these issues and we do not want to make mistakes. What happens if we (Region) extend the contract period for another 3 months and Head Office is still not ready to appoint Service Provider?”*

(c)          In addition to the above mentioned, in a letter dated 5 March 2010 from Department of Health (occupying the Civitas building) to Department of Public Works it was indicated that urgency services (i.e. maintenance of civil building services such as plumbing, waterproofing, drainage/sewerage system etc.) were needed due to the fact that Department of Public Works was in the process of advertising a tender for a long term Facility Management Contract and that this process would be finalised by approximately middle June 2010.  However, month to month arrangements on day to day maintenance continued for a period exceeding 12 months i.e. from 15 March 2010 to 17 June 2011.

(d)          The contract file was requested on 28 March 2012 per request for information no. 79; however SCM management confirmed that there was no contract in place as the open tender process was not followed.

(e)          The value of the service procured was above R1 million and therefore the deviation had to be reported to the National Treasury and AGSA within 10 working days.The entity did not report the deviation to the National Treasury and AGSA which is in contravention of PN 6 of 2007/2008.

Refer to table below for payments made on month to month basis to Autumn Star Duct Cleaning & Indoor Air Quality and DPW.

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Suppliers Name** | **Date of Month to Month agreement** | **Amount**  **R** |
| 1. | Autumn Star Duct Cleaning & Indoor Air Quality | 15 March 2010 to 15 September 2010 | 7 113 600.00 |
| 2 | Autumn Star Duct Cleaning & Indoor Air Quality | 15 September 2010 to 15 March 2011 | 7 113 600.00 |
| 3. | Autumn Star Duct Cleaning & Indoor Air Quality | 16 March 2011 to 17 June 2011 | 3 556 800.00 |
| **Total** | | | **17 824 000.00** |

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations.

(b)  The RBAC approving deviations without ensuring that the reasons for the deviations are aligned to the principles of SCM i.e. fair, equitable, transparent and cost effective and do indeed constitute an emergency/urgency.

(c)  Poor planning from SCM management to ensure sufficient time is available to procure using the competitive bidding process

The above deviations constitute non compliance with the applicable laws, rules, regulations and practice notes as listed above and as a result the expenditure incurred amounting to R17 824 000 is classified as irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      The PMTE should only deviate from inviting competitive bids for procurements above R500 000 in cases where it is impractical to invite competitive bids such as urgent or emergency cases or in cases of sole providers. The reasons to deviate from the prescribed procurement process should be properly recorded and should be substantiated by evidence.

(b)      The SCM policy should be updated to provide for the different procurement procedures as set out on the procurement strategy to ensure that the PMTE management, the officials and the RBACs are informed when the different procedures may be utilised, the process that should be followed when the specific procedure is selected and to define the roles and responsibilities of the different role-players in the process.

(c)      In cases where the PMTE deviated from the prescribed procurement process based on a valid reason, the deviation must be reported to the National Treasury and the AGSA within the prescribed ten (10) working days to ensure compliance.

**Management response**

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

The facility was given to the Region for maintenance within a short notice.

There was no proper hand-over which took place from Head Office project manager.

Regional Office was instructed to appoint an interim FM contractor meanwhile Head Office are busy preparing the FM tender documents which had never happened.

All the extensions happened with a blessing from Head Office on the basis that they are still busy compiling tender documents. Attached please find correspondence from all role players who were involved in the process.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? | Tenders are advertised for the facility | | |
| 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 | Deputy Director | | |
| Estimated completion date of 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: SM Kutu

Position: Acting Director: Property Management

Date: 5/7/2012

**Auditor’s conclusion**

Managment is in agreement with the finding and their comment is noted.  The non compliance and incomplete irregular expenditure will be reported.

1. **COAF 123 - Non compliance with TR 8.2.3: Payments not made within 30 days (Head Office)**

**Audit finding**

Laws, rules and Regulations:

(a)  PFMA s38 (1)(f) states  that, “*“ The accounting officer for a department, trading entity or constitutional institution must settle all contractual obligations and pay all money owing, including inter-governmental claims, within the prescribed or agreed period;”*

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

Non compliance with TR 8.2.3 was noted for the following payments as per tables below:

Table 1: Property Maintenance expenditure:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier's name** | **Payment no** | **Invoice no.** | **Invoice stamp date** | **Payment date** | **Time Lapse** | **Invoice Amount**  **R** |
| 1 | Lucango Business Affairs | 439162 | Lu 00680 | 2011/10/07 | 2011/11/18 | 42 | 189 059,78 |
| 2 | Hlamulo Projects cc | 461514 | I01806 | 2011/11/21 | 2011/01/30 | 70 | 97 149,13 |
| 3 | H & P Oils and Projects | 437772 | 0127 HPB | 2011/09/14 | 2011/11/11 | 58 | 79 953,05 |
| 4 | Mhlaba Nhluvuko development & projects | 430533 | UNM/0003 | 2011/07/26 | 2011/10/02 | 86 | 89 225,66 |
| 5 | Motseng Facilities Management (Pty) Ltd | 471025 | INV105950 | 2011/11/21 | 2012/02/29 | 100 | 379 893,81 |
| 6 | Motseng Facilities Management (Pty) Ltd | 439400 | INV107759 | 2011/09/30 | 2011/11/18 | 49 | 121 541,15 |
|  | **Total** | | | | | | **876 869,53** |

Table 2: Cleaning and gardening services

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Supplier name** | **Payment no.** | **Invoice no.** | **Invoice stamped date** | **Invoice payment date (Approval date)** | **Time lapse** | **Invoice Amount**  **R** |
| 1 | Motseng Facilities Management | 471039 | MAN09,1434 | 2011/12/06 | 2012/03/05 | 90 | 1 963 561,62 |
| 2 | Motseng Facilities Management | 481085 | MAN09.1525 | 2012/02/22 | 2012/03/29 | 36 | 91 388,65 |
|  | **Total** |  |  |  |  |  | **2 054 950,27** |

The non compliance with TR 8.2.3 (payments not made within 30 days) was reported in the prior year audit report.

The deviation is a result of the department’s official not implementing monitoring measures to ensure that all the invoices received by the registry form the supplier are identified, stamp and paid within 30 days. Where there were issues pending to resulted to delay of payment of the invoice, the motivations/reasons are not properly documented and attached to the invoices

The non compliance with TR 8.2.3, thus leading to payments being made late, may result in the supplier charging interest or penalties on overdue accounts which will constitute fruitless and wasteful expenditure.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight and responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)    Officials must ensure that the invoices are paid timeously by sending the invoices to finance division to be processed for payment immediately after the receipt and certification that the goods and services have been received satisfactorily.

(b)    If a valid reason exists for delaying a payment, such as a dispute with a supplier, the reason for not paying within the required timeframe must be documented on the supporting documentation, supported by relevant correspondence with the supplier and approved by a relevant senior official.

**Management response**

I am in agreement with the finding for the following reasons

Cause: The supplier in question requested his payments to be kept on hold in order to be paid in bulk.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Arrangements with suppliers will in future be made in writing on the invoice received and allow the contractor to co -sign as evidence of the arrangement. | | |
| 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 | DD: SCM | | |
| Estimated completion date of corrective action: | On going | | |
| 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: 10/7/2012

**Auditor’s conclusion**

Management agrees with finding and comments are noted.  The non compliance will be reported in the management report.

**Payables**

1. **COAF 136 - Trade Creditors (Advances Opening Balances).**

**Audit finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates *that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Section 41 furthermore states that *an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require*.
3. Treasury Regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
4. Treasury Regulation 17.1.2 furthermore state that*should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a clearing or suspense account because the classification has not been resolved, the accounting officer must ensure that—*

*a)    the sources of the transactions are readily identifiable;*

*b)    amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;*

*c)    monthly reconciliation’s are performed to confirm the balance of each account; and*

*d)    reports are provided to the accounting officer about uncleared items on a monthly basis.*

During the audit of the opening balance of the Advances accounts, (12047 *PAYBLE:ADV:N/DEPT:ADV ACC:CL* and 12048 *PAYBLE:ADV:PUB ENT ADV ACC:CL*) the following was noted:

a)     For the following transactions, the only supporting documentation available for inspection was the prior period audit finding. The finding stated that these credit balances under Receivables should be reclassified to Payables. Journals were therefore processed to effect this reclassification. The audit finding alone cannot be used by management as supporting documentation, management should have investigated the credit balances in receivables and repaid amounts where necessary. Furthermore in the 2009/10 financial year management should have followed up with the client departments, and journals should have been passed clearing this account.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Transaction date** | **Transaction description** | **FINO** | **Amount** |
| 1 | Environmental Affairs | 01-Dec-08 | Bal Conv: From : 30247 TO 40247 | 2095 | -R 4 989 452,06 |
| 2 | Environmental Affairs | 01-Dec-08 | Bal Conv: From : 30247 TO 40247 | 2095 | -R 1 587 291,56 |
| 3 | Environmental Affairs | 01-Dec-08 | Bal Conv: From : 30247 TO 40247 | 2095 | R 12 735,60 |
| **Total** | | | | | **-R 6 564 008,02** |

b)     Journals and all supporting documents used to process transactions to advance account were requested; however for the following transactions the only supporting documentation submitted were BAS reports. Furthermore, it has been noted that these journals processed to the advanced account were not authorised; therefore these transactions may be an invalid (inability of auditors to verify occurrence assertion).

| **No.** | **Client department** | **Transaction date** | **Transaction description** | **FINO** | **Amount** | **Authorised by** |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Unknown - claims recovery | 31-Mar-09 | AFS adjustment 2008/09 | 1347 | -R 7 755 549,25 | Not authorised |
| 2 | Unknown - municipal services | 01-Apr-09 | AFS adjustment 2008/09 | 1347 | -R 24 289 329,69 | Not authorised |
| 3 | Arts and Culture | 31-Mar-09 | AFS adjustment 2008/09 | 1305 | -R 3 251 539,50 | Not authorised |
| 4 | Correctional Services | 31-Mar-09 | AFS adjustment 2008/09 | 1297 | -R 4 679 535,52 | Not authorised |
| 5 | Justice | 31-Mar-09 | AFS adjustment 2008/09 | 1312 | -R 6 426 878,68 | Not authorised |
| 6 | Labour | 31-Mar-09 | AFS adjustment 2008/09 | 1313 | -R 10 530 987,43 | Not authorised |
| 7 | Minerals & Energy | 31-Mar-09 | AFS adjustment 2008/09 | 1336 | -R 49 901,73 | Not authorised |
| 8 | SAPS | 31-Mar-09 | AFS adjustment 2008/09 | 1339 | -R 30 172 697,96 | Not authorised |
| 9 | Sports | 31-Mar-09 | AFS adjustment 2008/09 | 1341 | -R 1 145 020,09 | Not authorised |
| 10 | DTI | 31-Mar-09 | AFS adjustment 2008/09 | 1346 | -R 415 561,38 | Not authorised |
| 11 | SAHRC | 31-Mar-09 | AFS adjustment 2008/09 | 1308 | -R 19 177,42 | Not authorised |
| 12 | Health | 31-Mar-09 | AFS adjustment 2008/09 | 1310 | -R 930 404,77 | Not authorised |
| 13 | Home Affairs | 31-Mar-09 | AFS adjustment 2008/09 | 1311 | -R 21 317 186,86 | Not authorised |
| 14 | Public Enterprise | 31-Mar-09 | AFS adjustment 2008/09 | 1309 | -R 1,00 | Not authorised |
| 15 | Presidency | 31-Mar-09 | AFS adjustment 2008/09 | 1337 | -R 620 655,52 | Not authorised |
| 16 | Safety & Security | 31-Mar-09 | AFS adjustment 2008/09 | 1342 | -R 1 557 227,43 | Not authorised |
| 17 | Social Dev | 31-Mar-09 | AFS adjustment 2008/09 | 1343 | -R 3 212 934,38 | Not authorised |
| 18 | Palama | 31-Mar-09 | AFS adjustment 2008/09 | 1344 | -R 29 504,14 | Not authorised |
| **Total** | | | | | **-R 116 404 092,75** |

c)    For the following reclassification journals, all supporting documents used to process the transactions to advance account were requested, however the only supporting documentation submitted were BAS reports.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Transaction description** | **FINO** | **Transaction date** | **Amount** | **Authorised by** | **Rank** |
| 1 | Environmental Affairs | Correction of item | 993 | 30-Apr-09 | R 4 916 989,35 | Peter Sekgobela | Assistant Director |
| 2 | Health | Amount received from foreign aff | 1008 | 26-Aug-09 | R 734 688,95 | Peter Sekgobela | Assistant Director |
| 3 | ICD | Audit adjustment journal | 1396 | 22-Jul-09 | -R 108 139,48 | E Kriek | Deputy Director |
| Total | | | |  | **-R 5 543 538,82** |  | |

d)     All supporting documents used to process transactions to advance account were requested. The payment batch was submitted as a supporting documentation. Inspected the invoice from the supplier that was paid by PMTE as well as bank statement indicating that the money was received from the client department, therefore these should not be classified as advance, the bank should have been debited and receivables credited.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Transaction date** | **Transaction description** | **FINO** | **Amount** | **Authorised by** | **Authoriser Rank** |
| 1 | Foreign  Affairs: Pan African Parliament | 08-Jun-09 | Rejected BCT | 1080 | -R 49 800,00 | AJF Bezuidenhout | Assistant Director |
| **Total** | | | | | **-R 49 800,00** |  | |

e)    Through the inspection of the payments batch as a supporting documentation submitted, it was discovered that this transaction was recorded when a foreign payment was rejected due to an incorrect IBAN number. The payment was then resubmitted with the correct IBAN number and the transaction was once again recorded in the Advances account. However there was a difference between the original payment and the subsequent resubmission, which we could not reconcile due to there being no supporting documentation.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Date** | **Description** | **FINO** | **Amount debited from advance** | **Amount as per supporting documents** | **Difference** |
| 1 | Foreign affairs -Rejected Foreign Payment | 24-Aug-09 | 1334 | 176374 | R 3 045 683,00 | R 2 944 672,00 | R 101 011,00 |
| **Total** | | | | | **R 3 045 683,00** | **R 2 944 672,00** | **R 101 011,00** |

f)    Inspected the bank statement, the amount was received for GP department of health and they based on the supporting documents inspected the amount was for municipal services. PMTE incorrectly allocated this amount to Advance account:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Transaction date** | **Transaction description** | **FINO** | **Amount** | **Authorised by** | **Rank** |
| 1 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 155 152,24 | R Rakgwale | Assistant Director |
| 2 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 56 678,90 | R Rakgwale | Assistant Director |
| 3 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 69 677,37 | R Rakgwale | Assistant Director |
| 4 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 100 023,72 | R Rakgwale | Assistant Director |
| 5 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 60 597,73 | R Rakgwale | Assistant Director |
| 6 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 59 521,62 | R Rakgwale | Assistant Director |
| 7 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 128 411,77 | R Rakgwale | Assistant Director |
| 8 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 67 849,15 | R Rakgwale | Assistant Director |
| 9 | Health | 31-Mar-10 | Transfer of GP Health | 2316 | -R 88 790,42 | R Rakgwale | Assistant Director |
| **Totals** |  |  |  |  | **-R 786 702,92** |  |  |

1. ·         Management is using advance account as a suspense account for all monies received without investigating and repaying amounts where it cannot be allocated.
2. ·         Management does not perform reviews, journals were processed to advance account without being authorized and without supporting documentation.
3. ·         Lack of journals policy and procedures resulted in journals processed without supporting documentation and not authorized.
4. ·         Recommendations from auditors were not implemented as little has been done in clearing this account.
5. ·         Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.
6. ·         The relationship with the client departments may be hampered if PMTE shows outstanding balances while it has been received but is lying in advance account.
7. ·         Non compliance with Treasury regulation which requires that reconciliations for suspense account be performed on a monthly basis and follow ups for long outstanding amount.
8. ·         Receivables as well as payables are overstated.

**Internal control deficiency**

## Financial and performance management

The entity 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.

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

T

he entity did not review and monitor compliance with applicable laws and regulations

**Recommendation**

* 1. Management should review each transaction in the advance account; follow up if these transactions are valid.

1. Allocated the transactions to the relevant accounts
2. Prior year period errors should be disclosed, where prior balance has be restated.
3. Finalise policy and procedures to process journals as matter of urgency and communicate it with all staff and make sure it is implemented.
4. Any deviations from the policy and procedures disciplinary actions are instituted.
5. A checklist to address all non compliance should be developed and implemented in all section of the PMTE
6. Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
7. The information requested should be submitted without further delay.

**Management response**

Audit Finding A

Agree. Due to time constrains and the limited information available, the credit balances were moved to advances. A conscious decision was taken not to pay it back to the Clients before investigation of the source of the credits. This account is now closely monitored and reconciled on a monthly basis. Credits that cannot be allocated to the relevant Asset Account will be paid back to the Client.

Audit Finding B(i)

Agreed. Journals were not properly supported in the past and filing of these journals was not controlled as some functions were split between two different reporting units. Control measures have been put into place to ensure proper authorization and safe keeping of journals.

Audit Finding B (ii)

Disagree on the finding of “not authorized”. Journals will not show on a BAS report if not properly authorized. AFS adjustment journals are captured and authorized by a BAS Users called “POCAUTH”. These journals are done after BAS closure and will not reflect the actual name on the system. These profiles are strictly controlled and monitored. They are only activated at the time of the journals and de-activated afterwards. That is how BAS is set up and the Department does not have any control over it.

Audit Finding  C

Agreed. A batch controller have been appointed and controls have been put in place to ensure completeness and safekeeping of all journals and batches

Audit Finding  D

Manangement response is outstanding

Audit Finding  E

Manangement response is outstanding

Audit Finding  F

Manangement response is outstanding

**Auditor’s conclusion**

**Audit finding A**

Management response is noted, cognisance is taken of the fact that management agree with the finding. This matter will be included will be included in the management letter

**Audit finding B(i)**

Management response is noted, cognisance is taken of the fact that management agree with the finding. This matter will be included will be included in the management letter

**Audit finding B (ii)**

Management response noted. Cognisance is taken of the fact that controls are in place with respect to user names. However, the printed journal was not signed as evidence of authorisation. In addition, no alternate procedures could be performed to confirm whether supporting documentation was authorised, as no such documentation was attached. Therefore, this matter will be reported in the management report.

**Audit finding C**

 Management response is noted, cognisance is taken of the fact that management agree with the finding. This matter will be included will be included in the management letter

**Audit finding D**

No reponse received. This matter will therefore be reported in the final management report.

**Audit finding E**

No reponse received. This matter will therefore be reported in the final management report.

**Audit finding F**

No reponse received. This matter will therefore be reported in the final management report.

1. **COAF 146 - Payables: Discounting not done in accordance with SA GAAP**

**Audit finding**

Laws, rules and regulations

1. Section 40(1)(a) and (b) of Public Finance Management Act states that, “*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; (b) must prepare financial statements for each financial year in accordance with generally recognised accounting practice;”.*
2. In terms of IAS 39 *Financial Instruments: Recognition and Measurement,* *Definitions relating to recognition and measurement,* the following is stated:

“*The* ***amortised cost of a financial asset or financial liability*** *is the amount at which the financial asset or financial liability is measured at initial recognition minus principal repayments, plus or minus the cumulative amortisation using the effective interest method of any difference between that initial amount and the maturity amount, and minus any reduction (directly or through the use of an allowance account) for impairment or uncollectibility*.

*The* ***effective interest method*** *is a method of calculating the amortised cost of a financial asset or a financial liability (or group of financial assets or financial liabilities) and of allocating the interest income or interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments or receipts through the expected life of the financial instrument or, when appropriate, a shorter period to the net carrying amount of the financial asset or financial liability.* *When calculating the effective interest rate, an entity shall estimate cash flows considering all contractual terms of the financial instrument but shall not consider future credit losses. The calculation includes all fees and points paid or received between parties to the contract that are an integral part of the effective interest rate…*”

It was noted during our assessment of schedule RD4 (see below) supporting the financial statements submitted for auditing purposes on 31 May 2012, that the discounting of the payables (other liabilities) was based on line item value of other liabilities the closing balance of the total value of the account at an interest rate of 5,484% supplied by National Treasury for the week ending 31 March 2012.

The discounting of payables (Other liabilities) was calculated as follows:

| **Account** | **Closing balance** | **Interest** | **Period** | **PV Value** | **Interest expense** |
| --- | --- | --- | --- | --- | --- |
| EBT REJECTION ACC:DOM | R 749 831,71 | 5,48% | 1 | R 710 848,76 | R 38 982,95 |
| UNP/RC BAS EBT CNTR ACC:DOM | R 604 807,61 | 5,48% | 1 | R 573 364,31 | R 31 443,30 |
| TENDER DEPOSIST/GUARANTEES | R 3 341 426,96 | 5,48% | 1 | R 3 167 709,76 | R 173 717,20 |
| PAYBLE:ADV:N/DEPT:ADV ACC:CL | R 427 813 506,51 | 5,48% | 1 | R 405 571 941,25 | R 22 241 565,26 |
| PAYBLE:ADV:PUB ENT ADV ACC:CL | R 12 216 676,68 | 5,48% | 1 | -R 11 581 544,77 | R 635 131,91 |
| **Total Other liabilities** | **R 444 726 249,47** | **-** | **-** | **-R 421 605 408,85** | **R 23 120 840,62** |

The approach followed by the entity is incorrect as a result of the following:

         Discounting should be performed on a transaction by transaction basis, where the impact of time value of money is considered to be material.  It is not allowable to perform discounting on a once off basis at the reporting date.

         In addition to the aforementioned, it is not clear how the entity arrived at the period which is being applied (illustrated in table above).

         When transactions are recognised the payable should initially be recognised at its fair value (taking into account the effect of the time value of money) and the expense should be recorded at an equivalent amount in line with the provisions of IAS 39.  Subsequently the entity should recognise interest paid (debit interest paid and credit payable) over the period of the financial instrument to bring the payable to its net carrying value.  The entity did not apply these principles and instead reduced (debited) the total payable balance by recognising an interest income (credit).

The finding was also reported in the 2010-11 audit report and in the 2011-12 interim management report. Trade and other payables was disclaimed in the 2010-11 financial year, thus resulting in the opening balance for trade and other payables being disclaimed for the 2011-12 audit. Therefore PMTE is required to correct the erroneous application of the discounting principle retrospectively.

The audit opinion for 2011-12 may be modified due to this incorrect accounting treatment.

         Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.

         Management did not implement the recommendations of the AGSA as per prior management report and interim management report timeously to ensure that the disclaimer of the prior year audit is addressed.

Given the fact that the entity did not apply the principles of IAS 39 the following accounts will be misstated by an indeterminable amount:

         Payables will be misstated by an indeterminable amount;

         Expenses will be overstated;

         Interest received will be overstated; and

         Interest paid will be understated

**Internal control deficiency**

**Leadership**

Management does not develop and monitor the implementation of action plans to address internal control deficiencies.

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

**Financial and performance management**

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

**Recommendation**

Management should ensure that:

(a)  the standards and principles of SA GAAP are applied in the preparation of the financial statements;

(b)  the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes;

(c)  recommendations of the AGSA should be implemented and actions plans established and  be monitored  through the year .

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | None for the period under review. | | |
| 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 | Individual transactions were not analysed to inform payment period. | | |
| Position of official responsible to take corrective action | N/A | | |
| Estimated completion date of 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 |  | | |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Signature:

Date: 19/7/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of managements’ statement that the effect of discounting is immaterial, and the fact that the discounting journal was reversed. However, no documentation or calculations were provided to support this claim. This matter will be included in the final management report, and considering the materiality of the amount, it will result in a modification of the auditors opinion.

1. **Other payables - Debt receivable interest**

**Audit Finding**

IAS 39 paragraph 58 states, “*An entity shall assess at the end of each reporting period whether there is any objective evidence that a financial asset or group of financial assets is impaired.*

*If any such evidence exists, the entity shall apply paragraph 63 (for financial assets carried at amortised cost) to determine the amount of any impairment loss*.”

IAS 39 paragraph 63 states, “*If there is objective evidence that an impairment loss on loans and receivables or held-to-maturity investments carried at amortised cost has been incurred , the amount of the loss is measured as the difference between the asset’s carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the financial asset’s original effective interest rate (i.e. the effective interest rate computed at initial recognition). The carrying amount of the asset shall be reduced* ***either directly or through use of an allowance account****. The amount of the loss shall be recognized in profit or loss*.”

During the performance of the audit, it was noted that Debt receivables interest: CA was included in other current liabilities:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Account**  **Number** | **Account Name** | **Amount disclosed as current liability**  **(Other payables)** |
| 1 | 12073 | Debt receivables interest: CA | R 15 679 909,91 |
| **Total** | | | **R 15 679 909,91** |

Upon enquiry from management, we were informed that this relates to interest charged on overdue amounts, specifically relating to Debt account and claims, which is disclosed in the statement of financial position under current assets.

As per discussion with management, this amount was classified as a liability rather than income as recoverability of this amount is highly improbable.

Upon inspection of the general ledger, it was noted that the interest was also included in the current asset account, as illustrated below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Date** | **Region** | **Capital Debt Amount** | **Interest Debt Amount** | **Amount disclosed as current asset**  **(Debt account and claims)** |
| 1 | 31-Mar-12 | Western Cape | R 44 793 717,58 | R 15 679 909,91 | R 60 473 627,49 |
| 2 | 31-Mar-12 | Limpopo | R 463 524,15 | R 0,00 | R 463 524,15 |
| **Total** | | | **R 45 257 241,73** | **R 15 679 909,91** | **R 60 937 151,64** |

If management believed this amount to be irrecoverable, it should have been included in the provision for impairment rather than being allocated to a current liability account.

* The above findings are an indication of the control weaknesses within the operations of the PMTE.

1. Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.

* This has resulted in disclosure in the financial statements not being accurate.
* Trade and other receivables as well as trade and other payables are overstated.

**Internal control deficiency**

**Leadership**

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

## Financial and performance management

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

**Recommendation**

Management should ensure that:

1. the standards and principles of SA GAAP are applied in the preparation of the financial statements;
2. the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.

Where recoverability of a debt is uncertain, this amount should be included in the Provision for impairment.

**Management response**

I am in agreement with the finding

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The irrecoverable amount (R15 679 909,91) will be included in the provision for impairment. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | The journal will be prepared. | | |
| 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: Financial Reporting | | |
| Estimated completion date of 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: Chief Director: Planning and Reporting

Date:      6/8/2012

**Auditor’s Conclusion**

Management comment received. Cognisance is taken of the fact that management agree with the finding. This finding will be closed, once we have confirmed that the journal referred to has been correctly processed.

1. **COAF 229 - Trade creditors - Advances**

**Audit finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Paragraph 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
3. Treasury regulations 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
4. Treasury regulations 7.2.1  furthermore states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*
5. Treasury Regulations 15.8.1 states that *at the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund.*

The following matters were identified:

a)     The Advances listing provided for the closing balance as at 31 March 2011 as restated does not agree to the opening balance as at 1 April 2011 on the current year Advances listing provided for audit purposes. As per inspection of the detailed listing, the following differences were identified:

| **No.** | **Name of Payee** | **Restated advance listing as at 31 March 2011** | **Opening Balance at 1 April as per advance listing** | **Difference** |
| --- | --- | --- | --- | --- |
| 1 | No Projects | -R 422 220 006,62 | -R 405 260 625,30 | -R 16 959 381,32 |
| 2 | Agriculture, Forest & Fish | -R 188 165,99 | -R 13 184,00 | -R 174 981,99 |
| 3 | Home Affairs | -R 45 444 344,51 | -R 45 291 454,54 | -R 152 889,97 |
| 4 | Public Service Admin | -R 621 937,53 | -R 824 652,33 | R 202 714,80 |
| 5 | SA Police Services | -R 30 172 897,96 | -R 30 172 697,96 | -R 200,00 |
| 6 | Rural Development | -R 14 816 849,72 | -R 14 817 049,72 | R 200,00 |
| 7 | Statistics | -R 148 004,91 | -R 78 390,57 | -R 69 614,34 |
| 8 | Transport | -R 45 290,13 | -R 1 011,77 | -R 44 278,36 |
| 9 | Public Service Commission | -R 202 714,80 | R 0,00 | -R 202 714,80 |
| **Total** | | **-R 513 860 212,17** | **-R 496 459 066,19** | **-R 17 401 145,98** |

ii.         The detailed Advances listing provided to support the prior year restatement does not agree to the restated amount as per trial balance and annual financial statements:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Amount as per detailed Advances listing schedule** | **Restated amount disclosed in the annual financial statements** | **Difference** |
| 1 | R 572 486 569,96 | R 590 374 153,91 | -R 17 887 583,95 |

iii.        The restated Trade creditors balance as disclosed in Note 9 (Prior period errors) does not agree to the restated balance as disclosed in Note 5 (Trade payables):

| **No** | **Account** | **As disclosed in Note 5 (Trade Payables)** | **As disclosed in Note 9 (Prior period errors)** | **Difference** |
| --- | --- | --- | --- | --- |
| 1 | Trade creditors - Advance account | R 590 374 153,91 | R 572 486 569,96 | R 17 887 583,95 |
| 2 | Trade creditors - lease creditor | R 1 506 251 334,07 | R 1 506 251 334,07 | R 0,00 |
| 3 | Other payables | R 17 727 163,76 | R 17 727 163,76 | R 0,00 |
| 4 | Accruals | R 279 074 000,00 | R 279 074 000,00 | R 0,00 |
| **Total** | | **R 2 393 426 651,74** | **R 2 375 539 067,79** | **R 17 887 583,95** |

**Corrections:**

b) Journal no 5287 was selected and tested.

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Journal No | 5287 |  |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL | R3 517 360,03 |  |
| Fund: | I/DEPT S& A NAT:HOME AFFAIRS |
| Responsibility | D: CUSTOMER BILLING |
| Amount |  |
| Item: | ACCOM CHRGS- STATE OWNED-REV |  | R3 517 360,03 |
| Fund: | HOME AFFAIRS-REV |
| Responsibility | D:CUSTOMER BILLING |
| Amount |  |

As per inspection of journal no.5287, it was noted that the Z59 for Accommodation charges: State owned claimed from Home Affairs for period 1 October 2008 – 31 December 2008 is attached. The amount was initially allocated to Advances and it was subsequently discovered that it related to Accommodation charges: State owned. This journal was then passed to reallocate the receipt to Accommodation charges: State owned. However there is no documentation attached to confirm that the amount was actually received.

d)  Journal No 4837 was selected and tested

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Journal No | 4837 |  |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL | R786 702,92 |  |
| Fund: | I/DEPT S&A NAT:HEALTH |
| Responsibility | D:CUSTOMER BILLING |
| Amount |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL |  | R786 702,92 |
| Fund: | INTER RESPONS CLEARING ACC:CL |
| Responsibility | PTA ACCOUNS & BUDGET |
| Amount |  |

As per inspection of email correspondence and bank statement, this amount was paid to PMTE by the Department of Health for Municipal services and Property maintenance. Journal no. 2316 was processed by debiting Municipal services and crediting Advance account.

Thereafter journal number 4837 was processed to correct journal no.2316. The journal was processed to amend the fund level to Inter responsibility clearing account. It is not clear why this journal was processed and why the amount was not paid back to the payee if does not relate to any claims issued to Department of Health.

e)  Journal No 5339 was selected and tested

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Journal No | 5339 |  |  |
| Item: | DISALLOWANCES MISCELLANEOUS:CA | R343 361,62 |  |
| Fund: | I/DEPT S&A NAT:JUSTICE & CONSTIT DEV |
| Responsibility | DBN HEAD PROECT & MAINTENANCE |
| Amount |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL |  | R343 361,62 |
| POSTING: | ASSETS |
| Responsibility | DBN HEAD PROECT & MAINTENANCE |
| Amount |  |

Inspected the internal memorandum which stated that the original contractor could not finish the construction and the project was delayed. Thus the Disallowances account had to be used to pay additional contractors in order to finish the work. This journal was thus processed to account for the amounts payable to the new contractor. This treatment is however incorrect as no advance amount has been received.

f) Journal No 5419 was selected and tested

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Journal No | 5419 |  |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL | R277 376,64 |  |
| Fund: | POSTING: ASSETS & LIABILITIES FUND |
| Responsibility | DBN ACQUISITIONS |
| Amount |  |
| Item: | PAYBLE:ADV:N/DEP:ADV ACC:CL |  | R277 376,64 |
| Fund: | I/DEPT S&A PUB ENT:NAT PROC AUTH |
| Responsibility | DBN ACQUISITIONS |
| Amount |  |

As per inspection of the bank statement, an amount of 277 376, 64 was received on 11 March 2004. This amount was requested from National Prosecuting Authority by DPW for leased accommodation. The fund used to process this amount was: DEPT: FINANCIAL ASSETS DOMESTIC. The above journal has been processed in the current year to correct the fund. It is not clear why POSTING: ASSETS & LIABILITIES FUND was debited as it was not credited initially. In addition, it is unclear why this amount is still classified as Advances. If the amount was not used as initially intended, it should have been paid back to NPA.

g)  For the following transactions selected, journals and all relevant supporting documents were requested; however only journals with BAS reports were submitted, with no explanations as to why these journals were processed:

| **NO** | **Client department** | **Explanation** | **FINO** | **Amount  per GL** |
| --- | --- | --- | --- | --- |
| 1 | No Project | Accom ADV 11/12 and corrections | JNL4671 | R 2 400 926,75 |
| 2 | No Project | Accom ADV 11/12 and corrections | JNL4671 | R 1 176 107,70 |
| 3 | No Project | Accom ADV 11/12 and corrections | JNL4671 | R 1 623 780,10 |
| 4 | No Project | Accom ADV 11/12 and corrections | JNL4671 | R 28 602 344,67 |
| 5 | No Project | Accom ADV 11/12 and corrections | JNL4671 | R 33 397 135,62 |
| 6 | No Project | Accom ADV 11/12 and corrections | JNL4670 | R 277 134,00 |
| 7 | No Project | Accom ADV 11/12 and corrections | JNL4670 | R 57 762 467,74 |
| 8 | No Project | Correction of fund-NPA-GJ1736 & 2214 | JNL5296 | -R 1 620 183,16 |
| 9 | No Project | Pairing off | JNL4815 | -R 1 588 146,50 |
| 10 | No Project | Pairing off | JNL4815 | -R 13 184,00 |
| 11 | No Project | Pairing off | JNL4815 | R 175 797,27 |
| 12 | Arts and Culture | Accom ADV 11/12 and corrections | JNL4669 | R 3 811 022,83 |
| 13 | Corporate Gorv Trading Affairs | Accom ADV 11/12 and corrections | JNL4669 | R 4 871 458,95 |
| 14 | Public Service Admin | Accom ADV 11/12 and corrections | JNL4669 | R 102 546,86 |
| 15 | Transport | Advance amount credited to CA account | JNL3797 | R 1 011,77 |
| **Total** | | | | **R 130 876 661,97** |

**Additions**

a)    The amount received from Department of Public Works relates to claims that client departments erroneously paid directly to Department of Public Works bank account. Department of Public Works performed the reconciliation of all amounts to be transferred from DPW to PMTE. This amount was subsequently transferred to the PMTE bank account. PMTE incorrectly accounted for this amount as Trade Payables: Advance. PMTE should investigate which claims are being cleared with these payments, and allocate these receipts accordingly.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Transaction date** | **FINO** | **Amount  per schedule** |
| 1 | No  project | 21-Apr-11 | JNL3775 | -R 15 683 237,49 |

b)    Journals and all supporting documents used to process transactions to advance account were requested; however journals with BAS reports only were submitted, with no explanations why these journals were processed:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Transaction date** | **FINO** | **Amount  per schedule** |
| 1 | Home Affairs | 19-Dec-11 | JNL4815 | -R 2 360 912,30 |
| 2 | Justice & Constitutional | 19-Dec-11 | JNL4815 | -R 175 797,27 |
| 3 | Labour | 30-Mar-12 | JNL5328 | -R 1 100 460,24 |
| **Total** | | | | **-R 3 637 169,81** |

c)    Attached to the journal below was a letter from Department of Correctional Services dated 1 April 2008, which indicated that an overpayment of R185 207 954,13 was made. The letter specifically requested that this amount be paid back; therefore this amount is incorrectly classified as advances as the money should have been paid back to the client department as requested. In addition, it is unclear how this amount relates to the amount stated in the letter.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Transaction date** | **FINO** | **Amount  per schedule** |
| 1 | Correctional Services | 31-Mar-12 | JNL5586 | -R 4 679 535,52 |
| 2 | Correctional Services | 31-Mar-12 | JNL5586 | -R 66 221 515,85 |
| Total | | | | -R 70 901 051,37 |

d)     Through discussion with management we noted that these amounts were transferred from DPW to PMTE account. They were initially allocated to Claims Recoverable; however at year end management determined that the amounts do not relate to Claims Recoverable and all amounts were then transferred to Advances. Investigations are now in progress to determine what the amounts relate to:

| **No.** | **Client department** | **Explanation** | **Transaction date** | **FINO** | **Amount  per schedule** |
| --- | --- | --- | --- | --- | --- |
| 1 | Agriculture, Forest & Fish | Correction Of funds Advances account | 30-Mar-12 | JNL 5517 | -R 575 860,00 |
| 2 | Art & Culture | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 14 652 440,38 |
| 3 | Communication | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 3 816 224,88 |
| 4 | Correctional Services | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 60 973 596,34 |
| 5 | Correctional Services | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 15 067 450,57 |
| 6 | Human Settlement | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 1 261 269,09 |
| 7 | International Relation | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 4 816 823,66 |
| 8 | Justice & Constitutional | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 16 518 024,94 |
| 9 | Parliament | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 250 767,91 |
| 10 | SA Police Services | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 6 654 179,53 |
| 11 | Rural Development | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 4 021 483,68 |
| 12 | Social Development | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 5 467 003,86 |
| 13 | Sport & Recreation | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 289 208,09 |
| 14 | Sport & Recreation | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 10 327 662,58 |
| 15 | Transport | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 100 000,00 |
| 16 | Human Rights | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 290 839,80 |
| 17 | Public Protector | Correction Of funds Advances account | 30-Mar-12 | JNL5517 | -R 1 230 153,16 |
| Total | | | | | (R 146 312 988,47) |

·         Management is using Advance account as a suspense account for all monies received without investigating or repaying amounts where it cannot be allocated.

·         Management does not perform thorough reviews, as a result journals were processed to advance account without appropriate supporting documentation.

·         Recommendations from auditors were not implemented as little has been done in clearing this account.

·         Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

·         The relationship with the client departments may be hampered if PMTE shows balances as long outstanding when in fact the receipts were allocated to advance account.

         This constitutes non compliance with Treasury regulation which requires that reconciliations for suspense account be performed on a monthly basis.

·         Receivables are overstated and payable overstated.

**Internal control deficiency**

**Financial and performance management**

The entity 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.

The entity 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

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

The entity did not review and monitor compliance with applicable laws and regulations

**Recommendation**

1. Management should review each transaction in the advance account to confirm that these transactions are valid Advances received, and allocate receipts to the relevant accounts where necessary.
2. Overpayments made by client departments should be repaid once identified.
3. Policy and procedures to process journals should be finalised as a matter of urgency and communicated to all staff.
4. Disciplinary actions should be taken for any deviations from the policy and procedures
5. A checklist to address all non compliance should be developed and implemented in all section of the PMTE
6. Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
7. The information requested should be submitted without further delay.

**Management response**

**Corrections:**

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

The documentation is not attached as mentioned, but the amount was received in the PMTE’s bank account during October 2008 paid over from Public Works on payment nr 32135.

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

The amount has been allocated to the claims recover account for Municipal Services.

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

We agree that the amount was incorrectly posted by the Regional Office Durban, but the amount has been corrected and allocated to the correct item

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

The amount will be paid back to the NPA, however the journal was done correctly to align the amounts within the account to the relevant clients.

**ADDITIONS**

d) The amounts are currently being investigated.

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date:

**Auditor’s conclusion**

**Corrections:**

1. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The limitation of scope will be reported in the final management report.
2. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
3. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
4. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

**ADDITIONS**

1. Management comment noted. Cognisance is taken of the fact that management is investigating the matter. However, this matter was reported in the prior period as well, and has yet to be resolved. As no documentation is available for inspection, we were unable to perform the required audit procedures. This limitation will therefore be reported in the management report, as well as the audit report.

No responses were received from management for all other matters raised. These will therefore be included in the final management report.

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Receivables

1. **COAF 7 - Reconstruction of trade and other receivables**

**Audit finding**

Treasury regulations chapter 7.2.1 states that the accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.

The following control deficiencies have been identified:

During the prior years management started with the reconstruction of debtors however debtors’ reconciliation has been in the action plan for the past three years and has not been completed to date. In the prior year the receivables were disclaimed due to lack of sufficient appropriate audit evidence to support the trade and receivables account.

The following information pertaining to the Receivables Account was requested and has not been submitted to date. As a result, we cannot confirm the validity and accuracy of management’s statement that the debtor’s reconciliation is almost complete as there is no information to substantiate it.

The breakdown list of the Receivables Accommodation private leases opening balances for the following:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client Department** | **Opening balance** | **Additions** | **Current year** | **Prior years** | **Closing Balance**  **R** |
| 1 | Defence and Military Veterans | 2 246 894,55 | 72 676 606,50 | 72 518 766,32 | - | 2 404 734,73 |
| 2 | Higher Education (Incl Seta's) | 10 760 750,82 | 3 836 219,40 | 2 041 233,58 | - | 12 555 736,64 |
| 3 | International Relations and Cooperation (PAP) | - | 34 047 228,98 | - | - | 34 047 228,98 |
| 4 | Justice and Constitutional Dev | 51 506 326,58 | 105 845 632,39 | - | - | 157 351 958,97 |
| 5 | Minerals | 42 985 339,92 | 3 523 183,52 | 4 554 274,10 | - | 41 954 249,34 |
| 6 | National Treasury | 12 324 453,43 | 10 705 547,20 | - | - | 23 030 000,63 |
| 7 | National Prosecuting Authority | 18 821 251,24 | 11 359,752.43 | - | 1 179 113,88 | 29 001 889,79 |
| 8 | SASSA | 85 774 721,27 | 26 013 806,39 | 6 571 987,07 | 42 871 467,73 | 62 345 072,86 |
| 9 | Trade and industry | 1 794 497,42 | 687 387,42 | - | - | 2 481 884,84 |
| 10 | Water Affairs | - | 45 908 605,60 | - | - | 45 908 605,60 |
| 11 | International Relations and Cooperation | - | 9 307 889,28 | 9 531 835,80 | 213,180.00 | -437 126,52 |
| 12 | SA Police Services | 283 744,39 | 268 987 886,46 | 286 358 656,55 | - | -17 087 025,70 |
|  | **TOTAL** | **226 497 979,62** | **592 899 745,57** | **381 576 753,42** | **44 263 761,61** | **393 557 210,16** |

Non- compliance with regulation.

Management of the entity has not developed and implemented sufficient internal controls to ensure that there is sufficient appropriate audit evidence for the receivables balance.

Management have indicated that there has not been a proper handover to another official as the person responsible for the accommodation charges is currently on sick leave and therefore the documentation cannot be provided at this stage.

**Internal control deficiency**

**Financial and performance management**

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

Management did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Recommendation**

Management should complete all debtors’ reconciliations and higher level of management

should review completed reconciliations to ensure validity, completeness and accuracy and to ensure that all supporting documentation is available.

There should be a transfer of skills on a regular basis so that when an official is on leave, someone else will be able to take over and there will be no holdup of work.

**Management response**

Opening balances for Private leases cannot be substantiated at this stage as it has to be reconstructed due to some discrepancies identified in the correctness of the invoices issued. This project should be finished by 29 February 2012

Name: Juanita Prinsloo

Position: CD:Trading Account

Date: 2012/1/31

**Auditor’s conclusion**

The reconstruction is still incomplete, thus this limitation will be reported in the management report, and due to the materiality of the balance, will result in a modification of the audit opinion.

1. **COAF 48 - Limitation of scope RFI 58 - Pace receivable detailed schedule**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the detailed schedules supporting the opening balances for Claims Recoverable: PACE was requested as per request no. 58 dated 20 February 2012.

The schedules submitted do not agree to the total balance nor do the schedules agree to the individual balances for each client department as per debtor’s reconciliation submitted.

As a result we cannot continue with the performance of our audit procedures.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Description** | **Opening balance as per reconciliation on 1 April 2011** | **Opening balance as per detail schedule** | **Differences** |
| 1. | Claims recoverable: PACE | R 374 928 973,23 | R 824 039 643,12 | -R449 110 669,89 |
| **Total** |  | **R 374 928 973,23** | **R 824 039 643,12** | **-R449 110 669,89** |

Management did not implement the recommendations of the AGSA timeously to ensure that the disclaimer of the prior year audit is addressed.  Although management indicated that the reconstruction of PACE receivables has been completed, accurate detailed schedules supporting each balance could not be provided to date.

Trade and other receivables was disclaimed in the 2010-11 financial year, thus resulting in the opening balance for trade and other receivables being disclaimed for the 2011-12 audit.

The delay in the submission of accurate and complete requested information may lead to a modification of the audit opinion should the matter not be addressed before the submission of the Annual Financial Statements for the year ended 31 March 2012.

**Internal control deficiency**

**Leadership**

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

**Financial and performance management**

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

The entity 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.

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

**Recommendation**

Management should ensure that:

(a)  All trade and other receivable schedules submitted for audit purposes supporting the opening balances that were reconstructed to address the disclaimer of the prior year, is reviewed and deficiencies resolved before being submitted for audit purposes.  Thus management should ensure that information submitted to the AGSA is accurate and complete;

(b)  The findings of the prior year is timeously addressed to prevent reoccurrence thereof in the current year;

(c)  The requested information is submitted without further delay.

**Management response**

Management agrees with the finding that the schedules submitted to the AGSA were incorrect. The correct information has subsequently been submitted by the D:CB (Mr. B Leketi)

Name: Juanita Prinsloo

Position: CD: Financial Planning & Reporting (PMTE)

Date: 3/5/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that information was submitted to the auditors in response to this COAF. The information submitted was a summary schedule; however the request was for detailed schedules. As a result, we were unable to obtain sufficient appropriate assurance with regards to all assertions relating to the PACE Receivables balance.  As highlighted to management previously, it is important that complete and accurate information is provided at all times to the AGSA for audit purposes to prevent delays going forward. The limitation of scope will be reported in the management report.

1. **Disclosure of Financial instruments**

**Audit finding**

International Financial Reporting Standard (IFRS) 7 paragraph 1 requires *entities to provide disclosures in their financial statements that enable users to evaluate:*

*a)    the significance of financial instruments for the entity’s financial position and performance; and*

*b)    the nature and extent of risks arising from financial instruments to which the entity is exposed during the period and at the end of the reporting period, and how the entity manages those risks.*

IFRS 7.20(b) states that *an entity shall disclose total interest income and total interest expense (calculated using the effective interest method) for financial assets or financial liabilities that are not at fair value through profit or loss*

IFRS 7.21 states with regards to *accounting policies:*

*In accordance with paragraph 117 of IAS 1 Presentation of Financial Statements (as revised in 2007), an entity discloses, in the summary of significant accounting policies, the measurement basis (or bases) used in preparing the financial statements and the other accounting policies used that are relevant to an understanding of the financial statements.*

IFRS 7 Application guidance paragraph B5 further states with regards to *accounting policies:*

*(d) When an allowance account is used to reduce the carrying amount of financial assets impaired by credit losses, [an entity shall disclose]:*

*i.        the criteria for determining when the carrying amount of impaired financial assets is reduced directly (or, in the case of a reversal of a write-down, increased directly) and when the allowance account is used; and*

*ii.        the criteria for writing off amounts charged to the allowance account against the carrying amount of impaired financial assets*

*(f) the criteria the entity uses to determine that there is objective evidence that an impairment loss has occurred.*

IFRS 7.27 states that *an entity shall disclose:*

*a)    the methods and, when a valuation technique is used, the assumptions applied in determining fair values of each class of financial assets or financial liabilities. For example, if applicable, an entity discloses information about the assumptions relating to prepayment rates, rates of estimated credit losses, and interest rates or discount rates.*

*b)    whether fair values are determined, in whole or in part, directly by reference to published price quotations in an active market or are estimated using a valuation technique*

IFRS 7.33 states that *for each type of risk arising from financial instruments, an entity shall disclose*

*a)    the exposures to risk and how they arise;*

*b)    its objectives, policies and processes for managing the risk and the methods used to measure the risk; and*

*c)    any changes in (a) or (b) from the previous period.*

IFRS 7.36 states with regards to *Credit risk* that *an entity shall disclose by class of financial instrument:*

*a)    the amount that best represents its maximum exposure to credit risk at the end of the reporting period without taking account of any collateral held or other credit enhancements (e.g. netting agreements that do not qualify for offset in accordance with IAS 32);*

*b)    in respect of the amount disclosed in (a), a description of collateral held as security and other credit enhancements;*

*c)    information about the credit quality of financial assets that are neither past due nor impaired.*

IFRS 7.36 further states with regards to *financial assets that are either past due or impaired* that *an entity shall disclose by class of financial asset:*

*a)    an analysis of the age of financial assets that are past due as at the end of the reporting period but not impaired;*

*b)    an analysis of financial assets that are individually determined to be impaired as at the end of the reporting period, including the factors the entity considered in determining that they are impaired;*

The following matters were identified from the review of the Financial Instruments disclosure included in the annual financial statements:

***b)    Disclosure included in the Notes***

      i.        Liquidity risk  
The disclosure under this subheading indicates that balances due within 12 months equal their carrying balances as the impact of discounting is not significant. However, the balances disclosed therein have been discounted, thus the amounts disclosed are not in line with the narration provided.

     ii.        Credit risk  
PMTE’s objectives, policies and processes for managing the risk and the methods used to measure the risk are not disclosed.

PMTE did not make any disclosures with regards to the amount that best represents its maximum exposure to credit risk at the end of the reporting period, as well as provide any information with regards to the credit quality of financial assets that are neither past due nor impaired.

Although an ageing analysis is disclosed, no distinction has been made between amounts that are “neither past due nor impaired” and amounts that “past due and not impaired”.

It is unclear how the time bands included in the age analysis were selected. As all trade debtors are National Departments who surrender unused funds to National Treasury at the end of each financial year, it is unclear why a distinction is made between amounts owing between 1 and 2 years, 2 and 5 years and greater than 5 years.

In addition, amounts owing less than 30 days have been grouped with all amounts owing less than 1 year, thus we are unable to differentiate between amounts that are not yet due and amounts that are past due.

The above findings are an indication of the control weaknesses within the operations of the PMTE.  Management does not adequately review the financial statements and do not have adequate resources to prepare financial statements in terms of SA GAAP.

The disclosure in the financial statements regarding Financial Instruments is incomplete and not in line with the requirements of SA GAAP. Some disclosures are qualitatively material, and this may result in the audit opinion being modified.

**Internal control deficiency**

**Leadership**

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

**Financial and performance management**

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

**Recommendation**

Management should ensure that:

(a)  the standards and principles of SA GAAP are applied in the preparation of the financial statements;

(b)  the financial statements are reviewed and deficiencies resolved timeously before being submitted for audit purposes;

(c)  all disclosures as required by IFRS 7 are included in the financial statements;

(d)  all assumptions used in the preparation of the financial statements are adequately disclosed.

**Auditor’s conclusion**

No formal management response was received. Cognisance is taken of the fact that the financial statements were adjusted to take into account the disclosures required by IFRS 7. This matter will therefore be reported in the management report.

1. **Claims Recoverable: CA (Opening Balances).**

**Audit finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
3. Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
4. Treasury regulation 7.2.1  furthermore states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*
5. Treasury Regulation 15.8.1 states that *at the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund.*
6. In terms of Treasury Regulation 51.1(a), the following is stated: *Accounting Officer must take effective and appropriate steps to—*

*a)    collect all revenue due to the public entity concerned; and*

*b)    prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and manage available working capital efficiently and economically;*

The following matters were identified:

a)    It was noted that claims were issued in the current year for the following transactions, which relate to prior years. The recoverability of these amounts are therefore uncertain, taking into account that client departments are required to surrender unused funds to National Treasury at the end of the financial year. It is uncertain whether the client department will be able to pay this amount. This is indicative of a control deficiency within the entity as claims are not issued for expenditure incurred in the correct financial year:

| **No.** | **Client department** | **Description** | **Period** | **Month to which claim relates** | **Date issued** | **Amount as per schedule** |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Department of International Relation and Corporations | Claims Recoverable-CA | 2009/2010 | Apr-09 | 13-Jun-11 | R 50 756,19 |
| 2 | 2009/2010 | May-09 | 13-Jun-11 | R 6 384,00 |
| 3 | 2009/2010 | Jun-09 | 13-Jun-11 | R 90 056,90 |
| 4 | 2009/2010 | Aug-09 | 13-Jun-11 | R 14 318,40 |
| 5 | 2009/2010 | Oct-09 | 13-Jun-11 | R 29 820 549,78 |
| 6 | 2009/2010 | Nov-09 | 13-Jun-11 | R 7 159,20 |
| 7 | 2009/2010 | Dec-09 | 13-Jun-11 | R 2 090 344,98 |
| 8 | 2009/2010 | Feb-10 | 13-Jun-11 | R 3 293 961,45 |
| 9 | 2009/2010 | Mar-10 | 13-Jun-11 | R 1 032 085,57 |
| 10 | 2010/2011 | May-10 | 13-Jun-11 | R 11 338,61 |
| 11 | 2010/2011 | Jun-10 | 13-Jun-11 | R 6 074 002,68 |
| 12 | 2010/2011 | Jul-10 | 13-Jun-11 | R 12 630 281,02 |
| 13 | 2010/2011 | Aug-10 | 13-Jun-11 | R 47 663,40 |
| 14 | 2010/2011 | Sep-10 | 13-Jun-11 | R 12 628 464,29 |
| 15 | 2010/2011 | Oct-10 | 13-Jun-11 | R 148 855,41 |
| 16 | 2010/2011 | Dec-10 | 20-Mar-12 | R 168 336,22 |
| 17 | 2010/2011 | Feb-11 | 20-Mar-12 | R 129 208,77 |
| **Total** |  |  |  |  |  | **R 68 243 766,87** |

b)    Governing Printing Works paid the money (illustrated in table below) before the project was started. This is a contravention of Treasury Regulations 15.8.1 which states that at the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund. At the end of 31 March 2009, the amount of R1 106 295, 66 was not spend yet and should have been paid back to Government Printing Works to surrender it to National Treasury instead of keeping it at PMTE to defray future charges.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Description** | **Month in which relates** | **Date issued** | **Date amount received** | **Amount claimed as per Z59 and received** |
| 1 | Government Printing Works | Claims Recoverable-CA | May-09 | 12-Jun-09 | 22-Jan-09 | R 86 752,52 |
| Jun-09 | 13-Jun-09 | 22-Jan-09 | R 444 155,40 |
| Jun-09 | 03-Aug-09 | 22-Jan-09 | R 328 544,22 |
| Aug-09 | 16-Sep-09 | 22-Jan-09 | R 246 843,52 |
| **Total** | | | | | | **R 1 106 295,66** |

c)    The supporting documentation for the following transactions were requested but not submitted for audit purposes, resulting in a limitation of scope for Claims recoverable CA. :

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Period** | **Month** | **Name of client department** | **Amount** |
| **1** | 2010/2011 | Mar-11 | Department of International Relation and Corporations | -R 8 674 937,21 |
| 7 | 2007/2009 | Mar-08 | Department of Corporate Governance and Traditional Affairs | R 23 187,66 |
| 8 | 2008/2009 | Sep-08 | R 12 865,72 |
| 9 | 2008/2010 | Mar-09 | R 69 813,39 |
| **Total** | | | | **-R 8 569 070,44** |

d)    The following differences were noted between the invoiced amount as per schedule, and the Z59 issued to the client departments:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Month in which relates** | **Date issued** | **Amount as per schedule** | **Schedule amount including management fee** | **Amount claimed as per Z59** | **Difference between the schedule and Z59** |
| 1 | Department of Corporate Governance and Traditional Affairs | 1- April 2006 - 30 September 2006 | 16-Jan-07 | R 49 039,68 | R 1 010 924,90 | R 951 199,38 |  |
| R 343 594,28 |
| R 461 443,71 |
| R 108 707,95 |
| **Total** | | | | **R 962 875,62** | **R 1 010 924,90** | **R 951 199,38** | **R 59 725,52** |

e)    The following transactions were for municipal services but were included in the Claims Recoverable: CA account. Upon enquiry from PMTE officials, they indicated that in 2006/07 Claims Recoverable CA and Municipal Services were recorded in the same account. In 2008 these two accounts were separated, however these transactions have not been allocated to the correct account as at year end.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Description** | **Month in which relates** | **Date issued** | **Amount claimed as per Z59** |
| 1 | Department of corporate Governance and Traditional Affairs | Municipal services | 1- April 2006 - 30 September 2006 | 16-Jan-07 | R 951 199,38 |
| 2 | 1 October 2006 - 31 December 2006 | Not indicated | R 674 643,88 |
| 3 | 1-31 January 2007 | Not indicated | R 135 751,35 |
| 4 | 1-28 February 2007 | Not indicated | R 390 510,75 |
| 5 | 1-31 March 2007 | 15-May-07 | R 17 564,03 |
| 6 | 1-30 April 2007 | 07-Jun-07 | R 365 253,79 |
| **Total** | | | | | **R 2 534 923,18** |

g)    The following transactions were indicated as no project with a credit balance, reducing the claims recoverable CA balance. Based on the documentation submitted, there was no indication that this was an advance amount for the projects to be completed, or that these amounts were initially incorrectly allocated to claims recoverable CA and therefore the following transactions were processed to correct that error.

Therefore based on the inspected supporting documentation, claims recoverable CA at the end of 31 March 2011 was understated by R16 959 381, 32.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Month in which relates** | **Amount as per schedule** | **Amount per supporting documents** | **Notes** |
| 1 | No project | Not indicated | R 16 959 381,32 | R 14 966 580,00 | (i) |
| R 11 500,00 | (ii) |
| R 12 357,68 | (iii) |
| R 1 968 943,64 | (iv) |
| **Total** |  |  | **R 16 959 381,32** | **R 16 959 381,32** |  |

(i)            R14 966 580,00  was received from Home Affairs on 31 March 2011 for work performed by Pretoria region on Hallmark buildings, there was also a letter from  the Director General Mr Vukela dated 17 March 2011 requesting department of Home Affairs pay amount this amount.

(ii)           An amount of R11 500,00 was paid by National Department of Public Works for work done in George Municipality; this request should have been sent to Western Cape Provincial Department.  PMTE could not claim this amount from Western Cape Provincial department; it is not clear how it was allocated as credit balance in the claims recoverable CA account.

(iii)          An amount of R12 357, 68 was received from the department of Agriculture and they informed that it was for the salary claim for an employee with a payment 21815739.The supporting documentation does not indicate why Claims Recoverable CA was then credited.

(iv)         An amount of R1 968 943, 64 was received on 29 March 2011 from Department of Justice, documents submitted do not indicate what was this money for or why Claims Recoverable: CA was credited.

h)    The following amounts relate to Z59 claims review that did not have dates of issue indicated:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Date issued per schedule** | **Date issued per Z59** | **Name of client department** | **Amount** |
| 1 | Oct-06 | Not Indicated | Department of Corporate Governance and Traditional Affairs | R 496 530,46 |
| 2 | Nov-06 | Not Indicated | R 14 770,25 |
| 3 | Dec-06 | Not Indicated | R 131 206,79 |
| 4 | Jan-07 | Not Indicated | R 129 287,32 |
| 5 | Feb-07 | Not Indicated | R 371 512,92 |
| **Total** | | | | **R 1 143 307,74** |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

PMTE is operating without policies and procedures, where not all reconciliations for each client departments are done; or where they are reconciled no proper review is performed.

There is no monitoring for compliance with all laws and regulations and where non compliance has been identified no action is taken against officials who did not comply.

The opening balances of claims recoverable CA may be misstated as no assurance that all expenditure incurred were claimed from client departments

The opening balances of municipal services may be misstated as some claims are still recorded as claims recoverable CA

The above findings have an impact in the increasing of the bank overdraft, expenditure payments are continually made, but claims are either issued late or not issued at all.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not 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 entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

Management did not implement proper procedures to ensure that the changes were made and signed by the relevant procedures

**Recommendation**

Prior year error adjustments should be clearly disclosed for all Z59’s issued to the client departments in the current year, which relate to prior years.

Management should ensure that there is a safeguard pertaining documents when moving them during relocation and all supporting documentation should be provided for audit purposes.

Management should speed up the process of finalising policies and procedures and ensure these are communicated and understood by all employees.

The procedures should include the source document design of the Z59.such as it should be in sequence, printed in triplicate, a space for appropriate signature, etc.

Management should perform reconciliation between WCS and PMIS to the Z59’s issued for each client department, to enable them to properly differentiate between amounts that relate to Claims Recoverable: CA and amounts that should be transferred to Municipal Services account, and these reconciliation should be reviewed director/chief director and follows be made on time on a monthly basis.

 Money received before the projects are started should be paid back to the client departments and the client departments can then apply from National Treasury for funds to be rolled over to the next accounting period if needs be.

**Management response**

Audit Finding A

We do not agree with the finding. The client requested the breakdown of outstanding balance (refer to ANNEXURE A). The original claims were sent to the client during 2010/11 and 2011/12 financial year. They claimed that they no longer have the Z59 claims supporting the balance; therefore they requested that we should provide them with the copies of Z59 claim to support the balance. The Z59 claims which are included in the finding issued by AG are part of the breakdown balance that was requested by the client. It was not clear whether there was a date stamp or not on copies of Z59 which we submitted at that time because sometimes we experience problems with our printers and they do not copy documents properly and that is why they were stamped again. The date stamp on Z59 claims which the auditors assumed is the date for which the claim was issued is not an indication that the claims were issued on that date as per the audit finding

Audit Finding B

Journal number 2588 was passed for an amount of R 2 415 816.10 which was received as an advance from Government Printing Works in January 2009 for upgrading of power supply and other projects. The money was not fully utilized by the end of March 2009 but the upgrading of power supply project was completed. The remaining balance of R 1 106 295, 66 was utilized in 2009/10 financial year in May, June and July 2009 for other projects as it was intended. The amounts were cleared with journal number 2617, 2618, 2619 and 2620. We do not agree with the finding as the Internal MEMO which was received from Ms. V Netshifhefhe from Key Accounts Management on 8 January 2009 indicates that the advance can be used even beyond 31 March 2009 for other projects that were not of concern at the time when the advance was received. See ANNEXURE B for the memo.

Audit Finding C

 a)    The CA supporting documents for the amounts in the table below was not received according to the audit finding issued by Auditor General. We do not agree with the finding.

|  |  |  |
| --- | --- | --- |
| No. | Name of client department | Amount |
| 1 | Department of International Relation and Corporations | R 8 674 937,21 |
| 2 | Government Printing | R 2 899 891,50 |
| 3 | Department of Corporate Governance and Traditional Affairs | R 1 804 233,61 |
| 4 | Department of Corporate Governance and Traditional Affairs | R 17 564,03 |
| 5 | Department of Corporate Governance and Traditional Affairs | R 260 773,41 |
| 6 | Department of Corporate Governance and Traditional Affairs | R 146 116,73 |
| 7 | Department of Corporate Governance and Traditional Affairs | R 23 187,66 |
| 8 | Department of Corporate Governance and Traditional Affairs | R 12 865,72 |
| 9 | Department of Corporate Governance and Traditional Affairs | R 69 813,39 |

1.    Part of the journal requested, Journal number 3544 amounting to R 2,624.39 was processed in Cape Town Regional office and Journal number  3746 which amounts to R 8 672 312.82 has been found and it will be submitted.

2.    The Z59 claim which amounts to R 2 899 891.50 and Journal number 1371 and for R 69 813.39 were erroneously omitted from request number 74 that was submitted to Auditor General on 12 April 2012. The claim has been found and they will be submitted to AG.

3.    Te amount of R1 804 233.61 is the difference between the expenditure for April 2007 of R 347 860.75 and the amount received in April 2007 of R 2 152 094.36 as per the schedule submitted to the auditors. The amount received in April 2007 was paying some of the outstanding balances from the previous financial year and they were cleared as per our reports. The debit/credit note of R 2 152 094.36 and the Z59 claims were submitted  and signed for AG. We recommend that, there should be a communication between auditors and the client so that we can be able to clarify issues that are not clear to the auditors before they raise a finding, this could help them to have all the facts and this could make it easier for them to have time to test the information requested as we were aware two months later that request number 74 is incomplete.

4.    The Z59 claim and the debit credit note of R17 564.03 were submitted to Auditor General and signed by representative of AG acknowledging the receipt of the requested documents according to our register of information submitted to AG.

5.    The Z59 claim of R 365 253.79 and the debit/credit note of the same amount were submitted to AG. The amount of R 260 773.41 is the difference between the adjustment of R 104 480.34 and R 365 253.79 in July 2007 as per the schedule submitted to the auditors. The R 365 253.79 is a payment received for April 2007.

6.    A copy of the Debit/credit note of R 146 116.73 was rejected by AG by saying that they want an original. A journal was drawn from Batch room of which the original debit/credit note was attached. We informed AG by email ( see ANNEXURE C) and telephonically that the original  debit/credit are available, they can come and audit them at our office as agreed between us and AG and they did not come.

7.    The journal that amounts to R 23 187.66 was passed to allocate the 5% management fee. The journal will be submitted.

8.    The auditors were informed when submitting request number 74 that the amount of R 12 865.72 relates to journal number 4327 and 4548 which were passed by Cape Town Regional Office. We suggested that they can request it through their own office in Cape as they informed us they do not audit copies so that they can verify it on their behalf.

9.    The journal number 1371 which amounts to R 69 813.39 is part of audit adjustments that were passed in 2008/2009 financial year. The journal will be submitted. It was erroneously omitted from request number 74.

Audit Finding D

The amount as per the schedule of opening balances does not include management fee of 5% which is charged on Z59 claims which are issued to the client departments hence the differences. A claim of R 951 199.38 for September to October 2006 was issued instead of R 1 010 925.11.

Audit Finding E

We do not agree with the finding as some of these amounts as indicated in the finding were cleared against the amount of R 2 152 094.36 that was received on 23 July 2007 from COGTA. Auditor General requested that the balances for municipal services that were interfacing under claims recoverable: CA account should be transferred to claims recoverable: municipal services account. The balance of R 69 813.39 at the end of March 2009 was transferred from CA to Municipal services account. Journal number 1371 was used to transfer the balance.

Audit Finding G

We do not agree with the finding, the amount of R 14 966 580.00 and R1 968 943.64 was incorrectly posted by Pretoria regional office to NO PROJECT suspense account on 31 March 2011 using journal number 3675 and 3731. On completion of the investigation by the Regional Office both amounts were taken out of NO PROJECT suspense account through journal number 4641 on 31 October 2011. The amount of R 11 500.00 is currently under investigation by Cape Town Regional Office. Please find the attached email communication.

Audit Finding H

We do not agree with the finding. During the reconstruction of debtors, some of the original Z59 claims were not found for 2006/2007 financial year that had dates. Therefore we used the electronic claims that did not have dates as part of our reconstruction of debtors. The payment of these claims was received in April 2007. The debit/credit note of R 2 152 094.36 was submitted to the auditors.

**Auditor’s conclusion**

Audit Finding a)

Management response noted, however we reviewed the detailed debtors listing at 31 March 2012 and noted that these invoices are still unpaid at the end of the current year, therefore the amount should have been  included in the provision for impairment. As this was not done, we believe that Claims Recoverable CA is overstated and the finding remains, it will reported in the management report

Audit Finding b)

Management comment noted. The internal memo referred to in management's response does not state that the amount should have been retained by PMTE, it merely indicates that Government Printing Works deposited an amount, of which R159 435,00 was for the upgrade of power supply. The finding therefore remains and will be reported in the management report.

Audit Finding c)

c1)  Journal number 3544 amounting to R 2,624.39 was not provided for audit purposes. Journal number 3746 which amounts to R 8 672 312,82 was submitted. However the only supporting documentation submitted with this journal was the allocation schedule and BAS report, therefore the finding remains and will be reported in the management report.

c2)  The journal was not provided, therefore the finding remains and a limitation will be reported  in the management report.

c8) The journal was not provided, therefore the finding remains and a limitation will be reported  in the management report

c8) Inspected the journal number 1371 provided and there is no supporting documentation attached indicating the amount of R69 813,39 therefore the finding remains and a limitation will be reported  in the management report

Audit finding d)

Management response noted, cognisance is taken of the fact that management agrees that the amount per Z59 is incorrect. The finding will be reported in the management report.

Audit Finding e)

Cognisance is taken of management's response, the municipal services amount is R 2 534 923,18. As per the response the amount received is R2 152 094,36, and the amount transferred to Municipal services was R 69 813,39. However, the remaining R 313 015,43 remains unreconciled,  therefore the finding remains and will be reported in the management report.

Audit Finding G

Cognisance is taken of management’s response, however as the documentation supporting the statements made in the response were not provided, we are unable confirm that these journals were correctly processed, therefore the finding remains, and will be reported in the final management report.

Audit Finding H

Cognisance is taken of management’s response, however management response for (e) indicated that the payment amount indicated was used to clear those claims. The same payment would not be able to be used to settle both sets of claims. This finding remains and will be included in the final management report.

1. **Prepayments not identified and accounted for in accordance with SA GAAP**

**Audit Finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Paragraph 22 the International Financial Reporting Standards (IFRS) Framework stipulates that *the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.*

The following matters were identified:

1. It was noted in a few instances through substantive testing that payments were made in March for expenditure which relates to April in both the 2012 and 2011 financial years. These amounts were accounted for as expenditure in the year in which they were paid, however as per the Framework, these should be classified as prepayments. This is indicative of a control deficiency within the entity as expenditure is not accounted for in the correct financial year and constitutes a contravention with the prescripts of the applicable accounting framework. Prepayment schedules were thus requested for all regions. The following amounts were identified from the responses received for the respective regions:

| **No.** | **Region** | **2012 Prepayment** | **2011 Prepayment** |
| --- | --- | --- | --- |
| 1 | Johannesburg | 20,487,947.00 | 19,723,750.70 |
| 2 | Bloemfontein | 5,394,867.18 | 9,490,590.17 |
| 3 | Durban | 22,169,840.98 | 18,875,626.50 |
| 4 | Kimberley | 3,702,157.73 | 3,798,242.64 |
| **Total** |  | **51,754,812.89** | **51,888,210.01** |

No responses were received for the regions not indicated above.

The impact of this finding is the following:

1. The prepayments were not recorded and disclosed in the annual financial statements either in the current year or in any previous years; whereas it is clear from the figures in the table above (which is not even complete) that it is a standard practice for the PMTE to effect prepayments.
2. Prepayments for the current financial year and the 2011 and 2010 comparatives are therefore understated by an indeterminable amount and correspondingly the affected expenditure accounts are overstated. As there is no system in place to identify and record prepayments we are not able to determine which expenditure accounts are affected.
3. This results in a limitation of scope and the audit report will be modified in respect of this matter.

The above findings are an indication of the control weaknesses within the operations of the PMTE. Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP, and is still in a lot of instances using information that was compiled on the cash basis of accounting in preparing their annual financial statements, which should in fact have been prepared on the accrual basis of accounting.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not 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 entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Recommendation**

Management should ensure that:

1. all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
2. the standards and principles of SA GAAP are applied in the preparation of the financial statements;
3. transactions are recorded in the period in which they occur, and not in the period in which payment is made.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | None for the period under review. | | |
| 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 | The responses on prepayments from the regions are incomplete. Reallocation of prepayment journals will thus not be processed as we are not sure of the completeness of prepayments. However, going forward IT will be approached to generate a monthly prepayment report. | | |
| Position of official responsible to take corrective action | N/A | | |
| Estimated completion date of 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 |  | | |
|  |  |  |  |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date: 19/7/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that the annual financial statements were adjusted to account for prepayments. The adjustment was not supported by any actual data, but was merely an estimate. This matter will be included in the final management report, and considering the materiality of the amount, it will result in a modification of the auditor’s opinion.

1. **Debtors – Municipal Services**

**Audit Finding**

Section 41 of Public Finance Management Act states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue*

During the performance of the audit the following discrepancies were identified pertaining to amounts disclosed in Note 3 (Trade and other receivables [Debtors – Municipal Services]) to the annual financial statements.

1. Amounts on the age analysis schedule submitted to support the annual financial statements do not agree to the amount disclosed in the financial statements

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Municipal services: All Client departments** | **Amount per list** | **Amount per financial statements** | **Difference** |
| 1 | < 1 year | R 192 402 374,35 | R 358 867 000,00 | -R 166 464 625,65 |
| 2 | 1-3 years | R 159 258 602,69 | R 123 197 000,00 | R 36 061 602,69 |
| 3 | > 3 years | R 67 354 816,99 | R 92 331 000,00 | -R 24 976 183,01 |
| Total | | R 419 015 794,03 | R 574 395 000,00 | -R 155 379 205,97 |

1. The age analysis included a column for Disputes, which relates to instances where client departments have disputed whether they are responsible for those buildings for which Municipal Services are being charged. The ageing for these disputed amounts has not been detailed. In addition to Disputes, the following amounts are not included in the ageing analysis schedule:

| **No.** | **Description** | **Amount** |
| --- | --- | --- |
| 1 | 2009/10 not claimed | R 21 694 045,70 |
| 2 | 2010/11 not claimed | R 13 695 073,03 |
| 3 | 2011/12 not claimed | R 13 721 195,68 |
| 4 | Home affairs (proof of payments received) | R 20 962 150,04 |
| 5 | Claims to be re-issued (SARS + SITA) | R 7 827 360,56 |
| 6 | Disputed properties | R 7 693 205,95 |
| 7 | Plant operator Umtata | R 60 000,00 |
| 8 | Unknown difference between BAS TB and Ageing analysis | R 14 666 424,59 |
| Total | | **R 100 319 455,55** |

It is unclear where these amounts as well the Dispute amounts should be allocated in the ageing, thus we could not confirm the accuracy of the ageing as per the Annual Financial Statements.

1. The amounts invoiced as per detailed debtors listing schedule do not agree to the amount as per the invoice (Z59) issued to the client departments.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Invoice no.** | **Period** | **Month** | **Amount claimed as per detailed debtors listing** | **Amount claimed as per Z59** | **Difference between the schedule and Z59** |
| 1 | Sports and Recreation | Z59/SRSA/2011/05/01 | 2011/12 | May | R 151 380,41 | R 35 136,98 | R 116 243,43 |
|  | **Total** |  |  |  | **R 151 380,41** | **R 35 136,98** | **R 116 243,43** |

1. The municipal services amounts received as per the detailed debtors listing schedule do not agree to the proof of receipts submitted for audit purposes.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Period** | **Month** | **Date amount was received** | **Amount received per Debtors Listing** | **Amount received as per bank statement or proof of payment from client department** | **Difference between Bank statement and Schedule amounts** |
| 1 | SA Micro Apex Fund | 2011/12 | February | 08-Mar-12 | R 0,00 | R 28 678,08 | R -28 678,08 |
|  | **Total** |  |  |  | **R 0,00** | **R 28 678,08** | **R -28 678,08** |

1. Request for Information (RFI) 154 was issued to request the Z59’s, bank statements, allocation schedules, credit notes and all other relevant information supporting the transactions of Municipal Services, however for the transaction listed below no documentation was submitted:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Financial year** | **Expenditure Month** | **Expenditure per PMIS download** | **Amount claimed per detailed debtors listing** | **Difference** |
| 1 | Basic education | 2011/2012 | January | 3 407,61 | - | 3 407,61 |
| Total | |  |  | 3 407,61 | - | 3 407,61 |

Furthermore it was determined through discussion with management that the above amount was not claimed from the Department of Basic Education due to the fact that the department is disputing the claim stating that the department is not occupying the building in which the municipal expenditure was incurred. However through inspection of the financial statements it was noted in Note 3 that the closing balance of municipal services includes the expenditures not claimed against Basic education.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

This has resulted in disclosure in the financial statements not being accurate.

Claims on disputed properties may not be recoverable.

The closing balances of municipal services are overstated.

**Internal control deficiency**

**Leadership**

## The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

The entity 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**

1. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes..
2. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
3. Management should create a new account to account for all claims on disputed properties, and verifiable supporting documentation must be readily available to substantiate the transactions included.
4. The transaction listing schedule should be agreed to the supporting documentation to ensure that all transactions are valid, accurate and complete
5. Management should ensure that all claims sent to the client department agree to the expenditure as per the PMIS download and thorough reviews should be carried before a claim is sent. Differences noted should be followed up and corrected accordingly.
6. Management should reconcile the claims sent to the client department to supporting documentation and expenditure as per the PMIS download on a monthly basis and ensure it agrees, differences noted should be followed up and corrected accordingly.
7. Management should ensure ,if over or under billing occurs, that the client department is informed of the error, and on PMTE’s side the correct accounting principles in terms of SA GAAP should be applied to correct the error. The client department’s account should reflect the correction in the following claim.

**Management response**

Audit Finding a)

I am in agreement with the finding, The amount disclosed in the financial statements is correct; the schedule will be adjusted to be in line with the figure.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | The age analysis schedule is corrected | | |
| 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 | Assistant  Director | | |
| Estimated completion date of corrective action: | 10 August 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 | Root cause is not provided. | | |

Name: Sipokazi Ngamlana

Position: Director

Date: 31/7/2012

Audit Finding b)

I am in agreement with the finding the amounts will be included in the age analysis.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | The age analysis schedule is corrected | | |
| 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 | Assistant  Director | | |
| Estimated completion date of corrective action: | 10 August 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 | Root cause is not provided. | | |

Name: Sipokazi Ngamlana

Position: Director

Date: 31/7/2012

Audit Finding c)

I am in agreement with the finding due the fact that amount claimed for May 2012 was R35 136,98 as per Z59 inclusing management fee not R151 380.41 as per debtors listing, it was due typing error.  The matter has been addressed and correction has been made.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | The mistake has already been corrected on the recoveries schedule. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? | Adjust 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 | Assistant  Director | | |
| Estimated completion date of corrective action: | 10 August 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 | Root cause is not provided. | | |

Name: Patricia Masiko

Position: Assistant Director

Date: 31/7/2012

Audit Finding d)

I am not in agreement  by  Auditor General for SAMAF due  to the   fact  that the  date used as the date amount was received is not actually the date the amount was received  is not  actually  the date the amount was received it is the date the invoice was signed. The claim for February 2012 was signed on the 8 March 2012 and these date used Auditor General to raise these audit.

Audit Finding e)

I am not in agreement with the audit finding with the fact that we have indicated to Auditor General that we cannot provide any of the documents requested because the client is disputing to take responsibility and we are still doing investigations as to whom we  should recover from.

**Auditor’s conclusion**

*Audit Finding a)*

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. As the updated age analysis was not included with the response, we were unable to confirm that it has been corrected. The finding thus remains and will be reported in the final management report

*Audit Finding b)*

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. As the updated age analysis was not included with the response, we were unable to confirm that it has been corrected. The finding thus remains and will be reported in the final management report

*Audit Finding c)*

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. As the updated age analysis was not included with the response, we were unable to confirm that it has been corrected. The finding thus remains and will be reported in the final management report

*Audit Finding d)*

Inspected the bank statement, and confirmed that the date that the amount was received was 30 March 2012 which is before the year end. The Municipal debtors balance is therefore overstated; the audit finding will be reported in the management report.

*Audit Finding e)*

Management response noted, however management should ensure that all disputes are resolved before the year end to ensure that the amount is recovered within the current year taking into account that the departments are required to surrender unused funds to National Treasury at the end of the reporting period. As a result PMTE  may not be able to recover the expenditure already incurred which then increases the bank overdraft, the finding remains and will be reported to management report

1. **Misstatements in PACE figures disclosed in the financial statements**

**Audit Finding**

1. During the performance of the audit the following differences were noted in Note 3 (Trade and other receivables [Claims recoverable - PACE) to the annual financial statements.

Amounts on the age analysis schedule supplied for audit purposes do not agree to the amount disclosed in the financial statements

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **PACE: All Client departments** | **Amount per list** | **Amount per financial statements** | **Difference** |
| 1 | < 1 year | R 361 233 494,21 | R 393 540 000,00 | -R 32 306 505,79 |
| 2 | 1-3 years | R 2 633 781,08 | R 2 869 000,00 | -R 235 218,92 |
| 3 | > 3 years | R 0,00 | R 0,00 | R 0,00 |
| Total | | R 363 867 275,29 | R 396 409 000,00 | -R 32 541 724,71 |

1. Inspected the detailed ageing analysis schedule provided and noted that the ageing includes negative amounts. This indicates that payments made in Advance are not cleared against invoices issued, thus distorting the ageing.

|  |  |  |
| --- | --- | --- |
| **Description** | **Ageing** | |
| **1year** | **Adjustments** |
| Agriculture, Forestry and Fisheries | -R 174 981,99 | R 0,00 |
| Arts and Culture | -R 443 315,15 | R 0,00 |
| Defence | -R 3 428 746,11 | R 0,00 |
| Home Affairs | -R 1 146 035,21 | -R 0,19 |
| Justice and Constitutional Dev | R 0,00 | -R 4 534 480,47 |
| Labour | -R 361 651,32 | R 0,00 |
| SA Police Services | R 0,00 | -R 1 978 992,56 |
| Total | **-R 5 554 729,78** | **-R 6 513 473,22** |

1. Inspected the ageing analysis and noted that it includes an “Adjustments” column and the ageing of these adjustments as detailed in the following table were not analysed:

| **No** | **Client department** | **Amount** |
| --- | --- | --- |
| 1 | Defence | R 37 078 722,00 |
| 2 | Home Affairs | -R 0,19 |
| 3 | Justice and Constitutional Dev | -R 4 534 480,47 |
| 4 | Labour | R 0,59 |
| 5 | Public Works | R 35 036,22 |
| 5 | Rural Dev and Land Affairs | -R 0,63 |
| 6 | SA Police Services | -R 1 978 992,56 |
| **Total** |  | **R 30 600 284,96** |

The adjustments for the Department of Defence were audited and based on the inspected documentation these adjustments relate to journals processed to correct errors such as fund level misclassifications. Thus it is unclear where this amount was included in the ageing analysis as presented in the financial statements.

1. During the testing of the ageing, the following difference was noted between the ageing analysis as disclosed in the debtors listing schedule and inspected supporting documentation:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Ageing per schedule** | **Transaction date** | **Ageing per source documentation** | **Amount** |
| 1 | Correctional Services | less than 1 year | 29 March 2011 | 1 to 3 years | R 1 137 185,71 |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

Adjustments made in the preparation of the annual financial statements are not included in the age analysis.

This has resulted in disclosure including ageing in the financial statements not being accurate.

An inaccurate ageing analysis will affect the provision for impairment calculation.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

**Recommendation**

1. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.
2. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
3. Adjustments made in the preparation of the annual financial statements should be supported by sufficient evidence to enable ageing to be performed accurately.
4. Payments received from client departments should be allocated to invoices issued to ensure ageing analysis is accurate.

**Management response**

Management response has not been received.

**Auditor’s conclusion**

No management response was received. This matter will therefore be reported in the management report.

1. **Limitation of scope: Disallowances**

**Audit Finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
3. Section 38(c) states that *The* *Accounting Officer must take effective and appropriate steps to collect all revenue due to the public entity concerned*
4. *Treasury Regulation 17.1.1 stipulates that all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
5. Treasury Regulation 7.2.1 further states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*
6. In terms of Treasury Regulation 11.4, the following is stated:

“*11.4.1 An accounting officer may only write off debts owed to the State if he or she is satisfied that—*

*a) All reasonable steps have been taken to recover the debt and the debt is irrecoverable; or*

*b) He or she is convinced that—*

*(i) Recovery of the debt would be uneconomical;*

*(ii) Recovery would cause undue hardship to the debtor or his or her dependants; or*

*(iii) It would be to the advantage of the State to effect a settlement of its claim or to waive the claim.”*

*;*

The following matters were identified:

1. All documentation supporting the following transaction was requested. The only documentation provided was the WCS expenditure report and the letter from the office of the State Attorney dated 10 December 2004. This letter states that the debt should be written off however it does not indicate the name of the debtor, amount of the debt or authorising signature, therefore could not confirm existence, valuation and rights of the amount indicated:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Reference** | **Debtor** | **Categories** | **Date** | **Amount** |
| 1 | AP288316 | Not mentioned | Disallowance Miscellaneous | 28-Jul-10 | R 33 876,83 |

There are no policies and procedures for the accounting of disallowances.

No follow ups are done on disallowances balances

No thorough management review is done on disallowances to confirm that each debtor exists and is correctly valued.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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.

The entity 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

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

**Recommendation**

1. Policies and procedures on disallowances should be finalised as soon as possible and communicated to all staff and management should ensure that each employee is aware and understands it.
2. Management should review each transaction on the disallowance account and refer all long outstanding balances to legal and litigation unit on a monthly basis for assessment of potential write-offs.
3. Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
4. The information requested should be submitted without further delay.

**Management response**

The department is not in agreement with the finding that there are no proper record keeping ensuring complete and relevant information is accessible and available to support financial and support financial and performance reporting because the supporting documents in question are available and attached.

Disallowance transactions are reconciled on monthly basis and follow ups are made to relevant stakeholders. Submissions are in progress for write offs on long outstanding cases.

**Auditor’s conclusion**

Management comment noted, and cognisance is taken of the fact that some supporting documentation was attached to the response. The supporting documentation attached indicates that a payment was made on 1 March 2003. There is no documentation attached which indicates that this debt was subsequently handed over to the State Attorney, nor was there evidence that interest was charged on this long outstanding debt. We were therefore unable to perform our required procedures, thus the limitation remains, and will be reported in the final management report.

1. **Misstatements of Provision for Impairment**

**Audit Finding**

IAS 39 paragraph 58 states, “*An entity shall assess at the end of each reporting period whether there is any objective evidence that a financial asset or group of financial assets is impaired.*

*If any such evidence exists, the entity shall apply paragraph 63 (for financial assets carried at amortised cost), paragraph 66 (for financial assets carried at cost) or paragraph 67 (for available-for-sale financial assets) to determine the amount of any impairment loss*.”

IAS 39 paragraph 63 states, “*If there is objective evidence that an impairment loss on loans and receivables or held-to-maturity investments carried at amortised cost has been incurred , the amount of the loss is measured as the difference between the asset’s carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the financial asset’s original effective interest rate (i.e. the effective interest rate computed at initial recognition). The carrying amount of the asset shall be reduced either directly or through use of an allowance account. The amount of the loss shall be recognized in profit or loss*.”

IAS 39 paragraph 64 states, “*An entity first assesses whether objective evidence of impairment exists individually for financial assets that are individually significant, and individually or collectively for financial assets that are not individually significant (see paragraph 59). If an entity determines that no objective evidence of impairment exists for an individually assessed financial asset, whether significant or not, it includes the asset in a group of financial assets with similar credit risk characteristics and collectively assesses them for impairment. Assets that are individually assessed for impairment and for which an impairment loss is or continues to be recognised are not included in a collective assessment of impairment*.”

IFRS 7.37 states that *an entity shall disclose by class of financial asset:*

*(a) an analysis of the age of financial assets that are past due as at the end of the reporting period but not impaired;*

*(b) an analysis of financial assets that are individually determined to be impaired as at the end of the reporting period, including the factors the entity considered in determining that they are impaired*

In terms of Treasury regulations 11.4, the following is stated:

“*11.4.1 An accounting officer may only write off debts owed to the State if he or she is satisfied that—*

*a) All reasonable steps have been taken to recover the debt and the debt is irrecoverable; or*

*b) He or she is convinced that—*

*(i) Recovery of the debt would be uneconomical;*

*(ii) Recovery would cause undue hardship to the debtor or his or her dependants; or*

*(iii) It would be to the advantage of the State to effect a settlement of its claim or to waive the claim.”*

*11.4.2 An accounting officer must ensure that all debts written off are done in accordance with a write off policy determined by the accounting officer.*

*11.4.3 All debts written off must be disclosed in the annual financial statements, indicating the policy in terms of which the debt was written off*.”

The following matters were identified:

Note 3 Provision for impairment of the March 2012 annual financial statements is as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Annual Financial Statements** | **2012** | **2011** | **2010** |
| Opening balance | R 220 296 000 | R 296 488 000 | R 130 471 000 |
| Movement period | R 195 159 000 | -R 76 192 000 | R 166 017 000 |
| **Total** | **R 415 455 000** | **R 220 296 000** | **R 296 488 000** |

The above provision for impairment has been calculated as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Description** | **Amount** | **Notes** |
| 1 | Claims recoverable - CA | R 0,00 |  |
| 2 | Claims recoverable - PACE | R 2 633 781,08 | g i) |
| 3 | Debtors - Municipal Services | R 198 807 913,80 | g ii) |
| 4 | Accommodation charge: Private leases | R 54 343 617,79 | g iii) |
| 5 | Accommodation charge: State owned | R 22 450 358,39 | g iv) |
| 6 | Disallowance: Recovery CA | R 20 312 594,20 | g v) |
| 7 | Disallowance: CA | R 26 997 848,27 | g vi) |
| 8 | Disallowance: Miscellaneous | R 89 908 591,46 | g vii) |
| Total | | **R 415 454 704,99** |  |

1. PMTE has not yet developed and implemented policies and procedures relating to the provision for impairment of debtors/write off of debtors.
2. The accounting policy states that trade and other receivables are measured initially at fair value and subsequently at amortised cost. The carrying amount of trade and receivables is net of the provision for impairment. The provision for impairment on receivables is calculated based on available information which indicate that the amount receivable are impaired, e.g. liquidation of the debtor. In addition, amounts outstanding for longer than three years are considered as the provision.
3. In the prior years, the provision for impairment was calculated by only taking into account the disallowances balances. In the current year, it was noted that the assessment for impairment also included claims recoverable. Client departments are required to surrender unused funds to National Treasury, therefore they may not be able to pay PMTE for previous years outstanding balances, however management should consult National Treasury on what steps are to be followed to recover the amount or process to write off these debtors.
4. It was also noted the provision of impairment for the prior period was not restated; therefore the current year movement may be incorrect taking into account that the provision for impairment for the prior year was incorrectly calculated by only taking into account disallowances balances without first assessing each individual debtor.
5. It was noted through the inspection of disclosures as required by IFRS 7.37 (b), that the factors that PMTE considered in determining that financial assets are impaired were not adequately disclosed.
6. In addition, the method used to calculate the provision is in contravention of IAS 39 paragraph 64, since an individual assessment was not done for each significant debtor, but rather all debtors of a specific age were included in the provision.
7. The following inconsistencies and inaccuracies in the calculations of provision for impairment were noted:
8. *Claims recoverable - PACE*

It was noted that for claims recoverable PACE, all the outstanding balances older than two years were included in the provision. This is not terms of the accounting policy which states that debts older than three years shall be considered as provision. In addition, this is in contravention of IAS 39 paragraph 64, since an individual assessment was not done for each significant debtor. We further noted that the ageing analysis for an adjustment amount of R30 600 284, 96 was not done, therefore provision for impairment may be understated by this amount.

1. *Debtors - Municipal services*

As per discussion with management, the provision relating to Claims recoverable Municipal services includes all debts that are older than three years, as well as amounts for the municipal services invoiced in the 2011-12 financial year relating to 2006-10 financial years.

We recalculated the provision for impairment based on the above methodology and the amount does not agree to our calculations, Refer to the following table for details:

|  |  |  |
| --- | --- | --- |
| **Provision for impairment as per the list** | **Recalculated provision for impairment** | **Differences** |
| R 198 807 913,80 | R 219 701 804,40 | -R 20 893 890,59 |

Inspected the ageing analysis for claims recoverable Municipal Services and noted that the following amount has not been included in the ageing and no assessment was done on whether impairment should have been provided or not, therefore impairment may be understated by the total amount of R100 319 455, 55 as detailed in the table below:

| **No.** | **Description** | **Amount** |
| --- | --- | --- |
| 1 | 2009/10 not claimed | R 21 694 045,70 |
| 2 | 2010/11 not claimed | R 13 695 073,03 |
| 3 | 2011/12 not claimed | R 13 721 195,68 |
| 4 | Home affairs (proof of payments received) | R 20 962 150,04 |
| 5 | Claims to be re-issued (SARS + SITA) | R 7 827 360,56 |
| 6 | Disputed properties | R 7 693 205,95 |
| 7 | Plant operator Umtata | R 60 000,00 |
| 8 | Unknown difference between BAS TB and Ageing analysis | R 14 666 424,59 |
| Total | | **R 100 319 455,55** |

1. *Accommodation debtors - Private leases*

Due to the reconstruction of lease debtors not being finalized, management will be unable to accurately assess the impairment of such debtors in line with the provisions of IAS 39 quoted above.

1. *Accommodation debtors - State owned*

It was noted that all balances older than two years were provided for impairment, which is not consistent with the accounting policy which indicates that amount older than three years is considered as irrecoverable.

1. *Disallowances Recovery CA*

It is not clear how the provision for the impairment has been calculated as the following differences are noted if the accounting policy is followed:

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Provision for impairment as per the list** | **Recalculated provision for impairment** | **Differences** |
| Disallowances Recovery CA | R 20 312 594,20 | R 18 723 351,33 | R 1 589 242,87 |

1. *Disallowances Current Account (CA)*

The total amount has been provided for and upon enquiry from management, we were informed that due to the fact that the account is used to record all costs incurred as a result of natural disasters and thus amounts cannot be recovered.

1. *Disallowances Miscellaneous*

All debts that are older than two years were considered as the provision. This is inconsistent with the accounting policy which says that amount older than three years.

Management did not implement the recommendations of the AGSA timeously to ensure the disclaimer of the prior year audit is addressed.

PMTE does not have an impairment policy in place which resulted in the above inconsistencies and inaccuracies.

The PMTE does not have enough officials with in-depth knowledge of accounting in accordance with the South African Statements of Generally Accepted Accounting Practice.

The provision for impairment is misstated by an indeterminable amount and will result in a modification of the audit report for figures pertaining to current and prior financial years.

**Internal control deficiency**

**Leadership**

Management did not establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities.

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

**Financial and performance management**

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

**Recommendation**

1. AGSA recommendations should be implemented and should be monitored in terms of the action plans on a monthly basis
2. Management should develop and implement policies and procedures for provisions for impairment as well as write-off of debts.
3. Management should identify all long outstanding balances owed by client departments and communicate with National Treasury to determine how PMTE will recover these long outstanding balances from the client departments.
4. Management should assess all significant debtors individually for impairment at each reporting date.
5. Management should prepare provision for impairment in terms of its accounting policy.
6. The chief director and the CFO should review the financial statements to ensure that they are in terms of SA GAAP.

**Management response**

1. Policies and procedures relating to the provision for impairment are in place.
2. The error in accounting policy should be corrected to read...”two years” in line with the impairment calculations.
3. Claims recoverable was not provided in the previous year for as no impairment assessment was performed.
4. Prior year figures should be restated to include claims recoverable.
5. Factors considered in providing for impairment are in the accounting policy.
6. Significant client departments, Dicro, GPW, etc., were assessed individually to provide for impairment.
7. (i)Agree with the finding and the error in accounting policy should be corrected to read…”two years” to in line with the impairment calculations.

(ii)Agree with the finding and the difference is the result of no provision being made in respect of the Department of Home Affairs.

(iii)Reconstruction of private leases has not been finalised, hence client assessments cannot be performed.

(iv)The error in accounting policy will be corrected to read…”two years’ in line with the impairment calculations.

(v)Agree with the finding, impairment was calculated on accounts older than two years.

(vi)Agree with the finding.

(vii)The error in accounting policy will be corrected to read…”two years’ in line with the impairment calculations.

(viii)An accounts receivable policy is in place, which includes impairment.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Customer billing to perform an assessment of significant client departments to determine impairment | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | Provision for impairment on Disallowances Recovery CA will be reduced by R 1,589,242.87 | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 16 August 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 |  | | |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date: 7/8/2012

**Auditor’s conclusion**

1. Management comment noted. Cognisance is taken that there is an accounting policy for the impairment of debtors, however a policy on how to identify debtors that may be impaired in a method which is consistent with the requirements IAS 39 was not in place at year end. Thus this finding will remain and will be included in the final management report.
2. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
3. Management comment noted. No comment has however been made with regards to whether any discussions have been held with National Treasury. The finding will be included in the final management report.
4. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
5. Management comment noted. Cognisance is taken of the fact that the accounting policy indicates all debts over three years will be considered. However, this was not consistently applied, nor is it in line with the requirements of IAS 39. The finding will be included in the final management report.
6. Management comment noted. No disclosure was made of the fact that individually significant debtors were considered individually, as well as the factors considered for these debtors. The finding thus remains and will be included in the final management report.
7. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
8. **Misstatements in the Accommodation debtors – Private leases**

**Audit Finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
3. Treasury regulations 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
4. Treasury regulations 7.2.1  furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*
5. Treasury Regulations 15.8.1 states that *at the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund.*

The following matters were identified:

A) For the following transactions listed, actual lease expenditure paid as per PMIS does not agree to the invoice (Z59) amounts issued to the client departments:

| **No** | **Client department** | **Quarter/Month** | **Amount per invoice** | **Amount as per PMIS** | **Difference** |
| --- | --- | --- | --- | --- | --- |
| 1 | COGTA | 1 | R 6 659 567,87 | R 6 105 175,46 | R -554 392,41 |
| 2 | Correctional Services | 1 | R 22 243 971,71 | R 23 074 901,97 | R 830 930,26 |
| 3 | Defence and Military Veterans | 1 | R 50 298 683,20 | R 50 064 803,81 | R -233 879,39 |
| 4 | ICD | 1 | R 10 975 343,59 | R 5 013 778,96 | R -5 961 564,63 |
| 5 | Justice and Constitutional Development | 1 | R 70 289 353,76 | R 76 590 008,45 | R 6 300 654,69 |
| 6 | Labour | 1 | R 33 173 630,40 | R 28 298 032,93 | R -4 875 597,47 |
| 7 | Mineral Resources | 1 | R 4 554 274,10 | R 2 639 186,53 | R -1 915 087,57 |
| 8 | Public Service and Admin | 1 | R 10 041 558,40 | R 5 944 342,23 | R -4 097 216,17 |
| 9 | SA Police Service | 1 | R 224 446 780,85 | R 207 076 010,00 | R -17 370 770,85 |
| 10 | SASSA Bfn | 1 | R 661 181,09 | R 623 936,79 | R -37 244,30 |
| 11 | SASSA Dbn | 1 | R 2 624 721,46 | R 2 437 564,79 | R -187 156,67 |
| 12 | SASSA Jhb | 1 | R 2 382 488,08 | R 2 292 682,00 | R -89 806,08 |
| 13 | Social Development | 1 | R 6 841 681,04 | R 4 747 996,92 | R -2 093 684,12 |
| 14 | Trade and industry | 1 | R 721 972,92 | R 962 237,05 | R 240 264,13 |
| 15 | Social Development | 2 | R 5 487 174,27 | R 4 839 173,58 | R -648 000,69 |
| 16 | Statistics SA | 2 | R 22 905 337,36 | R 39 496 585,95 | R 16 591 248,59 |
| 17 | Environmental Affairs | 3 | R 21 236 232,03 | R 14 464 205,97 | R -6 772 026,06 |
| 18 | SA Police Service | July 2011 | R 61 911 875,70 | R 61 294 108,71 | R -617 766,99 |
| 19 | Correctional Services | August 2011 | R 6 308 931,54 | R 6 308 994,54 | R 63,00 |
| 20 | Defence and Military Veterans | August 2011 | R 219 553,00 | R 15 872 474,87 | R 15 652 921,87 |
| 21 | Correctional Services | Sept 2011 | R 5 581 723,86 | R 6 097 118,40 | R 515 394,54 |
| 22 | Defence and Military Veterans | October 2011 | R 6 812 211,38 | R 15 524 299,45 | R 8 712 088,07 |
| 23 | Water Affairs | November 2011 | R 10 899 519,13 | R 11 074 612,64 | R 175 093,51 |
| 24 | Tourism | November 2011 | R 39 899,80 | R 1 664 698,03 | R 1 624 798,23 |
| 25 | SASSA Jhb | December 2011 | R 711 796,16 | R 1 625 990,89 | R 914 194,73 |
| 26 | Tourism | December 2011 | R 1 624 798,23 | R 5 079 140,06 | R 3 454 341,83 |
| 27 | Gender Equality Commission | March 2012 | R 158 174,33 | R 94 922,00 | R -63 252,33 |
| 28 | Women, Children and People with Disabilities | March 2012 | R 692 231,76 | R 559 607,76 | R -132 624,00 |
| 29 | Communications | March 2012 | R 908 879,10 | R 453 543,14 | R -455 335,96 |
| 30 | Environmental Affairs | March 2012 | R 2 383 411,40 | R 2 419 953,31 | R 36 541,91 |
| 31 | Home Affairs | March 2012 | R 15 181 453,82 | R 15 839 899,43 | R 658 445,61 |
| 32 | ICD | March 2012 | R 1 600 115,83 | R 1 910 795,76 | R 310 679,93 |
| 33 | Mineral Resources | March 2012 | R 395 584,14 | R 467 351,92 | R 71 767,78 |
| 34 | Rural Development and Land Reform | March 2012 | R 8 978 568,31 | R 10 090 317,67 | R 1 111 749,36 |
| 35 | SA Police Service | March 2012 | R 74 700 617,27 | R 80 156 956,47 | R 5 456 339,20 |
| 36 | SASSA Bfn | March 2012 | R 169 039,70 | R 368 140,13 | R 199 100,43 |
| 37 | SASSA Jhb | March 2012 | R 588 867,57 | R 777 559,50 | R 188 691,93 |
| 38 | Trade and industry | March 2012 | R 91 932,62 | R 153 097,86 | R 61 165,24 |
| 39 | Water Affairs | March 2012 | R 10 243 713,49 | R 11 348 221,37 | R 1 104 507,88 |
| 40 | Energy | 1 April 2011- 31 March 2012 | R 6 175 393,83 | R 2 639 186,53 | R -3 536 207,30 |
| 41 | Statistics SA | 3&4 | R 57 762 467,74 | R 73 223 070,17 | R 15 460 602,43 |
| 42 | Social Development | Quarter 3 | R 5 487 174,27 | R 4 839 173,58 | R -648 000,69 |
| 43 | Social Development | Quarter 4 | R 5 487 174,27 | R 5 271 174,04 | R -216 000,23 |
| 44 | Dirco | Dec-11 | R 8 743 429,20 | R 3 306 973,94 | R -5 436 455,26 |
| T**otal** | | | **R 1 200 871 183,40** | **R 1 073 921 030,64** | **R 23 729 515,98** |

B) For the following invoices selected, we were unable to agree the amounts per the invoice to the data we obtained directly from the PMIS system. As per discussion with management, the department shown as “User Department” on PMIS, is not always the department responsible for invoicing for some buildings. Thus the data obtained from PMIS is manually adjusted to allocate the expense to the client department responsible for invoicing. We were unable to verify how this allocation is made, and thus could confirm the accuracy of the amounts per the invoice:

| **No** | **Client department** | **Quarter/Month** | **Amount per invoice** |
| --- | --- | --- | --- |
| 1 | Human Settlements | 1 | R 3 215 506,26 |
| 2 | National Prosecuting Authority | August 2011 | R 2 679 094,76 |
| 3 | Public Protector | August 2011 | R 384 260,87 |
| 4 | Public Works | August 2011 | R 15 821 562,47 |
| 5 | Gender Equality Commission | August 2011 | R 218 095,21 |
| 6 | Home Affairs | August 2011 | R 14 659 485,41 |
| 7 | Trade and industry | August 2011 | R 89 416,29 |
| 8 | Trade and industry | Sept 2011 | R 233 390,37 |
| 9 | Home Affairs | Sept 2011 | R 15 343 752,72 |
| 10 | National Prosecuting Authority | Sept 2011 | R 2 528 964,74 |
| 11 | Agriculture, Forestry and fishing | October 2011 | R 2 638 239,41 |
| 12 | Environmental Affairs | October 2011 | R 3 708 244,02 |
| 13 | Human Rights Commission | October 2011 | R 124 735,12 |
| 14 | Agriculture, Forestry and fishing | November 2011 | R 11 625 636,58 |
| 15 | Environmental Affairs | November 2011 | R 5 541 436,95 |
| 16 | National Prosecuting Authority | November 2011 | R 3 614 808,04 |
| 17 | Trade and industry | November 2011 | R 116 912,86 |
| 18 | Environmental Affairs | December 2011 | R 2 038 146,73 |
| 19 | Trade and industry | December 2011 | R 134 939,68 |
| 20 | Agriculture, Forestry and Fishing | December 2011 | R 9 402 946,98 |
| 21 | Home Affairs | December 2011 | R 14 420 866,17 |
| 22 | National Prosecuting Authority | December 2011 | R 1 656 273,02 |
| 23 | Agriculture, Forestry and Fishing | January 2012 | R 7 113 543,79 |
| 24 | Environmental Affairs | January 2012 | R 2 457 665,46 |
| 25 | Gender Equality Commission | January 2012 | R 136 640,50 |
| 26 | National Prosecuting Authority | January 2012 | R 234 206,19 |
| 27 | SAMAF | January 2012 | R 171 621,38 |
| 28 | Gender Equality Commission | February 2012 | R 158 174,33 |
| 29 | Agriculture, Forestry and Fishing | February 2012 | R 7 460 550,13 |
| 30 | Environmental Affairs | February 2012 | R 2 383 411,40 |
| 31 | National Prosecuting Authority | February 2012 | R 234 206,19 |
| 32 | Human Settlements | 1 revised | R 489 420,06 |
| 33 | Arts & Culture | 1 | R 1 848 393,83 |
| 34 | Home Affairs | 1 | R 46 832 402,77 |
| 35 | National Prosecuting Authority | 1 | R 7 271 640,50 |
| 36 | Justice and Constitutional Development | January 2012 | R 24 785 727,85 |
| 37 | Parliament | February 2012 | R 10 692,00 |
| 38 | Agriculture, Forestry and fishing | March 2012 | R 7 460 550,13 |
| 39 | Justice and Constitutional Development | March 2012 | R 26 858 901,18 |
| 40 | SAMAF | 1 revised | R 409 130,66 |
| 41 | National Prosecuting Authority | 1 revised | R 397 637,05 |
| 42 | Agriculture, Forestry and fishing | 1&2 | R 26 880 405,23 |
| **Total** | | | **R 273 791 635,29** |

* The above findings are an indication of the control weaknesses within the operations of the PMTE.
* No reconciliations are done between Z59 and PMIS actual expenditure and between schedules and bank statements.
* Accommodation Charges: Private Leases will be misstated and will therefore have a negative impact on the audit opinion.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

## Financial and performance management

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Recommendation**

1. The process of finalizing business cases, acquiring the system, development of internal policies and procedures should be expedited.
2. Management at a director level and above should review the manual schedules for private leases to ensure that all transactions have occurred and are accurate, complete and classified correctly.
3. Proper reconciliation between PMIS and Z59 should be done and should be regularly reviewed in detail by management at director level and above.
4. Management should also establish proper filing system and ensure that each transaction has supporting documentation that can be easily retrievable.

**Management response**

1. **I am [not] in agreemen**t 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? | 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 of 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 | All invoices that were issued on a quarterly (Q1, Q2, Q3, Q4 or a combination) basis, and the March 2012 were informed by estimation and not PMIS. In other instances files must be checked to establish the differences. | | |

Name: Billy Leketi

Position: Director Revenue (2)

Date:7/8/2012

**(f)** 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: | 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? | 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 of 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 | The lease details captured on PMIS are that of a user (client that requested/procured the service). However in these instances the funds dedicated for the accommodation purposed are devolved to a different entity, or the entities split into two, or merged into one. | | |

Name: Billy Leketi

Position: Director Revenue (2)

Date: 7/8/2012

**Auditor’s conclusion**

*Finding a)*

Management response noted. Cognisance is taken of the fact that the Z59’s for some items listed were based on estimates. However, this does not preclude management from performing reconciliations between PMIS actual expenditure, and Z59 issued. The finding therefore remains, and will be reported in the management report.

*Finding b)*

Management response noted. Cognisance is taken of the fact that there may be a difference between a “user” department, and the department who is responsible for paying the accommodation charges. However, as there is no system generated report for us to use to independently make this distinction, we cannot confirm that the allocations to relevant departments are valid and accurate. The finding therefore remains, and will be reported in the management report.

1. **Discounting of Trade and other receivables**

**Audit finding**

Section 40(1)(a) and (b) of Public Finance Management Act states that, “*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; (b) must prepare financial statements for each financial year in accordance with generally recognised accounting practice;”.*

In terms of IAS 39 *Financial Instruments: Recognition and Measurement,* *Definitions relating to recognition and measurement,* the following is stated:

“*The* ***amortised cost of a financial asset or financial liability*** *is the amount at which the financial asset or financial liability is measured at initial recognition minus principal repayments, plus or minus the cumulative amortisation using the effective interest method of any difference between that initial amount and the maturity amount, and minus any reduction (directly or through the use of an allowance account) for impairment or uncollectibility*.

*The* ***effective interest method*** *is a method of calculating the amortised cost of a financial asset or a financial liability (or group of financial assets or financial liabilities) and of allocating the interest income or interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments or receipts through the expected life of the financial instrument or, when appropriate, a shorter period to the net carrying amount of the financial asset or financial liability.* *When calculating the effective interest rate, an entity shall estimate cash flows considering all contractual terms of the financial instrument but shall not consider future credit losses. The calculation includes all fees and points paid or received between parties to the contract that are an integral part of the effective interest rate…*”

*There is a presumption that the cash flows and the expected life of a group of similar financial instruments can be estimated reliably. However, in those rare cases when it is not possible to estimate reliably the cash flows or the expected life of a financial instrument (or group of financial instruments), the entity shall use the contractual cash flows over the full contractual term of the financial instrument (or group of financial instruments).*

*Short-term receivables and payables with no stated interest rate may be measured at the original invoice amount if the effect of discounting is immaterial.*

It is indicated on the accounting policy of trade receivables in the financial statements that “*Trade and other receivables are initially recognised at fair value and subsequently at amortised cost”.*

However, it was noted during our assessment of schedule RD4 that the trade and other receivables’ discounting calculation was done and the effect of the calculation was not accounted for in the financial statements. Furthermore supporting documentation as to why the discounting was not accounted for was not submitted for auditing purposes.

Through inspection of the reconciliations and age analyses submitted for audit purposes, it was noted that there are material amounts which are outstanding for longer than one year, thus the effect of discounting will not be immaterial.

In addition, in the previous period, a journal was passed to account for the effect of discounting. This journal was not reversed in the current period. Thus the treatment of trade and other receivables is inconsistent with that of the previous period.

1. ·         Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.
2. ·         Management did not implement the recommendations of the AGSA as per prior management report and interim management report timeously to ensure that the disclaimer of the prior year audit is addressed.

Given the fact that the entity did not apply the principles of IAS 39 the following accounts will be misstated by an indeterminable amount:

         Receivables will be misstated by an indeterminable amount;

         Income will be overstated; and

         Interest received will be understated.

The audit opinion for 2011-12 may be modified due to this incorrect accounting treatment.

**Internal control deficiency**

**Leadership**

Management does not develop and monitor the implementation of action plans to address internal control deficiencies.

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

Financial and performance management

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

**Recommendation**

Management should ensure that:

(a)  the standards and principles of SA GAAP are applied in the preparation of the financial statements;

(b)  the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes;

(c)  recommendations of the AGSA should be implemented and actions plans established and monitored through the year .

**Management response**

I am in agreement with the finding:

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | Reversal of prior period discounting | | |
| 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 of 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**

Management comment noted and cognisance is taken of the fact that management agrees with the response and intend to reverse the prior period discounting. However, we believe that receivables should actually be disclosed at the discounted balance for both the current and prior financial period, as the effect of discounting will not be immaterial taking into account the age of the debtors as well as the materiality of the balances outstanding. Thus the finding still remains and will be included in the final management report, as well as the audit report.

1. **Misstatements in the opening balance of Municipal services**

**Audit Finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury Regulations 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury Regulations 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

The following matters were identified:

1. The amounts invoiced as per detailed debtors listing schedule provided do not agree to the amount as per the invoice (Z59) issued to the client departments.

| **No** | **Client department** | **Description** | **Period** | **Month/ Quarter** | **Amount claimed as per debtors listing schedule** | **Amount claimed as per Z59** | **Difference between the debtors listing and Z59** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | Public Works | Municipal services | 2006/2007 | April-September | R 42 935 189,77 | R 42 368 376,67 | R 566 813,10 |
| 2 | Public Works | Municipal services | 2006/2007 | October-December | R 16 792 930,06 | R 16 442 014,84 | R 350 915,22 |
| 3 | Public Works | Municipal services | 2006/2007 | January | R 1 446 155,31 | R 1 287 898,33 | R 158 256,98 |
| 4 | Public Works | Municipal services | 2006/2007 | February | R 2 419 367,34 | R 2 192 664,74 | R 226 702,60 |
| 5 | Public Works Unknown | Municipal services | 2006/2007 | Jan | R 712 635,89 | R 712 516,19 | R 119,70 |
| 6 | Public Works Unknown | Municipal services | 2006/2007 | Feb | R 13 335 405,17 | R 553 537,44 | R 12 781 867,74 |
| 7 | Public Works Unutilised | Municipal services | 2006/2007 | Oct-Dec | R 457 351,47 | R 453 597,94 | R 3 753,53 |
| 8 | Public Works Unutilised | Municipal services | 2006/2007 | Jan | R 224 202,77 | R 166 236,23 | R 57 966,54 |
| 9 | Public Works Unutilised | Municipal services | 2006/2007 | Feb | R 105 994,95 | R 18 899,85 | R 87 095,10 |
| 10 | NDPW Public Works | Municipal services | 2007/2008 | April | R 3 750 332,46 | R 3 667 250,02 | R 83 082,44 |
| 11 | NDPW Public Works | Municipal services | 2007/2008 | May | R 1 995 173,33 | R 223 889,15 | R 1 771 284,19 |
| 12 | NDPW Public Works | Municipal services | 2007/2008 | July | R 4 526 867,21 | R 4 467 578,46 | R 59 288,74 |
| 13 | NDPW Public Works | Municipal services | 2007/2008 | August | R 4 512 168,70 | R 4 350 680,53 | R 161 488,16 |
| 14 | NDPW Public Works | Municipal services | 2007/2008 | September | R 11 180 554,73 | R 67 954,31 | R 11 112 600,42 |
| 15 | NDPW Unknown | Municipal services | 2007/2008 | May | R 1 017 200,50 | R 71 451,31 | R 945 749,19 |
| 16 | NDPW Unknown | Municipal services | 2007/2008 | June | R 2 919 787,95 | R 2 919 662,14 | R 125,81 |
| 17 | NDPW Unknown | Municipal services | 2007/2008 | August | R 433 745,39 | R 433 611,81 | R 133,58 |
| 18 | NDPW Unknown | Municipal services | 2007/2008 | September | R 800 469,74 | R 133 637,01 | R 666 832,73 |
| 19 | NDPW Unknown (Health) | Municipal services | 2007/2008 | January | R 65 794,34 | R 65 236,98 | R 557,36 |
| 20 | NDPW Unutilised | Municipal services | 2007/2008 | April | R 202 693,52 | R 201 442,55 | R 1 250,97 |
| 21 | NDPW Unutilised | Municipal services | 2007/2008 | August | R 444 687,98 | R 443 016,02 | R 1 671,96 |
| 22 | Public Works – Unknown | Municipal services | 2008/2009 | November | R 254 026,13 | R 255 986,35 | -R 1 960,22 |
| 23 | Public Works – Unknown | Municipal services | 2008/2009 | March | R 2 579 826,88 | R 145 456,17 | R 2 434 370,71 |
| 24 | Public Works | Municipal services | 2008/2009 | August | R 3 998 668,37 | R 3 979 371,82 | R 19 296,55 |
| 25 | Public Works | Municipal services | 2008/2009 | September | R 11 130 185,82 | R 11 130 552,63 | -R 366,81 |
| 26 | Public Works | Municipal services | 2008/2009 | October | R 11 518 298,69 | R 11 511 943,31 | R 6 355,38 |
| 27 | Public Works | Municipal services | 2008/2009 | March | R 5 151 670,70 | R 7 991 342,88 | -R 2 839 672,18 |
| 28 | NDPW SA Revenue Services | Municipal services | 2008/2009 | September | R 464 902,10 | R 18 057,84 | R 446 844,26 |
| 29 | NDPW SA Revenue Services | Municipal services | 2008/2009 | November | R 855 139,12 | R 40 269,59 | R 814 869,53 |
| 30 | NDPW SA Revenue Services | Municipal services | 2008/2009 | March | R 396 864,97 | R 678 323,46 | -R 281 458,49 |
| 31 | Public Works | Municipal services | 2009/2010 | April | R 8 153 976,52 | R 2 442 742,95 | R 5 711 233,57 |
| 32 | Public Works | Municipal services | 2009/2010 | June | R 7 653 757,74 | R 7 653 454,91 | R 302,83 |
| 33 | Public Works | Municipal services | 2009/2010 | August | R 8 497 731,53 | R 5 502 632,95 | R 2 995 098,58 |
| 34 | Public Works | Municipal services | 2009/2010 | October | R 20 540 814,38 | R 20 540 046,30 | R 768,08 |
| 35 | NDPW Unknown | Municipal services | 2009/2010 | July | R 274 260,75 | R 274 092,16 | R 168,59 |
| 36 | Public Works | Municipal services | 2010/2011 | September | R 14 827 164,54 | R 14 825 782,90 | R 1 381,64 |
| 37 | Agriculture | Municipal services | 2006/2007 | Apr-Sept | R 2 589 200,73 | R 2 581 445,91 | R 7 754,82 |
| 38 | Agriculture | Municipal services | 2007/2008 | March | R 898 603,48 | R 1 130 472,67 | -R 231 869,19 |
| 39 | Agriculture | Municipal services | 2008/2009 | October | R 1 838 530,09 | R 1 826 510,72 | R 12 019,37 |
| 40 | Agric,forest & fish | Municipal services | 2010/2011 | May | R 1 029 391,71 | R 1 250 496,12 | -R 221 104,41 |
| 41 | Agric,forest & fish | Municipal services | 2010/2011 | July | R 1 265 918,91 | R 1 213 681,94 | R 52 236,97 |
| 42 | Agric,forest & fish | Municipal services | 2010/2011 | August | R 2 227 239,34 | R 2 282 838,21 | -R 55 598,87 |
| 43 | Agric,forest & fish | Municipal services | 2010/2011 | September | R 1 546 427,09 | R 2 968 485,81 | -R 1 422 058,73 |
| 44 | South African Police Services | Municipal services | 2006/2007 | Apr-Sept | R 138 998 983,55 | R 125 365 811,72 | R 13 633 171,83 |
| 45 | South African Police Services | Municipal services | 2006/2007 | Oct-Dec | R 82 375 551,84 | R 73 284 871,17 | R 9 090 680,67 |
| 46 | South African Police Services | Municipal services | 2006/2007 | Jan | R 19 958 034,02 | R 18 442 686,96 | R 1 515 347,06 |
| 47 | SA Police Services | Municipal services | 2007/2008 | April | R 16 660 910,72 | R 16 669 142,08 | -R 8 231,36 |
| 48 | SA Police Services | Municipal services | 2007/2008 | November | R 23 541 206,62 | R 24 718 266,95 | -R 1 177 060,33 |
| 49 | SA Police Services | Municipal services | 2007/2008 | March | R 21 636 975,63 | R 23 183 780,25 | -R 1 546 804,62 |
| 50 | SA Police Services | Municipal services | 2008/2009 | June | R 34 131 066,21 | R 34 160 344,09 | -R 29 277,88 |
| 51 | SA Police Services | Municipal services | 2008/2009 | August | R 28 954 532,00 | R 28 984 532,00 | -R 30 000,00 |
| 52 | SA Police Services | Municipal services | 2008/2009 | October | R 49 923 478,90 | R 49 942 309,13 | -R 18 830,23 |
| 53 | SA Police Services | Municipal services | 2008/2009 | January | R 29 489 549,28 | R 29 468 739,07 | R 20 810,21 |
| 54 | SA Police Services | Municipal services | 2009/2010 | May | R 33 071 822,62 | R 33 073 767,47 | -R 1 944,85 |
| 55 | SA Police Services | Municipal services | 2009/2010 | October | R 50 267 919,99 | R 50 267 258,48 | R 661,51 |
| 56 | SA Police Services | Municipal services | 2010/2011 | April | R 35 359 106,22 | R 35 315 491,95 | R 43 614,27 |
| 57 | SA Police Services | Municipal services | 2010/2011 | May | R 44 104 196,57 | R 44 097 309,02 | R 6 887,55 |
| 58 | SA Police Services | Municipal services | 2010/2011 | June | R 38 345 988,63 | R 38 361 795,69 | -R 15 807,06 |
| 59 | SA Police Services | Municipal services | 2010/2011 | July | R 43 549 635,28 | R 43 540 466,26 | R 9 169,02 |
| 60 | SA Police Services | Municipal services | 2010/2011 | August | R 47 952 696,65 | R 47 750 521,62 | R 202 175,02 |
| 61 | SARS | Municipal services | 2006/2007 | Oct-Dec | R 819 314,78 | R 1 120 279,14 | -R 300 964,36 |
| 62 | SARS | Municipal services | 2006/2007 | Jan | R 280 441,63 | R 432 721,61 | -R 152 279,98 |
| 63 | SARS | Municipal services | 2006/2007 | Feb | R 300 676,16 | R 300 790,47 | -R 114,31 |
| **Total** | | | | | **R 957 693 395,47** | **R 899 966 025,25** | **R 57 727 370,20** |

1. The municipal services amounts received as per the detailed debtors listing schedule do not agree to the proof of receipts submitted for audit purposes.

| **No** | **Client department** | **Period** | **Month/ Quarter** | **Date amount was received** | **Amount received as per bank statement or proof of payment from client department** | **Amount received per as debtors listing schedule** | **Difference between Bank statement and debtors listing schedule amounts** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | NDPW Presidency | 2007/2008 | December | 13-Mar-08 | R 127 174,71 | R 145 139,34 | -R 17 964,63 |
| 2 | NDPW Presidency | 2007/2008 | February | 6-Aug-08 | R 80 551,25 | R 131 345,00 | -R 50 793,75 |
| 3 | NDPW Public Works | 2007/2008 | April | 6-Aug-08 | R 3 667 250,02 | R 3 750 332,46 | -R 83 082,44 |
| 4 | NDPW Public Works | 2007/2008 | August | 31-Oct-07 | R 4 305 903,97 | R 4 350 680,54 | -R 44 776,57 |
| 5 | NDPW Public Works | 2007/2008 | October | 13- Oct-08 18-Feb-08 | R 1 978 463,67 | R 1 841 488,05 | R 136 975,62 |
| 6 | NDPW Public Works | 2007/2008 | February | 18-Apr-08 | R 9 357 554,25 | R 9 481 303,28 | -R 123 749,03 |
| 7 | NDPW SA Revenue Services | 2007/2008 | August | 31-Oct-07 | R 199 429,51 | R 287 749,02 | -R 88 319,51 |
| 8 | NDPW SA Revenue Services | 2007/2008 | December | 6-Mar-08 | R 12 501,07 | R 340 055,27 | -R 327 554,20 |
| 9 | NDPW Unknown | 2007/2008 | September | 18-Feb-08 | R 133 637,01 | R 800 469,74 | -R 666 832,73 |
| 10 | NDPW Unknown | 2007/2008 | February | 18-Apr-08 | R 1 347 624,67 | R 1 349 739,36 | -R 2 114,69 |
| 11 | NDPW Unutilised | 2007/2008 | August | 31-Oct-07 | R 442 622,78 | R 443 016,02 | -R 393,24 |
| 12 | NDPW Unutilised | 2007/2008 | February | 18-Apr-08 | R 283 590,83 | R 296 328,42 | -R 12 737,59 |
| 13 | Public Works | 2008/2009 | May | 01-Sept-08 17- Sept-08 | R 1 595 378,78 | R 17 412 804,81 | -R 15 817 426,03 |
| 14 | Public Works | 2008/2009 | August | 1-Jul-07 | R 20 134,04 | R 3 840 899,19 | -R 3 820 765,15 |
| 15 | Public Works | 2008/2009 | October | 1-Jul-09 | R 107 134,88 | R 11 426 416,77 | -R 11 319 281,89 |
| 16 | Public Works | 2008/2009 | November | 1-Jul-09 | R 2 436 074,35 | R 6 776 281,50 | -R 4 340 207,15 |
| 17 | Public Works | 2008/2009 | March | 1-Jul-09 | R 6 359 210,38 | R 5 151 670,70 | R 1 207 539,68 |
| 18 | NDPW SA Revenue Services | 2008/2009 | January | 1-Jul-09 | R 304 869,55 | R 0,00 | R 304 869,55 |
| 19 | NDPW SA Revenue Services | 2008/2009 | March | 1-Jul-09 | R 678 323,46 | R 396 864,97 | R 281 458,49 |
| 20 | Public Works | 2009/2010 | July | 14-Sep-09 | R 13 822 726,56 | R 14 382 028,36 | -R 559 301,80 |
| 21 | Public Works | 2009/2010 | August | 16-Mar-10 19-Oct-09 | R 5 502 632,95 | R 6 067 226,54 | -R 564 593,59 |
| 22 | NDPW Unknown | 2009/2010 | April | 31-Jul-07 | R 3 225,66 | R 36 123,37 | -R 32 897,71 |
| 23 | Public Works | 2010/2011 | May | 12-Apr-11 01-Oct-10 19-Aug-10 24-Feb-11 29-Sept-10 02-Nov-10 | R 13 623 353,33 | R 13 376 605,13 | R 246 748,20 |
| 24 | Public Works | 2010/2011 | June | 1-Oct-10 1-Mar-11 12-Apr-11 19-Aug-10 | R 12 032 274,26 | R 11 796 100,82 | R 236 173,44 |
| 25 | Public Works | 2010/2011 | July | 12-Apr-11 21-Feb-11 02-Nov-10 29-Sept-10 | R 8 800 487,51 | R 8 706 031,24 | R 94 456,27 |
| 26 | Public Works | 2010/2011 | September | 12-Apr-11 1-Dec-10 | R 14 825 782,90 | R 14 735 344,52 | R 90 438,38 |
| 27 | Public Works | 2010/2011 | February | 12-Apr-11 | R 19 255 784,56 | R 0,00 | R 19 255 784,56 |
| 28 | NDPW Unknown | 2010/2011 | July | 28-Sept-10 12-Apr-11 | R 37 326,96 | R 37 231,12 | R 95,84 |
| 29 | Agriculture | 2006/2007 | Apr-Sept | 1 Aug-07 27-Aug-07 | R 6 386,25 | R 2 543 020,00 | -R 2 536 633,75 |
| 30 | Agriculture | 2007/2008 | August | 26-Oct-07 | R 1 527 172,12 | R 1 539 333,60 | -R 12 161,48 |
| 31 | Agriculture | 2007/2008 | March | 19-May-08 | R 1 130 472,67 | R 898 603,49 | R 231 869,18 |
| 32 | Agriculture | 2008/2009 | August | 6-Feb-09 | R 532 186,66 | R 531 186,66 | R 1 000,00 |
| 33 | Agriculture | 2008/2009 | October | 6-Feb-09 | R 711 215,46 | R 1 011 215,46 | -R 300 000,00 |
| 34 | Agriculture | 2008/2009 | November | 6-Feb-09 23-Feb-09 | R 486 818,25 | R 1 310 854,91 | -R 824 036,66 |
| 35 | Agriculture | 2008/2009 | March | 5-Jun-09 | R 58 214,10 | R 1 130 472,63 | -R 1 072 258,53 |
| 36 | Agric,forest & fish | 2009/2010 | January | 12-Mar-10 | R 494 807,02 | R 498 447,97 | -R 3 640,95 |
| 37 | Agric,forest & fish | 2009/2010 | February | 26-Mar-10 | R 398 078,70 | R 404 568,21 | -R 6 489,51 |
| 38 | SA Police Services | 2007/2008 | April | 19-Jul-07 13-Aug-07 | R 12 728 196,31 | R 16 660 910,72 | -R 3 932 714,41 |
| 39 | SA Police Services | 2007/2008 | September | 31-Jan-08 18-Dec07 | R 22 869 047,19 | R 25 267 353,80 | -R 2 398 306,61 |
| 40 | SA Police Services | 2007/2008 | December | 14-Feb-08 | R 20 547 561,15 | R 24 159 667,44 | -R 3 612 106,29 |
| 41 | SA Police Services | 2007/2008 | February | 28-Feb-08 31-Mar-08 | R 16 805 138,15 | R 28 080 368,17 | -R 11 275 230,02 |
| 42 | SA Police Services | 2007/2008 | March | 18-Jul-07 | R 29 628,37 | R 21 636 975,63 | -R 21 607 347,26 |
| 43 | SA Revenue Services | 2009/2010 | September | 12-Nov-09 | R 605 166,61 | R 1 077 840,50 | -R 472 673,89 |
| **Total** | | | | | **R 200 271 112,87** | **R 264 110 094,73** | **-R 63 838 981,86** |

* 1. The Z59’s, bank statements, remittance advices or any other documentation supporting the following amounts received were not provided for audit purposes. Furthermore, differences were identified between the amounts claimed and amounts received as noted in the detailed debtors listing schedule. Thus we were unable to confirm the existence, completeness, rights pertaining to PMTE or valuation of the transactions listed below:

| **No** | **Client department** | **Period** | **Month/ Quarter** | **Amount claimed as per debtors listing schedule** | **Amount claimed as per Z59** | **Amount received as per bank statement or proof of payment from client department** | **Amount received per debtors listing schedule** | **Difference between amount claimed and amount received** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | Public Works Unknown | 2006/2007 | Apr-Sept | R 1 098 208,45 | R 0,00 | R 0,00 | R 1 203 028,42 | -R 104 819,97 |
| 2 | Public Works Unutilised | 2006/2007 | Apr-Sept | R 166 105,62 | R 0,00 | R 0,00 | R 175 929,00 | -R 9 823,38 |
| 3 | NDPW Unknown (Health) | 2007/2008 | April | R 61 250,40 | R 0,00 | R 0,00 | R 52 976,96 | R 8 273,44 |
| 4 | NDPW Unknown (Health) | 2007/2008 | May | R 201 856,63 | R 0,00 | R 0,00 | R 173 629,68 | R 28 226,95 |
| 5 | NDPW Unutilised | 2007/2008 | March | R 521 280,68 | R 0,00 | R 0,00 | R 479 485,88 | R 41 794,80 |
| **Total** | | | | **R 2 048 701,78** | **R 0,00** | **R 0,00** | **R 2 085 049,94** | **-R 36 348,16** |

* 1. The Z59’s for the following transactions were not provided and it was also noted that the amount has not been received from the client department, therefore we could not confirm whether the claims were issued to the client department (existence of the transactions):

| **No.** | **Client department** | **Period** | **Month/ Quarter** | **Amount claimed as per debtors listing Schedule** | **Amount claimed as per Z59** | **Amount received as per bank statement or proof of payment from client department** | **Amount received per debtors listing schedule** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | NDPW Unknown (Health) | 2007/2008 | November | R 9 846,94 | R 0,00 | R 0,00 | R 0,00 |
| 2 | NDPW Unknown (Health) | 2007/2008 | March | R 50 586,95 | R 0,00 | R 0,00 | R 0,00 |
| 3 | NDPW Unknown (Education) | 2007/2008 | April | R 221 686,78 | R 0,00 | R 0,00 | R 0,00 |
| 4 | NDPW Unknown (Education) | 2007/2008 | May | R 294 908,68 | R 0,00 | R 0,00 | R 0,00 |
| 5 | NDPW Unknown (Education) | 2007/2008 | June | R 343 130,88 | R 0,00 | R 0,00 | R 0,00 |
| 6 | NDPW Unknown (Education) | 2007/2008 | July | R 243 649,38 | R 0,00 | R 0,00 | R 0,00 |
| 7 | NDPW Unknown (Education) | 2007/2008 | August | R 147 175,44 | R 0,00 | R 0,00 | R 0,00 |
| 8 | NDPW Unknown (Education) | 2007/2008 | September | R 26 619,39 | R 0,00 | R 0,00 | R 0,00 |
| 9 | NDPW Unknown (Education) | 2007/2008 | October | R 811 610,24 | R 0,00 | R 0,00 | R 0,00 |
| 10 | NDPW Unknown (Education) | 2007/2008 | November | R 54 650,76 | R 0,00 | R 0,00 | R 0,00 |
| 11 | NDPW Unknown (Education) | 2007/2008 | December | R 17 553,27 | R 0,00 | R 0,00 | R 0,00 |
| 12 | NDPW Unknown (Education) | 2007/2008 | January | R 43 414,32 | R 0,00 | R 0,00 | R 0,00 |
| 13 | NDPW Unknown (Education) | 2007/2008 | February | R 19 408,97 | R 0,00 | R 0,00 | R 0,00 |
| 14 | NDPW Unknown (Education) | 2007/2008 | March | R 192 362,70 | R 0,00 | R 0,00 | R 0,00 |
| 15 | SARS | 2006/2007 | Apr-Sept | R 1 207 400,66 | R 0,00 | R 0,00 | R 0,00 |
| **Total** | | | | **R 3 684 005,35** | **R 0,00** | **R 0,00** | **R 0,00** |

1. Debtors - Municipal services includes expenses such as electricity and water which are paid to municipalities on behalf of the client departments. These expenses are paid on a monthly or quarterly basis, however during the audit we could not find any evidence that the claims were issued to the client departments for the following periods:

| **No** | **Client department** | **Description** | **Period** | **Month/ Quarter** | **Amount claimed as per debtors listing schedule** | **Amount claimed as per Z59** | **Difference between the debtors listing and Z59** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | Public Works: Parliament | Municipal services | 2006/2007 | Oct-Dec | 0,00 | 0,00 | - |
| 2 | Public Works: Parliament | Municipal services | 2006/2007 | Jan | 0,00 | 0,00 | - |
| 3 | Public Works: Parliament | Municipal services | 2006/2007 | Feb | 0,00 | 0,00 | - |
| 4 | NDPW Lease Out Privately | Municipal services | 2007/2008 | December | 0,00 | 0,00 | - |
| 5 | NDPW Lease Out Privately | Municipal services | 2007/2008 | January | 0,00 | 0,00 | - |
| 6 | NDPW Lease Out Privately | Municipal services | 2007/2008 | February | 0,00 | 0,00 | - |
| 7 | NDPW Province Admin Western Cape | Municipal services | 2007/2008 | July | 0,00 | 0,00 | - |
| 8 | NDPW Province Admin Western Cape | Municipal services | 2007/2008 | October | 0,00 | 0,00 | - |
| 9 | NDPW Province Admin Western Cape | Municipal services | 2007/2008 | November | 0,00 | 0,00 | - |
| 10 | NDPW Province Admin Western Cape | Municipal services | 2007/2008 | December | 0,00 | 0,00 | - |
| 11 | NDPW Province Admin Western Cape | Municipal services | 2007/2008 | Feb | 0,00 | 0,00 | - |
| 12 | NDPW Unknown (Comm) | Municipal services | 2007/2008 | November | 0,00 | 0,00 | - |
| 13 | NDPW Unknown (Enviromental) | Municipal services | 2007/2008 | April | 0,00 | 0,00 | - |
| 14 | NDPW Unknown (Enviromental) | Municipal services | 2007/2008 | August | 0,00 | 0,00 | - |
| 15 | NDPW Unknown (NT) | Municipal services | 2007/2008 | September | 0,00 | 0,00 | - |
| 16 | NDPW Unknown (NT) | Municipal services | 2007/2008 | November | 0,00 | 0,00 | - |
| 17 | NDPW Unknown (NT) | Municipal services | 2007/2008 | December | 0,00 | 0,00 | - |
| 18 | Public Works - Unknown | Municipal services | 2008/2009 | October | 0,00 | 0,00 | - |
| 19 | Public Works - Unknown | Municipal services | 2008/2009 | January | 0,00 | 0,00 | - |
| 20 | Public Works | Municipal services | 2010/2011 | March | 0,00 | 0,00 | - |
| 21 | NDPW Unknown | Municipal services | 2010/2011 | March | 0,00 | 0,00 | - |
| 22 | Agric,forest & fish | Municipal services | 2010/2011 | March | 0,00 | 0,00 | - |
| 23 | SA Police Services | Municipal services | 2010/2011 | March | 0,00 | 0,00 | - |
| **Total** | | | | | **R 0,00** | **R 0,00** | **R 0,00** |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

Although management indicated that reconciliations were completed, there is insufficient information supporting the opening balances figures.

There is no evidence that a detailed review was done on these reconciliations

The opening balances of municipal services is misstated by an indeterminable amount.

The audit opinion 2010-11 was disclaimed on municipal services balance, and this will not change in the current year if management does not obtain documentation that supports opening balances.

The above findings have an impact in the increasing of the bank overdraft, as expenditure payments are continually being made, however claims are either issued late or not issued at all.

**Internal control deficiency**

## Financial and performance management

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

Management did not implement proper procedures to ensure that the changes were made and signed by the relevant procedures

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities

**Recommendation**

1. Management should ensure that all figures as recorded in the schedules are supported by sufficient appropriate supporting documentation.
2. Management should review and update the amounts recorded in the detailed debtors listing schedules and agree the amounts to supporting documentation on a regular basis and information to confirm the validity, completeness and accuracy of the amounts recorded
3. Management should liaise with client departments and confirm each amount still owed by the client departments and obtain a remittance advice or written confirmation of each amount received to ensure accurate and timeous allocation of deposits.
4. Management should ensure that all documents are appropriately safeguarded.
5. Management should speed up the process of finalising policies and procedures and ensure these are communicated and understood by all employees to enable management to take corrective action where there is non-adherence by staff

**Management response**

**Audit Finding A**

We disagree with audit finding (a)

**Transaction number 1 to 27 and 31 to 36 NDPW Public works**

On a monthly basis PMTE issue one claim to Public works and the claim will include expenditure for Unknown, Unutilised, Prestige, Parliament and Presidency properties. DPW is responsible for paying the expenditure incurred on behalf of the clients mentioned above. Therefore the amounts on the Z59 claims listed by AG include the expenditure for Unknown, Unutilised, Prestige, Parliament and Presidency properties.

**Transaction number 28 to 30 NDPW SA Revenue Services**

The differences for transaction 28 and 29 are existing claims and available. The difference in transaction 30 is not correctly, the claim submitted to AG is amounting to R396 864.97.

**Transaction number 37 to 43 Agriculture**

The difference in transaction 39 is an additional claim for Umtata and 41 additional claim for Pretoria. Transaction number 37,38,40,42 and 43 CTN expenditure on listing schedules were reduced due to disputes and claims were not revised.

**Transaction number 44 to 60 South African Police Services**

The differences are outstanding balances and also expenditure in different regional offices. Some of the expenditure was claimed and other expenditure we cannot confirm that additional claims were issued and claims were issued separately, documents relating to 2006-2009 are not found. In transaction 51 debtors listing schedule correspond with claim submitted to AG.

**Transaction number 61 to 63 SARS**

The differences are caused by additional claims and the schedule was not updated.

**Audit finding B**

I am not in agreement with the finding for the following reasons when the client is paying PMTE the money in the bank statement reflect as a lump sum (inclusive all payments that have been made to the PMTE on the day). In the previous years it was not part of the business process to request proof of payments (with details) from the client departments hence you will notice that the payments as per bank statement can be more or less than the amount in the schedule.

**Audit finding C (i)**

I am in agreement with the finding for the following reasons the documents relating to 2006/07 could not be found as requested by AG:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Liaise with DPW to check the claims that they used to make these payments | | |
| 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 | The client has used invoices to pay the amounts so the debtors schedule is correct only the supporting documentation is a challenge | | |
| Position of official responsible to take corrective action |  | | |
| Estimated completion date of 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 |  | | |

**Audit finding C (ii)**

I am not in agreement with the finding for the following reasons the Z59 for these claims were issued to DPW not as separate claims:

**Audit finding D**

I am not in agreement with the finding for the following reason the PMTE issue claims only when the expenditure is incurred. The municipalities are paid on receipt of an invoice, if the invoice is not received in that month no expenditure will be incurred and no claims will be issued.

Nomsa Ngwenyama

Deputy Director

**Auditor’s Conclusion**

***Audit finding A***

Cognisance is taken of management’s response. However, as no documentation was provided to support the response, we are unable to confirm the validity of the response. Therefore the finding remains and will be included in the final management report.

***Audit finding B***

Cognisance is taken of management’s response. However, as no documentation was provided to support the response, we are unable to confirm the validity of the response. Therefore the finding remains and will be included in the final management report.

***Audit finding C***

1. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
2. Cognisance is taken of management’s response. However, as no documentation was provided to support the response, we are unable to confirm the validity of the response. Therefore the finding remains and will be included in the final management report.

***Audit finding D***

Cognisance is taken of management’s response. However, when no invoice is received, this should be followed up with the relevant municipality to ensure that there is no disruption of service, or incurrence of fines and penalties due to late payment.

1. **Misstatements regarding completeness of Claims recoverable - PACE**

**Audit Finding**

Paragraph 22 of the IFRS Framework for the preparation and presentation of financial statementsstates*: “Under the accrual basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

For the following transactions, services were rendered to PMTE on behalf of client departments before the end of the 2011/12 financial year, and only paid after the end of the financial year. These amounts were not raised in the 2011/12 financial year as debtors. As the PMTE is reporting in terms of SA GAAP, the amounts listed below should have been recorded as an accrual in the 2011/12 year and a debtor should have been raised:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **WCS number** | **Payment number** | **Date service rendered** | **Invoice date** | **Payment date** | **Amount as per invoice** |
| 1 | Department of Health | 049500 | 482223 | Mar-12 | 10-Apr-12 | 17-Apr-12 | R 1 057 505,02 |
| 2 | Department of Health | 049500 | 482223 | Feb-12 | 9-Mar-12 | 17-Apr-12 | R 965 661,13 |
| 3 | Department of Arts and Culture | 047578 | 486523 | Jan to March 2012 | 17-Apr-12 | 26-Apr-12 | R 35 928,00 |
| **Total** | | | | | | | **R 2 059 094,15** |

* The above findings are an indication of the control weaknesses within the operations of the PMTE.
* PMTE does not have a financial accounting system to record transactions on the accrual basis of accounting.
* There is a lack of documented policies and procedures.
* The entity manually adjusts their records only at year end to account for transactions that need to be accounted for on the accrual basis.
* Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.
* Claims recoverable – PACE is understated.

**Internal control deficiency**

**Leadership**

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

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

* Management should ensure that the standards and principles of SA GAAP are applied in the preparation of the financial statements.
* A report should be generated of all payments made after year end for services rendered before year end, and debtors should be raised.

**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: | Yes, quantity bills must be validated by a “dated signature” | | |
| 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 | Deputy Director | | |
| Estimated completion date of 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 | The invoice date is April, The bill of quantities refers to March and delivered in April “But” there is no evidence that management could have known in March. My point is> Even though the narration on the bill says the job is rendered in March, the bill could have been prepared in April or it could have been prepared in March but not signed/approved in March | | |
|  |  |  |  |

Name: Billy Leketi

Position: Director Revenue Management

Date: 3/8/2012

**Auditor’s conclusion**

Cognisance is taken of management’s response. However, in terms of the SA GAAP framework, the debtor should be raised when the job is rendered, irrespective of when the invoice is received. As this was not done, the finding remains, and will be included in the final management report.

1. **Misstatements regarding completeness of Claims recoverable - PACE (PTA region).**

**Audit finding**

Paragraph 22 of the IFRS Framework for the preparation and presentation of financial statementsstates*: “Under the accrual basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

For the following transactions, services were rendered to PMTE on behalf of client departments before the end of the 2011/12 financial year and only paid after the end of the financial year. These amounts were not raised in the 2011/12 financial year as debtors. As the PMTE is reporting in terms of SA GAAP, the amounts listed below should have been recorded as an accrual in the 2011/12 year and a debtor should have been raised:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **WCS number** | **Payment number** | **Date  service rendered** | **Invoice date** | **Payment date** | **Amount as per invoice** |
| 1 | Department of Arts and Culture | 047073 | 482969 | 15-Mar-12 | 15-Mar-12 | 20-Apr-12 | R 111 919,50 |
| 2 | South African Police Services | 042189 | 486494 | 14-Mar-12 | 14-Mar-12 | 26-Apr-12 | R 10 348 464,00 |
| **Total** | | | | | | | **R 10 460 383,50** |

1. ·         The above findings are an indication of the control weaknesses within the operations of the PMTE.
2. ·         PMTE does not have a financial accounting system to record transactions on the accrual basis of accounting.
3. ·         There is a lack of documented policies and procedures.
4. ·         The entity manually adjusts their records only at year end to account for transactions that need to be accounted for on the accrual basis.
5. ·         Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.

Claims recoverable ・PACE is understated.

**Internal control deficiency**

**Leadership**

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

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

1. ·         Management should ensure that the standards and principles of SA GAAP are applied in the preparation of the financial statements.
2. ·         A report should be generated of all payments made after year end for services rendered before year end, and debtors should be raised.

**Management response**

I am partly 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: | Debts are not opened for other departments hence there is a claim recoverable (Pace) account for proper management of the amount which need to be claimed back from these departments. Claims will be sent to the mentioned departments in an effort to recover the funds spent on their behalf. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| √ | |  |
| If yes, what corrections will be made to the population? | The amount excluded on the accrual list will be sent to head office for changes to made on 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 | D: Finance & SCM | | |
| Estimated completion date of corrective action: | 30 September 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| √ (partly) |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management |  | | |

Name:  Tlhakudi KO

Position: D: Finance & SCM

Date:       1/8/2012

**Auditor’s conclusion**

Management comment noted. Management agrees with the fact that accruals were not raised, thus receivables would also not have been raised at year. Therefore the receivables balance for PACE is understated, and this will be reported in the final management report.

1. **Trade receivables – Municipal services completeness**

**Audit finding**

Treasury regulations 7.2.1  states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

A) We compared the total expenditure incurred per PMIS to the claims issued to the client departments per the detailed debtors listing and noted the following differences:

| **No** | **Client department** | **PMIS expenditure** | **Amount Claimed as per detailed debtors listing** | **Amount not claimed** |
| --- | --- | --- | --- | --- |
| 1 | Agriculture, Forestry and Fisheries | R 18 635 621,62 | R 16 226 935,83 | R 2 408 685,79 |
| 2 | Arts and Culture | R 26 213 629,24 | R 25 586 668,14 | R 626 961,10 |
| 3 | Basic education | R 32 170,11 | R 8 913,40 | R 23 256,71 |
| 4 | Communications | R 1 298 845,10 | R 1 334 905,87 | -R 36 060,77 |
| 5 | Corp Gov and Traditional Affairs | R 7 830 389,58 | R 7 470 759,85 | R 359 629,73 |
| 6 | Correctional Services | R 635 736 109,53 | R 604 167 976,29 | R 31 568 133,24 |
| 7 | SAMAF | R 111 211,51 | R 103 903,98 | R 7 307,53 |
| 8 | Defence and Military Veterans | R 617 776 267,57 | R 597 893 175,63 | R 19 883 091,94 |
| 9 | Environmental Affairs | R 11 674 696,35 | R 10 067 708,92 | R 1 606 987,43 |
| 10 | Financial and Fiscal Commission | R 490 850,01 | R 484 758,57 | R 6 091,44 |
| 11 | Gender Equality Commission | R 623 868,33 | R 608 529,65 | R 15 338,68 |
| 12 | Government Communications | R 898 847,60 | R 902 113,03 | -R 3 265,43 |
| 13 | Health | R 13 378 102,36 | R 9 026 523,10 | R 4 351 579,26 |
| 14 | Higher Education | R 4 128 039,54 | R 3 943 053,88 | R 184 985,66 |
| 15 | Home Affairs | R 56 992 556,93 | R 54 907 528,97 | R 2 085 027,96 |
| 16 | Human Rights Commission | R 477 173,47 | R 455 533,38 | R 21 640,09 |
| 17 | Human Settlements | R 4 080 502,22 | R 4 008 893,79 | R 71 608,43 |
| 18 | Independent Complaints Directorate | R 2 044 901,67 | R 1 952 843,61 | R 92 058,06 |
| 19 | Inter Relation and Coop | R 9 154 412,79 | R 7 670 989,84 | R 1 483 422,95 |
| 20 | Justice and Constitutional Dev | R 194 984 421,58 | R 186 229 567,15 | R 8 754 854,43 |
| 21 | Labour | R 29 303 991,76 | R 27 918 750,86 | R 1 385 240,90 |
| 22 | Mineral Resources | R 2 628 092,13 | R 2 553 573,58 | R 74 518,55 |
| 23 | ENERGY | R 58 509,60 | R 52 876,58 | R 5 633,02 |
| 24 | National Prosecuting Authority | R 9 901 910,65 | R 9 623 198,58 | R 278 712,07 |
| 25 | National Treasury | R 13 186 397,37 | R 9 293 002,37 | R 3 893 395,00 |
| 26 | PALAMA | R 2 173 592,78 | R 1 881 487,29 | R 292 105,49 |
| 27 | Public Enterprises | R 1 220 828,84 | R 1 153 126,53 | R 67 702,31 |
| 28 | Public Protector | R 2 307 922,78 | R 2 221 496,05 | R 86 426,73 |
| 29 | Public Services and Administration | R 4 944 311,39 | R 4 747 656,09 | R 196 655,30 |
| 30 | Public Works | R 187 141 254,76 | R 183 725 044,66 | R 3 416 210,10 |
| 31 | Rural Dev and Land Affairs | R 26 203 294,11 | R 25 087 255,28 | R 1 116 038,83 |
| 32 | SA Police Services | R 659 000 594,46 | R 619 300 297,97 | R 39 700 296,49 |
| 33 | SA Revenue Service | R 5 989 525,01 | R 5 668 635,66 | R 320 889,35 |
| 34 | SA Social Security Agency | R 12 568 409,16 | R 12 289 809,53 | R 278 599,64 |
| 35 | Social Development | R 2 444 141,70 | R 2 566 032,74 | -R 121 891,04 |
| 36 | Sports and Recreation | R 1 646 053,33 | R 1 669 342,70 | -R 23 289,37 |
| 37 | Statistics SA | R 17 277 831,87 | R 16 524 925,49 | R 752 906,38 |
| 38 | Tourism | R 1 114 695,74 | R 1 033 861,02 | R 80 834,72 |
| 39 | Trade and Industry | R 806 061,36 | R 785 196,24 | R 20 865,12 |
| 40 | Transport | R 930 177,02 | R 826 251,60 | R 103 925,42 |
| 41 | Water Affairs | R 22 625 657,18 | R 21 784 426,79 | R 841 230,39 |
| Total | | **R 2 610 035 870,11** | **R2 483 757 530,49** | **R126 278 339,62** |

The differences above indicate that not all claims have been issued to the relevant client departments.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

The above findings are due to reconciliations not being performed and thoroughly reviewed on a monthly basis, thus differences are not identified timeously.

The above findings have an impact in the increasing of the bank overdraft, as expenditure payments are continually made, however claims are either issued late or not issued at all.

Debtors - Municipal Services is understated.

**Internal control deficiency**

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

1. Management should, on a monthly basis, reconcile the BAS report with the PMIS schedule and     any differences identified, should be followed up immediately and corrected within the next month.
2. Management should also reconcile PMIS expenditure to the claims issued to the client departments.
3. Supporting documentation should be readily available to support any differences identified during the year.

**Management response**

Audit finding A

I am not in agreement with the finding for the following reasons the expenditure on PMIS as at end of March include the expenditure incurred in March that was only claimed in April. It must be noted that for municipal services we claim a month in arrears:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | None | | |
| 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 of 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:

Position:

Date:

**Auditor’s conclusion**

Cognisance is taken of management's comments. However, since PMTE reports in terms of SA GAAP, Municipal services for March must be accrued for even though it will only be invoiced in April. As per inspection of the detailed accruals listing, we noted that accruals raised for Debtors - Municipal services amounted to R 105 179 456,53. However as this is less than the R 126 278 339,62, that we identified as not claimed, the finding remains, and the difference of R21 098 883,09 will be reported in the final management report, as well as the audit report.

1. **Accommodation debtors – Private lease debtors listing**

**Audit Finding**

During the performance of the audit the following differences were noted in Note 3 to the annual financial statements.

Amounts on the age analysis schedule do not agree to the amount disclosed in the financial statements

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Private leases: All Client departments** | **Amount per list** | **Amount per financial statements** | **Difference** |
| 1 | < 1 year | R 472 492 762,87 | R 776 038 000,00 | -R 303 545 237,13 |
| 2 | 1-3 years | R 269 607 815,59 | R 47 575 000,00 | R 222 032 815,59 |
| 3 | > 3 years | R 117 970 034,38 | R 4 766 000,00 | R 113 204 034,38 |
| **Total** | | **R 860 070 612,84** | **R 828 379 000,00** | **R 31 691 612,84** |

Inspected the detailed debtors listing schedule provided and noted that the listing includes negative amounts as detailed below. These amounts should be reclassified as advances if they are amounts paid in advance, or repaid to the client department if they are overpayments:

|  |  |  |
| --- | --- | --- |
| **No** | **Client department** | **Amount** |
| 1 | Human Rights Commission | -R 367 696,46 |
| 2 | Public Service Commission | -R 460 181,74 |
| 3 | SA Police Services | -R 5 279 497,44 |
| **Total** | | **-R 6 107 375,64** |

1. Inspected the detailed ageing analysis schedule provided and noted that the ageing includes negative amounts as detailed below. This indicates that payments are not being allocated correctly to invoices issued:

|  |  |  |
| --- | --- | --- |
| **No** | **Client department** | **Amount** |
| 1 | COGTA | -R 2 004 673,30 |
| 2 | Public Service and Administration | -R1 387 101,93 |
| 3 | Public Protector | -R 1 217 164,86 |
| 4 | Public Service Commission | -R 460 181,74 |
| 5 | Human Rights Commission | -R 4 796 821,49 |
| 6 | SA Police Services | -R 5 563 241,83 |
| **Total** | | **-R 15 429 185,15** |

1. Supporting documentation provided for the following ageing amounts were inaccurate; therefore we could not confirm whether the ageing was correct:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Ageing per schedule** | **Transaction date** | **Ageing per source documentation** | **Invoice Number** | **Amount as per ageing** | **Amount per supporting documentation** | **Difference** |
| 1 | Defence and Military Veterans | 2 years | July 09 - Mar 10 | 2 years | 2010/03/18 SANDF-03-002 | R 1 403 151,35 | R 13 346 481,85 | -R 11 943 330,50 |
| 2 | Labour (excl. SETA'S) | 2 years | 2009 September | 2 years | Labour -03-002 Labour-03-003 Labour-03-004 02-14-09-09-01 | R 2 417 863,75 | R 20 888 335,95 | -R 18 470 472,20 |
| 3 | Sports and Recreation | 2 years | 2007 to 2009 | 2 years | 2010/01/25 43-02-1206 | R 834 500,00 | R 2 495 237,75 | -R 1 660 737,75 |
| 4 | Trade and industry | 2 Years | 09-Apr | 2 years | 32-02-0709 | R 1 794 497,42 | R 926 603,75 | R 2 721 101,17 |

e) Supporting documentation for the following amount was not provided for audit purposes; therefore we were unable to confirm the accuracy of the ageing:

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Client department** | **Ageing per schedule** | **Amount** |
| 1 | Agriculture, Forestry and fishing | Less than 1 year | R 1 749 368,90 |

The above findings are an indication of the control weaknesses within the operations of the PMTE

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

This has resulted in disclosure, including ageing, in the financial statements not being accurate.

An inaccurate ageing analysis will affect the provision for impairment calculation.

The Accommodation debtors: Private leases balance may be understated by the negative balances that should be reclassified.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

**Recommendation**

1. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.
2. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
3. Negative balances on the detailed debtors listing should be investigated and reclassified if necessary.
4. Payments received from client departments should be allocated to invoices issued to ensure ageing analysis is accurate.

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **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? | Ageing to be recalculated. | | |
| 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 | Director | | |
| Estimated completion date of corrective action: | By Finalization of Financials | | |
| 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 underlying root is the manual system. | | |
|  |  |  |  |

Name: Billy Leketi

Position: Director Revenue

Date:15/8/2012

**(b)  Management response**

I am in agreement with the finding for the following reasons

|  |  |  |  |
| --- | --- | --- | --- |
| **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? | Overpayments at the End of the financial Year must be reclassified as Advances | | |
| 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 | Deputy Director | | |
| Estimated completion date of corrective action: | Finalization of AFS | | |
| 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: Billy Leketi

Position: Director Revenue

Date:15/8/2012

**(c)  Management response**

I am in agreement with the finding for the following reasons

|  |  |  |  |
| --- | --- | --- | --- |
| **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? | n/a | | |
| If yes, and no corrections will be made, the reason why such a conclusion has been reached | Overpayments that showed during the year are not necessarily overpayments at year end. In cases where overpayments still show at year-end adjustments will be made. | | |
| Position of official responsible to take corrective action | n/a | | |
| Estimated completion date of 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 | Overpayments that showed during the year are not necessarily overpayments at year end. In cases where overpayments still show at year-end adjustments will be made. | | |
|  |  |  |  |

Name: Billy Leketi

Position: Director Revenue

Date:15/8/2012

**Auditor’s conclusion**

Finding A

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report and the audit report.

Finding B

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

Finding C

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

1. **Accommodation debtors – State owned debtors listing**

**Audit Finding**

1. During the performance of the audit the following differences were noted in Note 3 to the annual financial statements.

Amounts on the age analysis schedule do not agree to the amount disclosed in the financial statements

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **State Owned: All Client departments** | **Amount per detailed debtors listing** | **Amount per financial statements** | **Difference** |
| 1 | < 1 year | R 2 291 662,50 | R 2 217 000,00 | R 74 662,50 |
| 2 | 1-3 years | R 2 328 500,00 | R 2 252 000,00 | R 76 500,00 |
| 3 | > 3 years | R 20 121 858,39 | R 19 464 000,00 | R 657 858,39 |
| **Total** | | **R 24 742 020,89** | **R 23 933 000,00** | **R 809 020,89** |

1. Inspected the detailed ageing analysis schedule provided and noted that the ageing includes negative amounts as detailed below:

|  |  |  |
| --- | --- | --- |
| **No** | **Client department** | **Amount** |
| 1 | Trade and industry | -R 3 500,00 |

The above findings are an indication of the control weaknesses within the operations of the PMTE

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

This has resulted in disclosure including ageing in the financial statements not being accurate.

An inaccurate ageing analysis will affect the provision for impairment calculation.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

**Recommendation**

1. Management should investigate all differences and correct all amounts before final submission of financial statements.
2. The ageing analysis should be properly by only including amount owed to PMTE.
3. The CFO should perform reviews of financial statements before submission to the auditors

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **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? | The opening balances of state-owned accommodation debtors for DTI will be adjusted. | | |
| 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 | D: Financial Accounting | | |
| Estimated completion date of 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 | The transaction in question emanates from a previous financial period when the PMTE was on a cash-basis of accounting. Control measures have subsequently been put in place to prevent such errors. | | |

Name: Juanita Prinsloo

Position: CD: Financial Planning and Reporting (PMTE)

Date: 16/8/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

Related parties

1. **COAF 246 - related party disclosures (DPW and PMTE balances).**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) Section 38(1)(a)(i) states that “*The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control.”*

Section 40(1) furthermore states that “*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.*

*b)    must prepare financial statements for each financial year in accordance with generally recognized accounting practice.”*

Practice note 31 of 2011/2012 – month-end closure procedures for 2011/12, to meet the reporting requirements in terms of section 32 of the Public Finance Management Act and Interim Financial Statements.

(i)            Paragraph 2 Section 40 (1) (a) states that “*Accounting Officers to maintain full and proper records of the financial affairs of the department in accordance with any prescribed norms and standards. To ensure the completeness and accuracy of the information supplied in terms of section 40 (4) (c), all Accounting Officers must certify on a monthly basis, before the closure of the accounting month that they have complied with the minimum financial performance indicators in* ***Annexure B****.”*

(ii)           Paragraph 9 states that *“This Practice Note applies to all national and provincial departments. Failure to comply with this Practice Note shall be regarded as financial misconduct in terms of the Treasury Regulations.”*

(iii)          Annexure B – Minimum financial management performance indicators to be complied with:

                     *All transactions are supported by authentic and verifiable source documents.*

                     *All Inter-departmental balances and debts have been recorded, reconciled and paid within the prescribed or agreed period.*

                     *Monthly reconciliation of all control or suspense accounts is performed to confirmed and unconfirmed balances in the confirmation letters (issued and received) and available supporting documentation.*

The following deviations pertaining to outstanding related party balances and the confirmed and unconfirmed balances between DPW and PMTE were noted:

(a)  Upon inspection of the supporting documentation provided for audit purposes it was identified that the amount as disclosed in note 14 to the PMTE financial statements (Related party balances) amounting to R 186 964 199,13 does not agree to the amount as disclosed in the DPW annexure 5 of the financials of R 80 647 000,00. 

(i)            Related party balances as per the financial statements of PMTE:

|  |  |
| --- | --- |
| **Details** | **Amount** |
| Accommodation Charges – State Owned | R 0,00 |
| Accommodation Charges – Private leases | R 51 431 521,61 |
| Municipal Services | R 26 910 064,69 |
| Project Accelerated expenses | R 103 227 740,38 |
| Current Assets | R 5 394 872,45 |
| **TOTAL** | **R 186 964 199,13** |

.

(ii)           Amount disclosed in annexure 5 of DPW’s financial statement as at 31 March 2012.

| **Government entity** | **Confirmed balance outstanding** | **Unconfirmed balance outstanding** | **Total amount** |
| --- | --- | --- | --- |
| Property Management Trading Entity (PMTE) | R 57 928 000,00 | R 22 719 000,00 | **R 80 647 000,00** |

Part of the reconciliation of the difference of R 106 315 937,13 comprises of Project Accelerated Expenses which amounts to a total of R 103 227 740,38.  However, it came to our attention through discussions held with PMTE management as well as though inspection of managements response to DPW COFF 263 that the correct confirmed balance is R 101 504 633,00.  However, the amount that is shown in the general ledger of PMTE is the total balance of R 103 227 740,38.  As per discussions with management, it was noted that no statements had been sent to DPW prior and subsequent to year end to follow up on the reconciling difference amount of R 1 723 107,38, therefore this differencewas not resolved as at 31 March 2012.  This is not in line with Practice note 31 of 2011-2012.

(b)  Furthermore it was noted that DPW provided a confirmation letter signed by the CFO for the amount disclosed in the financial statements of DPW, however the confirmation letter for PMTE was not signed by the CFO.

(c)  It was also noted that the confirmed and unconfirmed balances of the prior year differ by R5 252 000 as follows between the financial statements of DPW and PMTE:

(i)            Related party balances as per the financial statements of PMTE:

|  |  |
| --- | --- |
| **Description** | **Amount** |
| Private lease | R 42 417 000,00 |
| Municipal charges | R 28 375 000,00 |
| Project accelerated expenses | R 23 129 000,00 |
| Current assets | R 4 569 000,00 |
| **31 March 2011 total debt** | **R 98 490 000,00** |

(ii)           Amount disclosed in annexure 5 of DPW’s financial statements as at 31 March 2011.

| **Government entity** | **Confirmed balance outstanding** | **Unconfirmed balance outstanding** | **Total amount** |
| --- | --- | --- | --- |
| Property Management Trading Entity (PMTE) | R 51 412 000,00 | R 52 330 000,00 | **R 103 742 000,00** |

The Assistant Director (PMTE) indicated that the reason for the identified difference amount of R 1 723 107,38 is that no claim statements had been sent by PMTE to DPW, hence DPW was not aware of the reconciling difference.

a) Non- compliance with:

1. (i)      PFMA Section 38(1)(a)(i), Section 40(1)(a) and 40(1)(b)
2. (ii)     Treasury regulation 13.1.4

b) The extent to which trade and other receivables may be misstated for the current year could not be determined due to the reconciliation not being performed.

c) Trade and other receivables of the prior year may be understated by R 5 252 000,00.

d) PMTE did not comply with practice note 31 as not all inter-departmental balances and debts amounting to R 1 723 107,38 had been reconciled within the prescribed timeframes, hence no payment was received from DPW.

**Internal control deficiency**

**Leadership**

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

**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)        Management should follow up all requests for balance confirmations timeously before and/or after year end to ensure that no unconfirmed balances exist in order to ensure that the correct amount of outstanding related parties balances is disclosed in the financial statements

b)        Management should ensure that confirmations are signed as evidence of approval.

c)        Management should also ensure that valid, accurate and complete schedules and confirmations are used to prepare the annual financial statements.

d)        Differences should be timeously followed up to ensure accurate and complete disclosure in the financial statements.

**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 | 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 | Pace Debtors to be reduced by the same amount in the mean- time an investigation must be instigated for amounts that increase debtors without z59’s | |
| 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 | Assistant Manager | |
| Estimated completion date for corrective action | 30 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. | n/a | |

Name: Billy Leketi

Position: Director Revenue

Date:13/8/2012

**Auditor’s conclusion**

Management comment noted. Although management state that they disagree with the finding, the rest of the response indicates that management agrees with the finding, and cognisance is taken of this fact. This matter will therefore be included in the final management report.

1. **Related party disclosures**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) Section 38(1)(a)(i) states that *The accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control.*

Section 40(1) furthermore states that *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.*

*b)    must prepare financial statements for each financial year in accordance with generally recognized accounting practice.”*

IAS 8 Paragraph 42 states that *subject to paragraph 43, an entity shall correct material prior period errors retrospectively in the first set of financial statements authorised for issue after their discovery by:*

*i.        restating the comparative amounts for the prior period(s) presented in which the error occurred; or*

*ii.        if the error occurred before the earliest prior period presented, restating the opening balances of assets, liabilities and equity for the earliest prior period presented.”*

IAS 8 Paragraph 43 further states that *“A prior period error shall be corrected by retrospective restatement except to the extent that it is impracticable to determine either the period-specific effects or the cumulative effect of the error.”*

IAS 8 Paragraph 49 states that *in applying paragraph 42, an entity shall disclose the following:*

*a)    the nature of the prior period error;*

*b)    for each prior period presented, to the extent practicable, the amount of the correction;*

*c)    the amount of the correction at the beginning of the earliest prior period presented; and*

*d)    if retrospective restatement is impracticable for a particular prior period, the circumstances that led to the existence of that condition and a description of how and from when the error has been corrected.*

IAS 24 Paragraph 17 states that *if there have been transactions between related parties, an entity shall disclose the nature of the related party relationship as well as information about the transactions and outstanding balances necessary for an understanding of the potential effect of the relationship on the financial statements. At a minimum, disclosures shall include:*

*a)    the amount of the transactions;*

*b)    the amount of outstanding balances and;*

*c)    provisions for doubtful debts related to the amount of outstanding balances.*

IAS 1 Paragraph 38 states *that except when IFRSs permit or require otherwise, an entity shall disclose comparative information in respect of the previous period for all amounts reported in the current period’s financial statements.*

Detailed testing was performed on the annual financial statements (AFS) Note 14 (Related parties) and the following deviations were noted:

**1)    Errors noted:**

(i)            It came to our attention that there were material payments in the current and prior financial year which were made by DPW to PMTE which were not disclosed by PMTE as part of the related party disclosure note.  The transactions that were not disclosed are as follows:

|  |  |  |
| --- | --- | --- |
| **Payments made** | **Current period** | **Prior period** |
| Goods and services | R 392 173 000,00 | R 322 055 000,00 |
| Purchases of capital assets | R 885 424 000,00 | R 1 236 890 000,00 |
| **Total** | **R 1 277 597 000,00** | **R 1 558 945 000,00** |

**2)    Misstatements in disclosure:**

(a)  The provision for doubtful debts related to the amount of outstanding balances was not disclosed under Note 14 (Related parties).

(b)  The figures disclosed as per disclosure note 14 (Related parties) of the 2011/2012 Annual Financial Statements do not agree with the figures as per the Related parties schedule provided for audit purposes.  The differences noted were not due to rounding.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Related party transactions:** |  |  |  |  |

| **Transaction Description** | **Client department** | **Amount disclosed per financial statements Note 14 (Related Parties)** | **Amount  per Related Parties Schedule** | **Difference** |  |
| --- | --- | --- | --- | --- | --- |
|  |
| Accommodation charges – State owned | SA Police Services | R 852 478 000,00 | R 852 479 729,00 | R -1 729,00 |  |
|  |
| Accommodation charges – Private leases | COGTA | R 18 520 000,00 | R 24 775 315,33 | R -6 255 315,33 |  |
|  |
| Accommodation charges – Private leases | Correctional Services | R 72 920 000,00 | R 72 089 656,94 | R 830 343,06 |  |
|  |
| Accommodation charges – Private leases | Energy | R 6 347 000,00 | R 6 313 032,87 | R 33 967,13 |  |
|  |
| Accommodation charges – Private leases | Gender Equality | R 626 000,00 | R 611 353,02 | R 14 646,98 |  |
|  |
| Accommodation charges – Private leases | Human Rights Commission | R -4 068 000,00 | R -3 903 085,72 | R -164 914,28 |  |
|  |
| Accommodation charges – Private leases | Independent Complaints Directorate | R 21 578 000,00 | R 47 143 440,59 | R -25 565 440,59 |  |
| Accommodation charges – Private leases | Justice and Constitutional Dev | R 314 791 000,00 | R 293 456 153,54 | R 21 334 846,46 |  |
| Accommodation charges – Private leases | National Prosecuting Authority | R 3 229 000,00 | R 25 351 789,94 | R -22 122 789,94 |  |
|  |
| Accommodation charges – Private leases | National Treasury | R 32 239 000,00 | R 25 281 440,19 | R 6 957 559,81 |  |
| Accommodation charges – Private leases | Parliament | R 307 000,00 | R 80 481,60 | R 226 518,40 |  |
| Accommodation charges – Private leases | Public Protector | R 4 800 000,00 | R 4 430 713,95 | R 369 286,05 |  |
| Accommodation charges – Private leases | Public Works | R 163 492 000,00 | R 163 265 476,04 | R 226 523,96 |  |
| Accommodation charges – Private leases | SASSA | R 87 027 000,00 | R 86 127 559,65 | R 899 440,35 |  |
| Accommodation charges – Private leases | Women and Children and People with Disabilities | R 7 508 000,00 | R 7 583 950,23 | R -75 950,23 |  |
| **TOTAL** |  | **R 1 581 794 000,00** | **R 1 605 087 007,17** | **-R 23  293 007,17** |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Related party balances:** |  |  |  |

| **Transaction Description** | **Client department** | **Amount disclosed per financial statements Note 14 (Related parties)** | **Amount  per Related Parties Schedule** | **Difference** |  |
| --- | --- | --- | --- | --- | --- |
|  |
| Claims recoverable - PACE | Correctional services | R 29 946 000,00 | R -40 954 796,77 | R -70 900 796,77 |  |
|  |
| Claims recoverable - PACE | SA Police services | R 78 461 000,00 | R 78 328 849,96 | R 132 150,04 |  |
| **Total** |  | **R 108 407 000,00** | **R 37 374 053,19** | **R -70 768 646,73** |  |

(c) The following figure as indicated in the Related parties schedule provided for the current financial year  was not included in disclosure note 14 (Related parties) of the 2011/2012 annual financial statements.

**Related party balances:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Transaction Description** | **Client department** | **Amount disclosed per Note 14 (Related parties) of the 2011/2012 financial statements** | **Amount indicated in the Related parties schedule** | **Difference** |  |
|  |
| Claims recoverable:  CA | Women and Children and People with Disabilities | R 0,00 | R 6 573,37 | R -6 573,37 |  |
|  |
| **Total** |  | **R 0,00** | **R 6 573,37** | **R -6 573,37** |  |
|  |

(d)  It came to our attention that transactions that occurred between PMTE and related parties (key management personnel) during the current and past financial year were not disclosed appropriately in the note.  The disclosure relating to these transactions as per Note 14 to the AFS do not agree to the supporting documentation provided:

(i)             The figures of the transactions disclosed do not agree to the figures disclosed as per supporting documentation provided.  Refer to Annexure A

(ii)            The heading that was disclosed as “Balance at 30 March 2011” instead of “Balance at 31 March 2012.  Furthermore, this heading also does not provide sufficient and adequate information such as to indicate to the user of financial statements whether the balance owing is owed to PMTE or the other related party. Only upon scrutiny of the declaration form provided were we able to ascertain that this heading actually indicates the amount outstanding on the contract as at year end.

(iii)           The heading that was disclosed as “Amount” also does not provide sufficient and adequate information to the user in terms of this meaning.  Only upon scrutiny of the declaration form provided were we able to ascertain that this heading actually indicates the Value of the contract.

(iv)         The name of one of the officials was incorrectly disclosed as Neeltjie C Van Den Hooven whereas the Declaration form that was signed by the official indicated the official’s surname as Van Der Hoven.

(v)          Based on supporting documentation provided, the following director had interests in contracts, however this was not disclosed in Note 14 to the AFS:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **RELATED PARTIES** | **NATURE OF RELATIONSHIP** | **DECLARATON FORM** | | **COMMENTS** |
| **2012 AMOUNT** | **BALANCE AT 31 MARCH 2012** |
| Kabinde SJ | Director | R 10 753,00 | Not indicated | none |
| **TOTAL** |  | **R 10 753,00** |  |  |

The balance outstanding on the contract at 31 March 2012 should also be included in the disclosure note to the AFS.

(vi)         The related party balances in respect of the following officials as disclosed in Note 14 were not indicated in the Related parties schedule provided for audit purposes.  The only items that were included in the related parties schedule related to the prior year.

|  |  |  |  |
| --- | --- | --- | --- |
| **NOTE 14 (Related parties) TO THE AFS** | | | |
| **RELATED PARTIES** | **NATURE OF RELATIONSHIP** | **2012 AMOUNT** | **BALANCE** |
| Neeltjie C Van Den Hooven | Director | R 282 270 000,00 | R 45 000,00 |
| Neeltjie C Van Den Hooven | Director | R 921 000,00 | R 80 000,00 |
| Sharneck Susan Muriel | Director | R 670 000,00 | R 168 000,00 |
| Michael Murphy | Director | R 300 000,00 | R 0,00 |
| **TOTAL** |  | **R 284 161 000,00** | **R 293 000,00** |

(vii)        The 2011 comparative balances in respect of officials and/or their relatives who had interests in contracts were not included in disclosure note 14 (Related parties) for the 2011/2012 financial year.

(viii)       It also came to our attention that a member of senior management (SMS) by the name of Nyeleti Charmaine Makhubele is married to Musa Matthews Makhubele, who owns Makasani Investments CC.  Makasani Investments CC was awarded a contract to the value of R 4 358  880,00 on December 14, 2009.   However, there was no disclosure of this interest in the current or prior year financial statements. As per inspection of WCS, we noted that payments totalling R 900 718,01 were made during the 2011/12 financial year and R 1 858 463,27 during the 2010/2011 financial year.  The remaining total payment amount of R 1 598 879,92 was made during the 2009/2010 financial year.

The balance outstanding on the contract at each year end, as well as total contract value should have been disclosed in the financial statements, even though there was no balance outstanding as at 31 March 2012.

(e)  The comparative figures disclosed as per disclosure note 14 (Related parties) of the 2011/2012 AFS did not agree to the figure disclosed in the 2010/2011 AFS.

However, we noted that there was a restatement of the figures for certain accounts in the current year to correct the prior period error.  As per comparison of comparative amounts disclosed in the current period with the updated prior period schedules provided, the following differences were noted:

| **Description** | **Client department** | **Amount as per Note 14 (Related parties)** | **Amount as per prior year  Accounts receivables schedules** | **Difference** |  |
| --- | --- | --- | --- | --- | --- |
|  |
|  |
| **Related party balances** |  |  |  |  |  |
| Claims recoverable:  PACE: | Arts and culture | R 19 116 000,00 | R 17 865 035,73 | R 1 250 964,27 |  |
| Claims recoverable:  CA: | SA Police services | R 3 723 000,00 | R 3 479 075,17 | R 243 924,83 |  |
| **Related party transactions:** |  |  |  |  |  |
| Management fees | Basic education | R 110 000,00 | R 0,00 | R 110 000,00 |  |
| Management fees | Trade and industry | R 35 000,00 | R 648 542,31 | R -613 542,31 |  |
| Management fees | Financial and fiscal commission | R 0,00 | R 348 298,49 | R -348 298,49 |  |
| **Total** |  | **R 22 984 000,00** | **R 22 340 951,70** | **R 643 048,30** |  |

In addition to the above we also noted differences relating to the comparative figures of the following accounts which were restated in the current period:

| **Description** | **Amount as per Note 14 (Related parties)** | **Amount as per Note 3 (Trade and Other Receivables)** | **Difference** |
| --- | --- | --- | --- |
| **Related party transactions** |  |  |  |
| Accommodation charges – State owned | R 61 307 000,00 | R 57 296 000,00 | R 4 011 000,00 |
| Accommodation charges – Private leases | R 551 326 000,00 | R 515 267 000,00 | R 36 059 000,00 |
| **Total** | **R 612 633 000,00** | **R 572 563 000,00** | **R 40 070 000,00** |

(f)  The comparative figure of the following related party balances disclosed as per note 14 (Related parties) of the 2011/2012 AFS do not agree to the figure disclosed in the 2010/2011 AFS.  The difference noted is not due to restatement as there was no restatement of the prior year figure relating to Accommodation debtors:  Private lease.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Transaction Description** | **Client department** | **Amount disclosed per Note 14 (Related parties) of the 2011/2012 financial statements** | **Amount disclosed per Note 15 (Related parties) of the 2010/2011 financial statements** | **Difference** |
| **Related party balances** |  |  |  |  |
| Accommodation debtors:  Private leases | Public works | R 42 417 000,00 | R 42 427 000,00 | -R 10 000,00 |
| **Total** |  | **R 42 417 000,00** | **R 42 427 000,00** | **-R 10 000,00** |

 (g)  The following currentyear amounts as per disclosure note 14 (Related parties) does not agree to the current year amounts as disclosed in Note 3 (Trade and other receivables):

| **Description** | **Amount as per Note 14 (Related parties)** | **Amount as per Note 3 (Trade and Other Receivables)** | **Difference** |
| --- | --- | --- | --- |
| **Related party balances:** |  |  |  |
| Accommodation charges: State owned | R 24 742 000,00 | R 23 933 000,00 | R 809 000,00 |
| Accommodation charges: Private lease | R 860 069 000,00 | R 828 379 000,00 | R 31 690 000,00 |
| Debtors:  Municipal services | R 419 007 000,00 | R 574 396 000,00 | R -155 389 000,00 |
| Claims recoverable:  PACE | R 394 467 000,00 | R 396 409 000,00 | R -1 942 000,00 |
| Claims recoverable:  CA | R 315 622 000,00 | R 333 836 000,00 | R -18 214 000,00 |
|  |  |  |  |
| **Related party transactions:** |  |  |  |
| Accommodation charges: State owned | R 3 268 441 000,00 | R 2 598 759 000,00 | R 669 682 000,00 |
| Accommodation charges: Private lease | R 2 929 258 000,00 | R 3 741 153 000,00 | R -811 895 000,00 |
| **Total Debt** | **R 8 211 606 000,00** | **R 8 496 865 000,00** | **R -285 259 000,00** |

As per discussion with management, the differences pertaining to Claims recoverable: PACE and Claims recoverable:  CA was due to discounting of accounts receivables that was performed in the current year.  However, it was noted that the journal for discounting of receivables was not passed.  It is thus unclear as to why there are differences noted above.

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

(a) Non- compliance to PFMA Section 38(1)(a)(i) and  Section 40(1)(a) and 40(1)(b)

(b)Based on the non compliance issues identified, this will result in a qualification of the related parties.

**Internal control deficiency**

**Leadership**

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

**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**

1. 1.            The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
2. 2.            Management should investigate and follow up all differences identified on a timely basis to ensure accurate and complete disclosure in the financial statements
3. 3.            Management should also ensure that accurate, pertinent and complete schedules are used to prepare the annual financial statements which are supported by valid supporting evidence

**Management response**

I am partially in agreement with the finding, please find below, explanations in relation to when I do not agree with the audit finding.

1(i) – Management agrees with the audit finding.

2(a) – Management agrees with the audit finding.

2(b) – Related Party Transactions: Management agrees that an error occurred when transposing the number from the calculation data to the Annual Financial Statements for SAPS – (R852 478 000 versus 852 479 729.00), however, the remaining items were disclosed correctly and agrees with the schedules on hand.

2(b) – Related Party balances - PACE: Management agrees that an error occurred when transposing the number from the calculation data to the Annual Financial Statements – this was as a result of using the balance excluding the adjustment journal.

2(c) - Related Party balances - CA: Management does not agree with the audit finding as the schedule on hand does reflect that the amount in respect of Women and Children and People with Disabilities is R0.00 at year end.

2(d) – Management agrees with this audit finding.

2(e) - Management agrees with this audit finding.

2(f) - Management agrees with this audit finding.

2(g) - Management agrees with this audit finding, the difference is as a result of the impairment of trade debtors having been excluded in the disclosure for note 14.

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | Management is currently in the process of redrafting the AFS, taking into account all of the relevant audit findings. | | |
| Does the finding affect an amount disclosed in the financial statements? | Yes | | No |
| X | |  |
| If yes, what corrections will be made to the population? | Please see corrective action above. | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 31 August 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 | Management does not agree with the root cause due to the fact that currently, our payment processing system is not integrated with our financial statement preparation program. This transfer of information currently requires a lot of human intervention, and is prone to human error.  It is our opinion that we have implemented the necessary controls over processing of payments and of transactions monthly. | | |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date: 17/8/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

* 1. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
  2. Related party transactions  
     Management comment noted. Cognisance is taken of the fact that management agrees with the finding with regards to SAPS. The finding will be included in the final management report. With regards to the other differences, cognisance is taken of the fact that the amounts agree to the Accounts Receivable schedule. While it is unclear why the related parties schedule does not agree to the accounts receivable schedule, we agree that the accounts receivable schedule is more accurate, thus the finding is cleared.   
       
     Related party balances  
     Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
  3. Management comment noted. Cognisance is taken of the fact that the amounts agree to the Accounts Receivable schedule. While it is unclear why the related parties schedule does not agree to the accounts receivable schedule, we agree that the accounts receivable schedule is more accurate, thus the finding is cleared.
  4. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
  5. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
  6. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.
  7. Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

1. **Related parties – DPW costs incurred on behalf of PMTE**

**Audit Finding**

Laws, rules and Regulations:

Chapter 5 of the Public Finance Management Act (PFMA) Section 38(1)(a)(i) states that *the accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control.*

Section 40(1) furthermore states that *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. *must prepare financial statements for each financial year in accordance with generally recognized accounting practice.*

IAS 24 Paragraph 17 states that *if there have been transactions between related parties, an entity shall disclose the nature of the related party relationship as well as information about the transactions and outstanding balances necessary for an understanding of the potential effect of the relationship on the financial statements. At a minimum, disclosures shall include:*

1. *the amount of the transactions;*
2. *the amount of outstanding balances and;*
3. *provisions for doubtful debts related to the amount of outstanding balances.*

IAS 1 Paragraph 38 states *that except when IFRSs permit or require otherwise, an entity shall disclose comparative information in respect of the previous period for all amounts reported in the current period’s financial statements.*

**The following deviations were noted whilst performing our audit on the related party disclosure note:**

The following narrative disclosure has been included in note 14 (Related Parties) to the financial statements: *“National Department of Public Works: Expenditure incurred on behalf of Property Management Trading Entity (PMTE) in the current financial year is R732m (2011 – R 622 M).”*

Upon a request for supporting evidence for the amounts included in aforementioned narrative disclosure the following breakdown was provided:

|  |  |  |
| --- | --- | --- |
| **Related Party Transactions** | **2011/12** | **2010/11** |
| Direct | R 506 836 117,00 | R 454 204 138,00 |
| Indirect (Assumed 30%) | R 225 184 417,00 | R 167 819 639,00 |
| **TOTAL** | **R 732 020 534,00** | **R 622 023 777,00** |

1. The detailed breakdown of the amounts which makes up the total of the direct and indirect costs as indicated above were not disclosed in note 14 (Related parties) of the financial statements for PMTE:

| ***Direct Costs*** | | |
| --- | --- | --- |
| **Component** | **2011/12** | **2010/11** |
| Compensation of employees | R 468 179 072,00 | R 411 486 676,00 |
| Goods and services | R 34 433 627,00 | R 36 662 803,00 |
| Interest and rent on land | R 700 276,00 | R 538 053,00 |
| Transfers and subsidies | R 1 780 303,00 | R 1 766 779,00 |
| Purchases of capital assets | R 1 742 839,00 | R 3 749 827,00 |
| **TOTAL** | **R 506 836 117,00** | **R 454 204 138,00** |

| ***Indirect Costs*** | | |
| --- | --- | --- |
| **Component** | **2011/12** | **2010/11** |
| Compensation of employees | R 114 405 884,00 | R 86 246 871,00 |
| Goods and services | R 100 157 634,00 | R 75 612 808,00 |
| Interest and rent on land | R 242 779,00 | R 1 440 870,00 |
| Transfers and subsidies | R 391 801,00 | R 746 712,00 |
| Purchases of capital assets | R 9 986 319,00 | R 3 772 378,00 |
| **TOTAL** | **R 225 184 417,00** | **R 167 819 639,00** |

1. A recalculation of the indirect costs was performed and the following differences were noted:

For the 2011/2012 financial year:

|  |  |  |  |
| --- | --- | --- | --- |
| **Component** | **2011/12** | | |
| **Amount as per schedule** | **Recalculated amount** | **Difference** |
| Compensation of employees | R 114 405 883,74 | R 105 299 624,66 | R 9 106 259,08 |
| Goods and services | R 100 157 634,42 | R 94 180 267,57 | R 5 977 366,85 |
| Interest and rent on land | R 242 779,10 | R 239 129,58 | R 3 649,52 |
| Transfers and subsidies | R 391 801,00 | R 405 068,66 | -R 13 267,67 |
| Purchases of capital assets | R 9 986 319,14 | R 9 954 267,00 | R 32 052,13 |
| Software and intangible assets |  | R 10 504,98 | -R 10 504,98 |
| **TOTAL** | **R 225 184 417,39** | **R 210 088 862,45** | **R 15 095 554,94** |

For the 2010/2011 financial year:

|  |  |  |  |
| --- | --- | --- | --- |
| **Component** | **2010/2011** | | |
| **Amount as per schedule** | **Recalculated amount** | **Difference** |
| Compensation of employees | R 86 246 870,85 | R 86 906 306,69 | - R 659 435,85 |
| Goods and services | R 75 612 808,08 | R 75 607 266,46 | R 5 541,62 |
| Interest and rent on land | R 1 440 870,40 | R 3 806 039,54 | -R 2 365 169,14 |
| Transfers and subsidies | R 746 711,64 | R 746 711,31 | R 0,33 |
| Purchases of capital assets | R 3 772 378,44 | R 1 463 173,81 | R 2 309 204,63 |
| Software and intangible assets |  |  | - |
| **TOTAL** | **R 167 819 639,41** | **R 168 529 497,81** | **-R 709 858,40** |

Disclosure note 14 (Related parties) for PMTE and disclosure note 27 (Disclosure of payments made) for DPW was therefore understated by R 210 088 862,45 in the current year and by R 168 529 497,81 in the prior year.

1. Furthermore, we noted the following deviations with regards to the basis of estimate used to calculate the indirect costs:
2. The estimation uncertainty based on the calculation of indirect costs was not disclosed in the AFS of either DPW or PMTE.

Inspected the Internal Memorandum regarding the Disclosure of related party transactions between PMTE and DPW which was captured by Mandla Sithole (Director: Financial Accounting & Reporting) on 30/05/2012, recommended by Sue Mosegomi (Acting CFO) on 30/05/2012 and approved by Mandisa Fatyela-Lindie (Acting Director General) on 31/05/2012, whereby management indicated that since the inception of PMTE, the Department has been funding all PMTE activities either directly or indirectly. Therefore, PMTE does not have a functional structure and operates within the departmental structure. The nature of the relationship thus results in a dilemma in calculating the amount to be disclosed as related party costs. In the absence of a Business Case and operating directives, identification of such transactions will remain a challenge.

The internal memorandum inspected indicates the presence of the estimation uncertainty.

1. The disclosures in the financial statements that related to accounting estimates are not in accordance with the requirements of the SA GAAP. There was no additional information disclosed which would be relevant to users in understanding the accounting estimates recognized or disclosed in the financial statements.
2. The selected measurement basis for the accounting estimates is not in accordance with the requirements of the SA GAAP. The method used to measure the accounting estimate is not generally accepted - a blanket rate was used for all types of expenditure accounts.
3. Significant assumptions used by management do not appear to be reasonable and appropriate in light of the measurement objectives of the SA GAAP. Assumptions do not appear reasonable when considered collectively - a blanket rate was used for all the accounts in calculating the indirect cost estimate, however the relevant costs accounts are significantly different in nature.
4. Management has not sufficiently evaluated and appropriately applied the criteria provided in the SA GAAP to support the selected method

Potential impact:

1. Non- compliance with PFMA Section 38(1)(a)(i) and Section 40(1)(a) and 40(1)(b)
2. The disclosure made in note 14 (Related parties) would therefore be understated by the total amount of direct and indirect costs in the current and prior periods.

Reasons for the deviations:

As per discussion with the D: Finance, it was noted that through an internal memorandum issued by the Department which was approved by the Acting Director General M Fatyela-Lindie dated 2012-05-31 the following was noted:

*“In the absence of a system to accurately determine the value of the related party transactions between PMTE and the Department, it is proposed that a value be determined based on apportioned costs for all indirect costs.*

*The basis for this in respect of direct costs is because the activities of the identified functional units are specific to execution of PMTE functions but such activities are being funded by the Department funds directly from its appropriation as well as the Department also accounting for these in financial statements”.*

Therefore the D: Finance noted that since these amounts are estimation and the actual amounts are unknown, it does not seem fit that these amounts be included in the related party transactions but rather that a note be included in the financials indicating the estimated amount

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

**Internal control deficiency**

**Leadership**

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

**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**

1. PMTE should adjust the financial statements to include the disclosure of both the direct costs as well as the indirect costs in Note 14 (Related parties)
2. DPW should also adjust their financial statements to include the disclosure of the indirect costs above in the related party transactions (*“Payments made”*).
3. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.

Management Response

No management response was received

Auditor’s Conclusion

No management response was received. This matter will therefore be reported in the management report.

Revenue

1. **Offsetting of planned maintenance against Revenue**

**Audit finding**

IAS 1 paragraph 32 states that, *“An entity shall not offset assets and liabilities or income and expenses, unless required or permitted by an IFRS”*.

Planned maintenance expenditure was offset against revenue as indicated in the following journal entry which was generated as part of the compilation of the final financial statements process:

Dr  12020 Accomm Chrgs - State Owned                                        R706 998 508, 76

  Cr  12077 Own&Leas Prop Exp: Con Refur/R                               R 557 280 860, 26

  Cr  12011 Own&Leas Prop Exp: Upgrade&Add                            R149 717 648, 50

(Narration: PMTE rehabilitates and refurbish DPW properties using revenue from state owned    properties hence removal of capital expenditure at 31 March 2012)

This amounts to a contravention of the offsetting principles contained in IAS 1 and results in the understatement of revenue and expenditure/assets (depending on whether the amount qualifies for capitalisation) to the value of R707 million.

The primary reasons for the occurrence of this finding are that:

(a)  The PMTE does not have enough officials with in-depth knowledge of accounting in accordance with the South African Statements of Generally Accepted Accounting Practice.

(b)  The lack of an approved business case and a comprehensive set of approved and implemented policies and procedures results in complications when it comes to defining the accounting treatment of transactions occurring within the PMTE.

(c)  The same finding was raised during the 2010/11 audit, as well as during the interim audit and management advised that they were going to approach National Treasury for a  directive and approach on treatment of this matter; however no process has been done.

(d)  Audit recommendations were not implemented.

The audit opinion will be modified due to this incorrect accounting treatment which has consistently been occurring since PMTE started preparing financial statements in accordance with SA GAAP.

**Internal control deficiency**

Leadership

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

Management does not develop and monitor the implementation of action plans to address internal control deficiencies.

Financial and performance management

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

**Recommendation**

(a)  The journal that has been effected to set off the planned maintenance expenditure against revenue should be reversed, similarly this should also be performed for all preceding financial years where this method of accounting was utilised.

(b)  The current year and applicable prior years’ populations for planned maintenance expenditure should be analysed and a comprehensive review of the entire process should be performed to ensure that the planned maintenance expenditure is accounted for in accordance with the SA statements of GAAP (this should be done in conjunction with the finalisation of the business case).

(c)  The following should be taken into account when the abovementioned process ensues:

(i)    The nature of each expense transaction should be analysed to determine whether the costs should be capitalised or whether it should be accounted for as operating expenditure.

(ii)   A capitalisation policy (in line with the provisions of SA GAAP) should be formulated, approved and implemented without further delay to guide the process described in the preceding point.

(iii)  Consideration must be given to the fact that immovable assets are currently being accounted for in the Department of Public Works and therefore any costs qualifying for capitalisation should ultimately be capitalised onto the immovable asset in DPW to enable the department to fairly present the immovable asset disclosure note in their financial statements.

(iv) Care must be taken that double accounting of transactions do not occur between PMTE, DPW and client departments.

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | None for the period under review. | | |
| 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 | The business case has not been concluded, which should inform the relationships between DPW and PMTE and thus the treatment of capital expenditure. | | |
| Position of official responsible to take corrective action | N/A | | |
| Estimated completion date of 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 |  | | |

Name: J Prinsloo

Position: Chief Director: Financial Planning and Reporting

Date: 19/7/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This finding will be reported in the management report, and audit report.

1. **Accommodation charges – Private leases**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) Section 38(c) states that *The* *Accounting Officer must take effective and appropriate steps to—*

*(i)            collect all revenue due to the public entity concerned*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

The following matters were identified:

a)    Agreed the expenditure incurred for the year as per PMIS for each client department to the invoiced amount as per debtors listing and noted that the amount invoiced is less than the expenditure incurred by PMTE for the following client departments:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Client department** | **PMIS Expenditure** | **Invoiced as per debtors listing** | **Difference** |
| 1 | National Prosecuting Authority | R 54 631 124,98 | R 3 228 634,16 | R 51 402 490,82 |
| 2 | Home Affairs | R 226 315 127,15 | R 184 639 059,49 | R 41 676 067,66 |
| 3 | SA Police Services | R 866 881 517,82 | R 855 867 551,78 | R 11 013 966,04 |
| 4 | Public Protector | R 13 613 856,04 | R 4 800 226,96 | R 8 813 629,08 |
| 5 | Presidency | R 7 566 279,36 | R 0,00 | R 7 566 279,36 |
| 6 | COGTA | R 24 775 316,33 | R 18 520 089,70 | R 6 255 226,63 |
| 7 | Human Rights Commission | R 1 818 403,16 | -R 4 068 201,78 | R 5 886 604,94 |
| 8 | Correctional Services | R 78 343 129,37 | R 72 920 587,20 | R 5 422 542,17 |
| 9 | Transport | R 31 709 902,10 | R 28 792 186,90 | R 2 917 715,20 |
| 10 | Communications | R 10 451 213,24 | R 8 326 532,64 | R 2 124 680,60 |
| 11 | Labour ( excl SETA'S) | R 114 322 885,10 | R 112 231 987,15 | R 2 090 897,95 |
| 12 | Gender Equality | R 2 660 058,59 | R 625 625,50 | R 2 034 433,09 |
| 13 | Arts and Culture | R 18 826 550,49 | R 17 309 028,23 | R 1 517 522,26 |
| 14 | SASSA | R 88 537 074,32 | R 87 027 290,90 | R 1 509 783,42 |
| 15 | Water Affairs | R 134 314 459,95 | R 132 864 965,53 | R 1 449 494,42 |
| 16 | Rural Development and Land Reform | R 113 309 456,91 | R 112 197 707,55 | R 1 111 749,36 |
| 17 | Parliament | R 1 366 161,85 | R 306 802,08 | R 1 059 359,77 |
| 18 | Trade and industry | R 2 742 765,63 | R 1 798 084,45 | R 944 681,18 |
| 19 | Health | R 5 142 434,09 | R 4 785 508,28 | R 356 925,81 |
| 20 | National Treasury | R 32 485 876,16 | R 32 239 542,23 | R 246 333,93 |
| 21 | Government Communications | R 11 747 797,17 | R 11 708 439,38 | R 39 357,79 |
| 22 | NDPW Prestige | R 9 869 986,17 | R 0,00 | R 9 869 986,17 |
| 23 | Environmental Affairs | R 51 230 187,25 | R 39 748 547,99 | R 11 481 639,26 |
| **Total** | | **R 1 902 661 563,23** | **R 1 725 870 196,32** | **R 176 791 366,91** |

b)    Agreed the expenditure incurred for the year as per PMIS for each client department to the invoiced amount as per debtors listing and noted that the amount invoiced is more than the expenditure incurred by PMTE for the following client departments:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Client department** | **PMIS Expenditure** | **Invoiced as per debtors listing** | **Difference** |
| 1 | Independent Complaints Directorate | R 21 889 486,70 | R 21 578 306,77 | -R 19 389 320,07 |
| 2 | Women and Children and People with Disabilities | R 7 375 731,32 | R 7 508 355,32 | -R 6 770 824,00 |
| 3 | Minerals | R 8 950 671,01 | R 9 145 161,29 | -R 194 490,28 |
| 4 | Energy | R 378 507,36 | R 6 347 442,63 | -R 5 968 935,27 |
| 5 | Public Service and Administration | R 23 192 798,30 | R 23 808 344,24 | -R 648 208,99 |
| 6 | Public Service Commission | R 9 303 116,60 | R 10 530 453,47 | -R 1 194 673,82 |
| 7 | Social Development | R 19 697 518,12 | R 21 704 308,07 | -R 2 006 789,95 |
| 8 | International Relations and Cooperation | R 49 123 577,28 | R 18 051 318,48 | -R 2 974 970,18 |
| 9 | International Relations and Cooperation (PAP) | R 34 047 228,98 |
| 10 | Tourism | R 50 989 392,92 | R 54 789 776,46 | -R 3 800 383,54 |
| 11 | Defence and Military Veterans | R 203 196 080,74 | R 207 678 493,04 | -R 4 482 412,30 |
| 12 | Human Settlement | R 28 539 519,41 | R 39 030 511,07 | -R 10 490 991,66 |
| 13 | Statistics SA | R 140 361 669,50 | R 152 317 188,22 | -R 11 955 518,72 |
| 14 | Justice and Constitutional Dev | R 279 720 748,77 | R 314 790 904,31 | -R 35 070 155,54 |
| 15 | Public Works | R 64 112 392,59 | R 163 491 796,52 | -R 99 379 403,93 |
| 16 | Agriculture, Forestry and fishing | R 72 108 585,16 | R 72 581 872,25 | -R 473 287,09 |
| 17 | SAMAF | R 621 150,50 | R 1 170 073,05 | -R 548 922,55 |
| **Total** | | **R 979 560 946,28** | **R 1 158 571 534,17** | **-R 205 349 287,89** |

As per discussion with management, some departments indicated as “user department” on PMIS are not responsible for the billing of certain buildings, therefore the expenditure incurred may not be equal to the invoice amount was; however it is not clear why the total expenditure as per PMIS does not agree to the total invoiced amount.

Furthermore it was noted that the management manually modify the PMIS data before invoicing the client departments, by adding a column for “department responsible for invoicing” which is then used to issue invoices, therefore there the validity of the data used by management could not be confirmed. The data used for the comparison above was obtained directly from the PMIS system.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No reconciliations are done between actual expenditure incurred by PMIS and amounts invoiced to client departments to ensure that all expenditure incurred by PMTE is recovered.

Accommodation Charges: Private Leases may be misstated.

**Internal control deficiency**

## Financial and performance management

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

**Recommendation**

The process of finalising the business case, acquiring the system as well as development of internal policies and procedures should be expedited.

Thorough reconciliation between PMIS and Z59 should be performed regularly and the reconciliation should be regularly reviewed in detail by management at director level and above.

**Management response**

I am in agreement with the finding for the following reasons

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Reconciliation between PMIS and Bills must be done | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| x | |  |
| If yes, what corrections will be made to the population? | Reconcile bills v/s PMIS and make sure bills are complete | | |
| 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 | Director | | |
| Estimated completion date of corrective action: | End Financial Year 2012/13 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| x | x | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | The root cause cited above does not apply in all the cases, and when it does, the bill is merely redirected to the responsible payer instead of the occupier or the captured client.  In cases where the root cause is not relevant, it could have been because the bill was based on estimation as in case of all the invoices for March 2012 OR because of disputed bills. | | |

Name: Billy Leketi

Position: Director Revenue

Date:15/8/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report and the audit report.

Cash and cash equivalents

1. **Bank overdraft - non compliance with Treasury regulations**

**Audit finding**

Treasury Regulations (TR) 19.2.3 states that, “*Trading entities allowed to open bank accounts may not borrow for bridging purposes and may not run overdrafts on their banking accounts.”*

As at 31 March 2012, the PMTE PMG account (8033) balance of R1 223 206 905,21 was in overdraft.  This is in contravention with TR 19.2.3.

The finding was also reported in the 2010-11 audit report and since 31 March 2011, the overdraft balance has decreased with 5.31% i.e. from R1 291 797 347,89 as at 31 March 2011 to R1 223 206 905,21 as at 31 March 2012.

Our discussions with management revealed that this overdraft occurred by taking on debts from the Department of Public Works prior to 2006 not recovered from client departments for payments made on their behalf.  These client departments surrendered surpluses to National Treasury without making payment to the Department of Public Works resulting in the PMTE running an overdraft on their PMG account in contravention of the Treasury Regulations.

Management further indicated that the decrease of bank overdraft is due to the increase in collection of revenue due from the client departments.

PMTE does not have sufficient controls in place to ensure the amount paid on behalf of the client departments is collected on time to minimize the use of the bank overdraft.

This is in contravention of TR 19.2.3

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting, compliance with laws and regulations and internal control.

**Recommendation**

(a)  An analysis needs to be made of exactly what contributed to the overdraft.

(b)  A request for paying outstanding claims needs to be sent to all client departments that contributed to the overdraft.

(c)  Discussions held with client departments must be minuted and resolutions agreed upon in these meetings should be followed up and implemented.

(d)  Client departments need to budget specifically for funds to settle outstanding claims from the Department of Public Works.

(e)  National Treasury to be approached for intervention in recovering outstanding claims from client departments as provided for in the PFMA, Section 6(1)(b),  “co-ordinate inter-governmental financial and fiscal relations;”.

(f)   If amounts cannot be recovered from the client departments the entity needs to follow the departmental procedures for ‘writing-off debt’.

(g)   Monthly reconciliations need to be performed and action taken to ensure timeous recovery of current debts from client departments.

(h)    Management needs to review this overdraft on a monthly basis to ensure the overdraft does not continually increase.

(i)     The entity should consider entering into agreements with the user departments to pay the PMTE upfront to alleviate the bank overdraft situation.

**Management response**

I am in agreement with the finding

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | The bank  will decrease with improved collection from client departments | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 31  March 12013 | | |
| 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: Chief Director: Planning and Reporting  Date: 16/7/2012 |  |  |  |

**Auditor’s conclusion**

Management comment noted, and cognisance is taken of the fact that management agrees with the finding. This non-compliance will be reported in the audit report.

Prepayments

1. **COAF 158 - Rental payments made in advance incorrectly classified as operating lease expenditure (Pretoria region)**

**Audit finding**

In terms of the Framework for the preparation and presentation of financial statements paragraph 22 *Accrual Basis* states that, *“In order to meet their objectives, financial statements are prepared on the accrual basis of accounting. Under this basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

During our review of the operating lease expenditure it was noted that the following rental lease payments for the month of April 2012 were made in March 2012.  Year end journals to convert the cash basis of accounting to accrual basis of accounting were not passed to remove these payments from operating lease expenditure to prepayments.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Description** | **Invoice #** | **Payment no.** | **Payment date** | **Client department** | **Lessor’s name** | **Amount**  **R** |
| 1 | rental payment for april 2012 | 561039 | 480016 | 16/03/2012 | South African Police Services | New Height s326(Pty) Ltd | 145 077,50 |
| 2 | rental for april 2012 | 565630 | 480041 | 26/03/2012 | Department of Water Affairs | Redefine Properties | 2 305 503,20 |
| 3 | rental payment for april 2012 | 556615 | 479585 | 27/03/2012 | Home Affairs | Faerie Glen Waterpark (Pty) Ltd | 185 842,80 |
| 4 | rental payment for april 2012 | 502959 | 479569 | 28/03/2012 | Statistics South Africa | Zambli 216 (Pty) Ltd | 196 080,00 |
| **Total** | | | | | | | **2 832 503,50** |

The above is a result of the PMTE not having an appropriate accounting system in place to support the accrual basis of accounting.  Transactions are thus accounted for on BAS on the cash basis and year end journals are required to be passed to convert the cash basis to accrual basis at year end.  The officials did not identify the transactions relating to prepayment of operating lease expenditure as an accrual to be adjusted for at year end and therefore the adjustments were not made.

The above results in operating lease expenditure being overstated by R2 832 503.50 and prepayments being understated by R2 832 503.50.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should revisit the population to ensure that all prepayments made for operating lease expenditure is correctly classified as a prepayment.  The necessary journal entries should be passed to correct the incorrect classification.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**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** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| √ | |  |
| If yes, what corrections will be made to the population? | Information will be provided to Head office for adjustments to be made to the population to recognize the transactions as prepayments. | | |
| 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 | D: Finance & SCM | | |
| Estimated completion date of corrective action: | 27/07/2012 | | |
| 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:   Mpho Selepe

Position:  Deputy Director

Date:   26/7/2012

**Auditor’s conclusion**

Management comment noted.  No adjustments had been made to the financial statements to correct the error and thus prepayments is understated by an undeterminable amount and operating lease expenditure overstated by the same amount.

**ANNEXURE C2: OTHER IMPORTANT MATTERS**

**Compliance**

1. **Risk management not effective**

**Audit finding**

1.**Executive Risk Management Committee (ERMC)**

Risk Management Strategy paragraph 6.6 states that Executive Risk Management Committee (ERMC) is the custodian of the DPW risk management policy and responsible for ensuring that it is properly implemented and reviewed where necessary.

Executive Risk Management Committee Terms of reference paragraph 6 states that ERMC meetings shall be held once every two months and when the chairman deem it appropriate in order to deal with the matters of urgency.

We made a request for the ERMC meeting minutes and it was determined that the ERMC has not met in the current financial year. The terms of reference have not been complied with.

**2.    Risk identification and risk assessment**

Risk Management Strategy paragraph 6.2 states that EXCO or top management has the responsibility for disclosing the effectiveness of the risk management process implemented by the department in the annual report of the department.

It is responsible for ensuring that a risk assessment is conducted on a regular basis following significant changes to the department’s operating environment, as well as ensuring that it (EXCO) receives and reviews reports on risk management. Management shall consider the evaluation of its system of internal control to ensure that it caters for the following measures:

1. Risk management planning which informs business planning;
2. Identification of significant risks, which are reported upon and communicated; and
3. Risk assessments, which are done at least once annually.

Paragraph 6.3 states that senior management is accountable to top management for implementing and monitoring the risk management process and integrating it with their day-to-day activities in their areas of responsibilities.

Formal risk identification and risk assessment for PMTE has not been done and signed off as at 27 October 2011. Upon perusal of the reasons for the risk assessments not being done, it was identified that the Risk unit has been facing the following challenges:

(a)  Risks registers have not been finalised due to difficulties in meeting with the heads of the departments. It was indicated that the heads of the departments either keep on postponing or cancelling the meetings.

(b)  The unit does not get cooperation from top management. Attempts are made to meet up with the officials but such attempts are futile.

As a result, the risk management unit has not been able to fulfill its responsibilities.

**3.    Monitoring and review**

The Risk Management Strategy paragraph 7.5 states that monitoring and review will be done to determine the effectiveness of identified risk control action plans and to establish whether they have been implemented as per risk register. The key strategic risks will be monitored on a continuous basis through interactions with top management.

For operational risks identified and any other risks which have not been classified as key strategic risks, monitoring and review will be undertaken once a year using the quarterly reports and annual reports submitted by the units as well through a series of interviews and testing of portfolio of evidence. The Strategic Management Unit (SMU) will perform the monitoring and review of the implementation of risk control action plans. The results of the monitoring and review will be used to update the departmental risk register.

The following weaknesses were identified regarding the monitoring and reviewing of the risk assessment process:

(i)    It was determined that the processes of ensuring that controls to mitigate high risks as identified in the signed risk register are put in place is done by internal auditors. As at 27 October 2011 no audit has been conducted by internal audit and therefore risks implementation audit for the prior year risks have not been done for PMTE.

(ii)   The risk monitoring is done by the  risk management unit. It has been determined that the risk monitoring by the Risk Management Unit has not taken place to date due to the capacity constrains in the Risk Management Unit.

As a result,  management do not ensure that controls to mitigate high risks identified are implemented and monitored.

As a result,  management do not ensure that controls to mitigate high risks identified are implemented and monitored.

There are inconsistencies in the leadership of the Department which has a negative effect in the culture of the organisation which then gives room for the errors, misstatements and other weaknesses in the internal controls

In the absence of a proper system for managing risk, the entity will be unable to detect and manage risks in the department which could result in fraudulent activities therefore resulting in unauthorised, fruitless and wasteful and irregular expenditures.

**Internal control deficiency**

**Governance**

The entity did not implement appropriate risk management activities to ensure that regular risk assessments, including consideration of IT risks and fraud prevention, are conducted and that a risk strategy to address the risks is developed and monitored

**Recommendation**

1. Management should perform risk identification and assessment on a regular basis and plans must be developed in order to address the risks identified as well as the monitoring thereof.
2. In the EXCO meeting, there must be a standing agenda item to discuss how the risks within the entity are being monitored and for each EXCO member to give feedback on his/her specific section.
3. The ERMC must convene its meetings as a matter of urgency and must address all the risks pertaining to the department.
4. Management must reassess its contribution to the Risk Management Unit and implement processes to ensure that there is sufficient involvement by management on the management of risk within the organisation.

**Management response**

The risk management unit has reported the challenges  to executive management of the department and these will be  addressed with the assistance of top management of the department. The findings by the Office of the Auditor-General are on order.

Name : Pumza Makubalo

Position: Director

Date: 7/2/2012

**Auditor’s conclusion**

Management comment noted, and cognisance is taken of the fact that management agree with the finding.  The finding will be reported in the management report.

1. **Communication of code of conduct**

**Audit finding**

Laws, rules and regulations

a)            Constitution of the Republic of South Africa requires in section 195(1)(a) the following pertaining to basic values and principles governing public administration:

*“Public administration must be governed by the democratic values and principles enshrined in* [*the Constitution*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/egqg/0nqg/1nqg?f=templates$fn=document-frameset.htm#0)*, including the following principles:*

*(a)        A high standard of professional ethics must be promoted and maintained.*

*(b)        Efficient, economic and effective use of resources must be promoted.*

*(c)        Public administration must be development-oriented.*

*(d)        Services must be provided impartially, fairly, equitably and without bias.*

*(e)        People’s needs must be responded to, and the public must be encouraged to participate in policy-making.*

*(f)         Public administration must be accountable.*

*(g)        Transparency must be fostered by providing the public with timely, accessible and accurate information.*

*(h)        Good human-resource management and career-development practices, to maximise human potential, must be cultivated.*

*(i)         Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.”*

b)            The explanatory manual of the code of conduct for the Public Service issued by the Public Service Commission states:

(i)            Paragraph 3.3.2:

*“In terms of the collective agreement (Public Service Co-ordinating Bargaining Council Resolution 2 of 1999) all employees in the Public Service have the responsibility to comply with the prescribed Code of Conduct. As this forms the main basis on which pro-active, corrective and even disciplinary action rests, the employer must do everything possible to ensure that the contents of the Code of Conduct are known to all employees.”*

(ii)           Paragraph 3.3.3:

“*It is important to reiterate that the primary purpose of the Code is a positive one, namely to promote exemplary conduct. Notwithstanding this, an employee shall be guilty of misconduct in terms of the abovementioned Act, and may be dealt with in accordance with sections 18 to 27 as amended in the Public Service Laws Amendment Bill of 1997, if he or she contravenes any provision of the Code of Conduct.”*

Upon enquiry from various officials it was ascertained that officials are not in possession of a copy of the code of conduct. Two of the officials are new appointments. It should be noted that the department utilised the explanatory manual on the code of conduct (refer point b above), which include a code of conduct, as their code of conduct.

As a result of the above mentioned the department may not be able to take disciplinary action against officials for not complying with the code of conduct, as they may not be aware of the requirements thereof or claim not to be aware of it and the department will not be able to proof the contrary.

This matter was also reported in the 2010-2011 financial year.

As a result of the above mentioned the department may not be able to take disciplinary action against officials for not complying with the code of conduct, as they may not be aware of the requirements thereof or claim not to be aware of it and the department will not be able to proof the contrary.

**Internal control deficiency**

## Leadership

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control

**Recommendation**

a)  The department must ensure that they have sufficient copies of the code of conduct to provide it to all officials.

b)   Officials must acknowledge receipt of the code of conduct and the latter must be filed on the employees’ personnel files.

c)  Given the importance of the code of conduct an awareness campaign should be considered.

**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]:

*I am partly in agreement with the audit finding in that the Public Service Commission ,which is a custodian and or responsible for print and distribution to all departments has ceased to distribute copies of the code based on the fact that the code is currently under review. We are informed that same will be distributed when the review process has been finalized.*

*In the interim, the Department (DPW) continues to distribute the old copies of the code to all employees through emails and where possibly through induction program till such time that the PSC would have finalized the review process and then new copies will be distributed as such. This arrangement does not suggest that the department will not be able to charge employees who commit an act of misconduct. The code of conduct is   by extension a summary of common law principles which employees are reasonably expected to know .In addition to this, employees are exposed to the disciplinary code and procedure for the public service in which* ***ANNEXURE A*** *summarizes the violations of the same code of conduct.*

Name:   Giyani Makhubela

Position: Director

Date: 14/11/2011

**Auditor’s conclusion**

Although cognisance is taken of management’s comment it must be ensured by the department that each official has a copy of the code of conduct. It is recommended that the department compile a list of all officials and let them confirm that they have a copy and are familiar with the content thereof. The matter therefore remain unresolved.

1. **Availability of Fraud Prevention Plan**

**Audit finding**

Laws, rules and regulations:

(a)    PFMA section 38(a)(i) requires that the accounting officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains effective, efficient and transparent systems of financial and risk management and internal control;

(b)    Treasury regulation 3.2.1 requires that:

The accounting officer must ensure that a risk assessment is conducted regularly to identify emerging risks of the institution. A risk management strategy, which must include a fraud prevention plan, must be used to direct internal audit effort and priority, and to determine the skills required of managers and staff to improve controls and to manage these risks. The strategy must be clearly communicated to all officials to ensure that the risk management strategy is incorporated into the language and culture of the institution

The following deviation was noted:

During the planning process a random selection of employees were interviewed in order to determine whether the fraud prevention plan is accessible to all and whether employees are familiar with its contents.  Through discussions it was identified that not only did the employees not have a copy of the fraud prevention plan but they were also unaware of its contents. The officials could also not locate the fraud prevention plan on the intranet of the department.

The fraud prevention plan was therefore not communicated to all officials as required by TR 3.2.1.

Reason for the deviation:

The communication of the fraud prevention plan is ineffective.

Potential impact of the finding raised above:

Non Compliance with laws and regulations

(a)    Non compliance with National Treasury regulation 3.2.1

(b)    Non compliance with PFMA Act

(c)    The objectives of the fraud prevention plan will not be achieved if officials are not aware of the plan and the content thereof.

The matter was also reported in the 2010-2011 financial year.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control

**Recommendation**

(a) The fraud prevention plan should be effectively communicated to all employees and management should ensure that everyone understands the contents thereof.

(b)   Officials with access the intranet should be informed where to find the fraud prevention plan.

(c)   For officials who do not have access to the intranet a hard copy should be provided and evidence of the latter should be maintained.

(d)   Once communication has taken place, internal audit should verify that the department is compliant with Treasury Regulation 3.2.1.

**Management response**

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

1. -        on 1 April 2011 a communiqué was issued by the Chief Directorate Communications and Marketing on behalf of the Chief Directorate Internal Audit and Investigations Services to ALL DPW staff members that the “Department has an updated and approved Fraud Prevention Plan that can be accessed via DPW Intranet and/or by requesting a copy from the Fraud Awareness and Investigations Unit at Head Office or the Internal Audit Sections in Regional Offices” (See Attached document), the communiqué went as far as giving a step by step guide as to how to access the Fraud Prevention Plan on the intranet.
2. -        It is also worth noting that since February 2011 the Directorate Fraud Awareness Unit has conducted up to 22 Fraud Awareness Workshops (which are actually a presentation of the DPW Fraud Prevention Plan) at 9 Regional Offices across the country. Furthermore the Directorate Fraud Awareness and Investigations publishes articles on the in-house Newsletter (Worx-News) informing staff about issues related to Fraud and Corruption within the organization, mechanisms available to staff to report incidents of Fraud and Corruption as well as developing and ensuring that anti-Fraud and Corruption posters are displayed in the Department Buildings including Regional Offices. All the activities detailed above are some of the measures that are put in place by the Directorate to ensure the roll-out of the Departments’ Fraud Prevention Plan and to create awareness about Fraud and Corruption within the Department.

Name:

Position:

Date:

**Auditor’s conclusion**

Cognisance is taken of management’s comment. As officials still indicated that they do not have a copy or are not aware of the content of the fraud prevention plan, management should consider that official should sign a document in acknowledgement that they have the fraud prevention plan and are familiar with the content thereof.

1. **COAF 46 - Limitation of scope - RFI no 71 - 2002 contract file**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, signed contracts were requested as per request for information number 71 dated 8 March 2012 and the following contract was not submitted:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **WCS** | **Tender No** | **Contractor** | **Management Reason for Non-submission** |
| 1 | 34184 | H01/350 | Outpost Construction CC | The pink file and the related document for the WCS 034184 (H01/350) is not available. The contract was awarded in 2002 and we do not have some of the contract files for that period. |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide the information within the agreed upon timeframe constitutes a limitation of scope on performance of planned audit procedures.

The limitation of scope on contracts was also raised in the prior year (2010-11) management report.

**Internal control deficiency**

## Financial and performance management

The entity 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)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

(c)   The information requested should be submitted without further delay.

**Management response**

Management response has not been received.

**Auditor’s conclusion**

No response was received, nor were the contract files located. Thus a limitation of scope will be reported in the management report.

1. **COAF 72 - Deviations with GIAMA (CAMP and user template).**

**Audit finding**

PART A

The Custodian Immovable Asset Management Plan (C-AMP)

(a)      GIAMA (Act No 19 of 2007), section 6 (1)(a)(i) regarding Immovable asset management plan states that: “*a custodian must prepare an immovable asset management plan, to be known as a custodian immovable asset management plan, in relation to all the immovable assets which are in its custody.”*

(b)      GIAMA (Act No 19 of 2007), section 6 (2) states that “*When preparing a custodian or user immovable asset management plan, the accounting officer must—*

(a)   *meet the objects of this Act;*

(b)  *adhere to the principles contemplated in* [*section 5*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/6brg/w8n7a/x8n7a/28n7a?f=templates$fn=document-frameset.htm#1n)

(c)  *adhere to any regulations published in terms of* [*section 20*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/6brg/w8n7a/x8n7a/h9n7a?f=templates$fn=document-frameset.htm#4m)*; and*

(d)  *adhere to standards issued in terms of* [*section 19*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/6brg/w8n7a/x8n7a/g9n7a?f=templates$fn=document-frameset.htm#48)*”*

(c)      GIAMA (Act No 19 of 2007), section 7 regarding Minimum contents of custodian immovable asset management plan states that: “*A custodian immovable asset management plan must consist of at least—*

*(a)  a portfolio strategy and management plan;*

*(b)  a management plan for each immovable asset throughout its life cycle;*

*(c)  a performance assessment of the immovable asset,*

*(d)  subject to section 13(1) (d) (iii), a condition assessment of the immovable asset;*

*(e)  the maintenance activities required and the total and true cost of the maintenance activities identified; and*

*(f)    a disposal strategy and management plan.*

(d)      GIAMA (Act No 19 of 2007), section 13 (1)(a) regarding Functions of custodian and accounting officer of custodian states that: “*The accounting officer of a custodian must, for all immovable assets for which that custodian is responsible—*

(a)  *compile, in accordance with section 7, and with due regard to the user immovable asset management plans submitted in terms of section 9, a custodian immovable asset management plan that forms part of the strategic plan of that custodian;”*

(e)      GIAMA (Act No 19 of 2007), section 12 (2) regarding Revision and amendment of immovable asset management plan states that: “*a custodian must annually revise its custodian immovable asset management plan after receipt of the revised and amended user immovable asset management plan or where other factors necessitate such revision.”*

PART B

User immovable asset plan template

(a)  GIAMA (Act No 19 of 2007), section 6 (1)(a)(ii) regarding Immovable asset management plan states that: “*a custodian must prepare a user immovable asset management plan, which relates to all the immovable assets which the custodian uses or intends to use in support of its own service delivery objectives;”*

(b)  GIAMA (Act No 19 of 2007), section 8 regarding Minimum contents of user immovable asset management plan states that: “*A user immovable asset management plan must consist of at least—*

(a)  *a strategic needs assessment;*

(b)  *an acquisition plan;*

(c)  *an operations plan; and*

(d)  *an immovable asset surrender plan*

PART A:

The Custodian Immovable Asset Management Plan (C-AMP)

Although DPW has a custodian immovable asset management plan, known as the C-AMP, in place, the following weaknesses were noted:

(a)  The needs of all user departments included in the C-AMP were not fully addressed.  The needs of user departments were largely based on assumptions and/or outdated information due to the fact that user departments did not submit their U-AMPS which would indicate their latest updated needs to DPW.  The only user department which submitted its U-AMP is the Department of Defence.

As an alternative procedure, we requested confirmation responses from the various selected client departments.  The following client departments did not respond to the confirmation request:

         Science & Technology

         Minerals & energy

         Economic Planning and Development

         Human settlement

         Women, children & people with disabilities

However, we did obtain confirmation responses in respect of client departments not mentioned above.  We noted that the C-AMP is not updated according to the confirmation responses obtained.  The following refers:

1.     The needs in terms of the number of people that are occupying the building were not indicated in the C-AMP in respect of the various selected client departments, whereas these needs were included in the confirmation responses.  Refer to Annexure A

2.    The needs in terms of the total square meters of the buildings as recorded in the C-AMP differ from the square meter needs as per the confirmation responses obtained from the various selected client departments.  Refer to Annexure B

3.    This client departments were still included in the C-AMP, regardless of the circumstances indicated in Annexure C

4.    The needs of the buildings in respect of various selected client departments as per DPW’s records were not included in the C-AMP.  Refer to Annexure D

5.    The needs information was not known as indicated in the C-AMP in respect of certain selected buildings as the fields in terms of those needs were left blank.  Refer to Annexure H

Furthermore, we noted that there were differences between the needs as per DPW’s records and the confirmation responses from the various client departments.  The following refers:

1.    The needs in terms of the total square meters of the buildings as recorded in DPW’s records differ from the square meter needs as per the confirmation responses obtained.  Refer to Annexure E

2.    The needs in terms of the number of people that are occupying the buildings as recorded in DPW’s records differed from the needs of the number of people as per the confirmation responses.  Refer to Annexure F

3.    This  client department was still included in DPW’s records, regardless of the circumstances indicated in Annexure C

4.    The needs of the buildings in respect of various selected client departments as per the C-AMP were not included in DPW’s records.  Refer to Annexure G

5.    No records were kept in DPW’s records in respect of certain selected buildings as the fields in terms of the needs as well as the location of the building were left blank.  Refer to Annexure I

(b)  Due to the fact that no condition assessment was performed on the buildings, section 7 (d) as well as section 7(e) of the GIAMA were not fully met:

(i)            Section 7(d) – A condition assessment of the immovable asset in respect of various user departments was included in the C-AMP and indicated under ‘Portfolio strategy’.  However, the assessment of the condition of the buildings is on a high level review basis  and not a detailed review as no condition assessment of buildings were performed.

(ii)           Section 7(e) – The Maintenance activities required in respect of various user departments were included in the C-AMP and indicated under a Sub component shown as the "Maintenance plan" under the component "Life cycle" on the C-AMP.  However, the total and true cost of the maintenance activities cannot be reliably determined as no condition assessment was done on buildings

PART B:

User immovable asset plan template

The user immovable asset plan template is in place.  However, the template that user departments use to capture information relating to immovable assets does not address the requirement of the Government Immovable Asset Management Act.

The user plan immovable asset plan template does not contain the following minimum requirements of Government Immovable Asset Management Act.

(a)  Strategic needs assessment;

(b)  Acquisition plan;

(c)  An operations plan;

(d)  Immovable asset surrender plan.

This issue was also reported in the prior year.

Non compliance to the GIAMA requirements was due to the fact that user departments did not submit their latest updated U-AMPS. As a result, the C-AMP could not be prepared with due regard to the U-AMP’s and was therefore largely based on assumptions and outdated information.  Hence the needs of user departments were not or not fully addressed in the C-AMP. Furthermore, non-compliance to the GIAMA requirements was also due to the fact that no funds were allocated to DPW in order to enable the performance of conditional assessments for immovable assets.

Non compliance with the applicable laws and regulations may result in the incurrence of unauthorised expenditure due to overspending of the maintenance budget allocation in order to address the prevailing needs of user departments which were not known due to non-submission of the updated U-AMPs and which were therefore not budgeted for.

**Internal control deficiency**

Non compliance to the GIAMA requirements was due to the fact that user departments did not submit their latest updated U-AMPS.  As a result, the C-AMP could not be prepared with due regard to the U-AMP’s and was therefore largely based on assumptions and outdated information.  Hence the needs of user departments were not or not fully addressed in the C-AMP. Furthermore, non-compliance to the GIAMA requirements was also due to the fact that no funds were allocated to DPW in order to enable the performance of conditional assessments for immovable assets.

**Recommendation**

PART A

The Custodian Immovable Asset Management Plan (C-AMP)

(a)      Management in Asset Management branch should liaise with management in Key Accounts Management and they should collectively follow up with user departments to ensure the timely submission of all U-AMPS.  These communications should be in a written format.

(b)      Management in Key Accounts Management should ensure that the needs as per DPW’s records are updated in such a way that they are aligned with the needs as per the C-AMP.

(c)      Management should also communicate with management in user departments that they should submit detailed U-AMPS which entails the strategic direction of the relevant user departments.  These communications should also be in writing

(d)      The above written communications should be forwarded to the Director General of the relevant user departments who should enforce the submission of the U-AMPS of their relevant departments to Department of Public Works, i.e. the custodian department

(e)      The Director General of DPW should recommend to the Director General of National Treasury that they should enforce binding conditions on user departments to ensure that they submit the U-AMPS to both DPW and National Treasury. shall be allocated funding for their infrastructure requirements

PART B

User immovable asset plan template

The Policy unit should ensure that it has designed a user immovable asset plan template that contains at least the minimum requirements as outlined by section 8 of the Government Immovable Asset Management Act.

**Management response**

1. The needs in terms of the number of people that are occupying the building were not indicated in the C-AMP in respect of the various selected client departments, whereas these needs were included in the confirmation responses. Refer to Annexure A

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

CAMP does not have requirement that the number of people occupying the buildings must be reflected. Buildings whether State owned or leased are allocated to clients based on the needs submitted.

|  |  |  |  |
| --- | --- | --- | --- |
| **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 of 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 |  | | |

**Management response**

1. The needs in terms of the total square meters of the buildings as recorded in the C-AMP differ from the square meter needs as per the confirmation responses obtained from the various selected client departments. Refer to Annexure B

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

* The differences between extent (square metres) reflected on the CAMP and the information supplied by various clients is attributed to the following reasons
* In some cases the client used the gross lettable area of the building whereas DPW used the gross lettable area including non-assignable area ( common area) that is occupied by the client or vice versa
* Due to non-submission of updated UAMPs the information used in the CAMP was either sourced from the old UAMP or from the asset register system (PMIS) which is currently in the process of being enhanced.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The CAMP for 2013/14 will be updated to align to the space reported in the User Asset Management Plans (UAMPs’), subject to user departments submitting the UAMPs’. | | |
| 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 | Directors: PPM | | |
| Estimated completion date of corrective action: | End of financial year 2013/14 | | |
| 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 |  | | |

1. **Management response**

This client departments were still included in the C-AMP, regardless of the circumstances indicated in Annexure C

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

* The information captured on DPW asset register (PMIS) indicates that there is currently a lease in place for this client in this building and it will expire December 2012.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | To confirm with Regional Office Property Management on existence of lease | | |
| 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: PPM | | |
| Estimated completion date of 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 |  | | |

**Management response**

1. The needs of the buildings in respect of various selected client departments as per DPW’s records were not included in the C-AMP. Refer to Annexure D

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

No UAMPs were received from these clients and we were not aware of the new needs requirements.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | The CAMP for 2013/14 for all mentioned clients will reflect the new leased building, subject to DPW receiving the User Asset Management Plans from those clients | | |
| 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 | Directors: PPM | | |
| Estimated completion date of corrective action: | End of financial year 2012/13 | | |
| 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 |  | | |

**Management response**

1. The needs information was not known as indicated in the C-AMP in respect of certain selected buildings as the fields in terms of those needs were left blank. Refer to Annexure H

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

* The information was erroneously omitted for one building and for the other building information was included and should not have been included as the client is accommodated in a PPP building.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | **Information will be included in the updated CAMP for 2013/14 nad the one for the PPP building will be removed.** | | |
| 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: PPM | | |
| Estimated completion date of corrective action: | End of financial year 2013/14 | | |
| 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: Magdeline Tshabalala

Position: Acting CD:PPM

Date:15/8/2012

**Auditor’s conclusion**

*PART A:*

(a)

1.  Management does not agree with the finding.  Cognisance is taken of management's comment that the C-AMP does explicitly require that the number of people occupying the buildings be reflected and that buildings, whether State owned or leased are allocated to clients based on the needs submitted.  However, the needs submitted by clients should be based on actual occupancy (i.e. in terms of the number of people to occupy the building) as well as the actual vacancy (i.e. in terms of the floor square metres) as this should be part of the minimum contents of the U-AMPS as required by GIAMA (2)(b)(1)(a).  Since the C-AMP is prepared with due regard to the U-AMPS, it therefore makes sense to report on all the needs submitted, or that should be submitted by the clients.  It is this needs information that would assist DPW to identify unused owned and leased buildings to prevent ineffective/underutilisation/non-utilisation of office/other accommodation that would result in fruitless and wasteful expenditure.

Therefore this finding still remains and shall be reported in the Management report

2.  Management comment noted. Cognisance is taken of the fact that management agrees with the finding.  Therefore the finding shall be reported in the Management report

3.  Management does not agree with the finding.  Cognisance is taken of management’s comment that the information captured on DPW asset register (PMIS) indicates that there is currently a lease in place for the client in this building and it will expire December 2012.  However, this does not agree with information obtained directly from the respective client department. Therefore this finding remains and shall be reported in the Management report

4.  Management comment noted. Cognisance is taken of the fact that management agrees with the finding.  Therefore the finding shall be reported in the Management report

5.  Management comment noted. Cognisance is taken of the fact that management agrees with the finding.  Therefore the finding shall be reported in the Management report

No management's response was received for the remaining parts of PART A.  Therefore the findings shall be reported in the Management's report

PART B:

No management's response was received.  Therefore the finding shall be reported in the Management's report

1. **Project files not submitted**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 136 dated 15 May 2012, was requested but not provided for audit purposes:

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Information requested** | **Date Submitted** | **Management Reason for non-submission** |
|  | The following information is requested in respect of **projects as listed** in the attached **annexure A** and **annexure B**; |  |  |
| 1 | Project files which should include the following information; |  |  |
| 1.1 | Supporting documentation showing the actual date of the site handover |  |  |
| 1.2 | Progress reports indicating the following information; |  |  |
| 1.2.1 | whether site visits were conducted or not |  |  |
| 1.2.2 | Problems and shortcomings identified during site meetings such as poor workmanship, delays, slow progress, problems experienced with the workforce that led to abandonment of the site, etc. |  |  |
| 1.2.3 | Where applicable, litigation against the contractor or by the contractor against the implementing agent or client department |  |  |
| 1.3 | Register of attendance of site meetings,  for example by representatives from the client department and implementing agent |  |  |
| 1.4 | Supporting documentation of remedial action taken to correct poor quality or slow progress, e.g. a copy of a voucher found inside the site instructions book |  |  |
| 1.5 | Where applicable, supporting documentation showing lack of resources such as plant or labour not available for the project |  |  |
| 1.6 | Where applicable, supporting documentation showing problems with supervision by the implementing agent, contractor or user department |  |  |
| 1.7 | Where applicable, supporting documentation showing poor quality of work by the contractor |  |  |
| 1.8 | Where applicable, supporting documentation of instances whereby the contractor was being replaced |  |  |
| 1.9 | Where applicable, supporting documentation of instances whereby the contractor was being liquidated |  |  |
| 1.10 | Where applicable, supporting documentation of instances whereby the needs were not fully addressed |  |  |
| 1.11 | Where applicable, supporting documentation of a change in nature during construction |  |  |
| 1.12 | Where applicable, supporting documentation of instances whereby the facilities used during the duration of the project were over/under utilized |  |  |
| 1.13 | The value of the retention money paid to the contractor |  |  |
| 1.14 | Penalties which were deducted for late completion of work, if there were any |  |  |
|  | The following information is requested only in respect of **projects as listed** in the attached **annexure B**; |  |  |
| 2 | Project files which should include the following information; |  |  |
| 2.1 | An indication of whether the project was completed in a satisfactory or unsatisfactory manner as per the contract requirements |  |  |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Managment response has not been received.

**Auditor’s conclusion**

No formal response was received, however some information was received subsequently. Information relating to the following WCS numbers are still outstanding: 045802, 044193, 046642, 042408 & 048441.  The finding is therefore unresolved and will be reported in the final management report.

1. **Limitation of scope (Fruitless and wasteful expenditure)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 191 dated 27 June 2012, was requested but not provided for audit purposes:

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Information requested** | **Date Submitted** | **Management Reason for non-submission** |
| 1. | Please provide us with all the supporting documentation for the Fruitless and wasteful expenditure item as detailed in the attached annexure |  |  |

The entity’s documents are not available and easily accessible for audit purposes. The

commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management response has not been received.

**Auditor’s conclusion**

No management response was received. This limitation will therefore be reported in the management report.

1. **Internal Audit: External review was not timeously done**

**Audit finding**

Laws, rules and regulations

Standard of the International Standard for Professional Practice of Internal Auditing,                IIA 1312 – requires that “*external assessments must be conducted at least once every five years by a qualified, independent reviewer or review team from outside the organisation. The chief audit executive must discuss with the board:*

*(i)            The need for more frequent external assessments; and*

(ii)           *The qualifications and independence of the external reviewer or review team, including any potential conflict of interest*.”

The following deviations were noted during the audit:

With the commencement of the audit it was indicated that an external review will be performed on the work of internal audit for the 2010/11 financial year to date no external review was performed and it was indicated by management that it will be done in the 2012/13 financial year.

The impact of the finding:

The work performed by internal audit may not adhere to the Standards for the Professional Practice of Internal Audit.

**Internal control deficiency**

**Governance**

The department did not ensure that there is an adequately resourced and functioning internal audit unit that identifies internal control deficiencies and recommends corrective action effectively.

**Recommendation**

The audit committee should ensure that the external review is conducted within the required timeframes and the reports be presented to the audit committee and accounting officer.

**Management response**

a)            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: | .Conduct External Quality Assurance Review during 2012/13. | | |
| 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: | Chief Audit Executive | | |
| Estimated completion date for corrective action: | March 2013 | | |
| 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 | External Quality Assurance Review planned for 2012/13 | | |

**Auditor’s conclusion**

IIA Standard 1312 states that external assessment must be conducted at least once every five years.  2011/12 was the end of the fifth year since the review was conducted by March 2007.  The Unit is aware hence it has planned to conduct it during the current financial year – 2012/13.

1. **Project information on WCS**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 38, states: *(1)* *The accounting officer for a department (a) must ensure that the department has and maintains –*

*(i)            effective, efficient and transparent systems of financial and risk management and internal control;*

During the review of infrastructure projects we noted the following deviations:

1.     The planned delivery dates as per the supporting documentation did not agree with the planned delivery dates as captured on WCS:

Projects in construction:

|  |  |  |  |
| --- | --- | --- | --- |
| **WCS no** | **Supporting documentation inspected** | **Planned date of completion as per supporting documentation** | **Planned date of completion as captured on WCS (Captured as 'Contract first t/o' on WCS)** |
| 045802 | Inspected the Internal memorandum and noted management's response | 25-May-12 | 20-Jan-13 |
| 036133 | Inspected the minutes of site meetings | 29-Mar-13 | 28-Feb-14 |
| 047078 | Inspected the minutes of site meetings | 12-Jun-13 | 30-Jul-13 |
| 045183 | Inspected the minutes of site meetings | 15-Dec-12 | 30-Jul-13 |

Management do not have accurate information for evaluation and monitoring of projects to identify, avoid and address delays and/or overspending on projects.

Projects might be completed later than originally planned which may result in the incurrence of fruitless and wasteful expenditure if penalty clauses are not effected or retention monies are not held back in terms of the construction contract as a result of there not being accurate and complete information on the WCS system.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

1.    Management should ensure that they review all supporting documentation included in project files to ensure that agreed planned delivery dates as per the supporting documentation agree with the ones that are captured on WCS

2.    Management should, on a monthly basis, perform reconciliation between BAS and WCS and any differences noted should be followed up and supported by the relevant supporting documentation.

**Management response**

**Finding 1**

WCS no:  036133, 047078 & 045183:

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

**PROJECTS IN COMPLETION:  Planned Completion dates on minutes vs. wcs (wcs 036133, 041821, 047078 & 045183)**

The planned completion date as indicated is a date that in construction the time allowed for the works to be concluded.  The date fed on the system is calculated based on the date of site handover to the duration allowed.  It is therefore a projection of completion and not in many instances the actual practical completion date.  Contract extensions as allowable under the prescripts of the contracts entered into with the contractors are applied for and will be adjudicated accordingly thus changing the planned completion date to the actual completion date.

Name:   Tebogo Phiri

Position:  Director Special & Major Projects

Date:  16/8/2012

**Auditor’s conclusion**

**Finding 1**:

**Projects in construction:**

WCS no:  045802:

No management's response was received in respect of project with WCS no 045802.  Therefore this finding will be included in the Management report.

WCS no:  036133,049229, 047078 & 045183:

Cognisance is taken of management's comment.  Please refer below:

(i)  WCS no 036133: The WCS system was revisited again after its update.  There was no extension granted in respect of this period.  Therefore the initial planned date of completion of 28 February 2014 still did not agree with the date as per the supporting documentation inspected.  The finding in respect of this project will therefore remain and will form part of the management report

(ii)  WCS no 047078:  The WCS system was revisited again after its update.  There was no extension granted in respect of this period.  Therefore the initial planned date of completion of 28 February 2014 still did not agree with the date as per the supporting documentation inspected. The finding in respect of this project will therefore remain and will form part of the management report

(iii)  WCS no 045183:  The WCS system was revisited again after its update.  There was no extension granted in respect of this period.  Therefore the initial planned date of completion of 28 February 2014 still did not agree with the date as per the supporting documentation inspected. The finding in respect of this project will therefore remain and will form part of the management report

1. **Limitation of scope – RFI 175 (Arrear rates and taxes)**

**Audit Finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following documents as per request for information no 175 dated 13 June 2012 were requested, but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1 | A Schedule of Rates and Taxes in Arrears for the 2011-2012 financial period; |
|  | The Schedule should indicate the following details: |
| 1.1 | The amount of rates and taxes in arrears |
| 1.2 | the reasons for all the amounts in arrears |
| 1.3 | The interest charged on the overdue account |
| 1.4 | Fines and/or Penalties which were imposed for late payment on the overdue account, where applicable |
| 2 | A register that matches all properties with accounts received and payments made |
| 3 | An indication of whether the department is paying rates and taxes on all properties on their immovable asset register |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

I am not in agreement with the finding for the following reasons: We receive the schedule of Rates and taxes, and then we compare invoices received with the schedule to check where all DPW properties are included in the schedule. We only pay rates and taxes annually as there was agreement the between municipality and Dpw. We do not have arrears on rates and taxes as we always pay the current amount, no interest or fine or penalties were charged:

Name:   Shati Kutu

Position:  Acting Director: Property Man

Date: 21/6/2012

**Auditor’s conclusion**

A response was received for Part 1 of the request.  However, no supporting documentation was provided.  No response or documentation was received for Part 2 and 3 pertaining to the register for all properties for which rates and taxes are paid.  This limitation will therefore be remain.

Accruals

1. **Accruals: Incorrect Classification of Accruals Journal and incomplete supporting documentation**

**Audit finding**

Laws, rules and regulations

(a)  In terms of the Framework for the preparation and presentation of financial statements paragraph 22 Accrual Basis states that, *“In order to meet their objectives, financial statements are prepared on the accrual basis of accounting. Under this basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent are received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

(b)  Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the” *accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.”*

(c)  Paragraph 41 furthermore states that an “*accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require”*

(d) Paragraph 12 of IAS 16 of the Generally Accepted Accounting Practices (GAAP) states that: *“Costs of day-to-day servicing are primarily the costs of labour and consumables, and may include the cost of small parts. The purpose of these Expenditures is often described as for the ‘repairs and maintenance’ of the item of property, plant and equipment”*

During the performance of the audit, the following was noted with regards tothe Accrual Journal 98 (MJ03) for R7 627 177,09:

(a)The Z59 forms submitted as supporting documentation for the accrual journal were incomplete; the difference of R402 926.10 could not be confirmed.

|  |  |  |
| --- | --- | --- |
| **Journal amount**  **R** | **Z59 amount**  **R** | **Difference**  **R** |
| 7 627 177,09 | 7 224 250,99 | 402 926,10 |

(b) Furthermore the journal narrative stated the following: “*Money owed to DPW for bursaries and Cubans accommodation and stipends paid by DPW on behalf of PMTE (REFMJ03)”.* According to Annexure A, confirmation of outstanding amount dated 25 April 2012, signed by the CFO, indicated a total balance due of R7 735 364.58; however the PMTE could only confirm an amount of R7 627 177,09, thus resulting in a difference of R108 187,49 not being substantiated.

(c)The total amount has also been incorrectly debited against the property maintenance account in terms of GAAP Standard IAS 16 as stated above :

The Z59’s can be split into the following categories

|  |  |
| --- | --- |
| **Descriptions as per Z59** | **Amount**  **R** |
| Claims for bursary payment | 903 597,44 |
| Learners Stipend | 223 140,00 |
| Sewerage and water treatment | 6 097 512,77 |
| **Total** | 7 224 250,99 |

The amount for the bursary claims and the learner’s stipend has therefore been incorrectly classified to the property maintenance account as when applied to the definition of repairs and maintenance these do not meet the criteria. This results in the property maintenance expenditure being overstated by an amount R 1 126 737,44.  Furthermore, a limitation of scope arises for the amount of R402 926,10 due to no supporting documentation being available to support the amount.

The above results from a lack of measures in place to ensure that all supporting documentation is provided for audit purposes. Management does not review the financial statements to ensure that it is fairly presented and accurate, before submission for audit purposes.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

The entity 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)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof

(b)  Management should ensure that all journals are adequately supported with documentation that is sufficient and appropriate and that such documentation is attached to the journal batch.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| 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)    A further amount of R 195,335.07 was made from the unconfirmed amount of R 402,926.10, thus remaining with the unconfirmed balance of R 207,591.03, which documentation will be made available for payment by the DPW.  b)    Supporting documentation for an amount of R 108,187.49 is now available for inspection and will be journalized to update the accruals.  c)    Bursary account will be opened and a journal for R 1,126,737.44 in respect of bursaries will be re-allocated from the property maintenance account. | | |
| Position of official responsible to take corrective action | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 17 August 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 | Not stated. | | |

Name:   J Prinsloo

Position:  Chief Director – Planning and Reporting

Date: 13/8/2012

**Auditor’s conclusion**

Management agrees with the finding. The finding is unresolved and misstatement will be reported in the final management report.

1. **COAF 127 - Annual Financial Statements – Accruals - Limitation of scope – RFI no. 157**

**Audit finding**

Laws, rules and regulations

Section 40(1)(a) of the PMFA states, *“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;”*

Section 41 of the PFMA 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.*”

The schedules for all prior period restated figures were requested as per request for information no 157, dated 28 May 2012. The schedule supporting the restated 2010 amount for accruals was provided, however a reconciliation detailing the transactions resulting in the movement from the previous 2010 balance to the new restated 2010 balance could not be provided for audit purposes.  The reconciliation requested relates to the increase in accruals of R1 433 000.

The entity documents are not available and easily accessible for audit purposes.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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)  Management should ensure that for all movements of prior year figures due to restatements are supported by detailed reconciliations showing the movement between the balance as previously stated and the new balance as has been restated.  The reconciliation should thus be a listing of all transactions that affected the movement in the balance of the account.

(b)  The information requested should be submitted without further delay.

**Management response**

Management response not provided

**Auditor’s conclusion**

Management subsequently provided an email from Sizwe Saluba indicating the journals passed making up the amount of R1 433 000 for the movement in accruals.  Due to the information being submitted late for audit purposes, the limitation of scope totalling R1 433 000 remains for the 2010 restatement of accruals.

1. **COAF 178 - Accruals: Payment made in April 2012 for rent relating to April 2011 to March 2012 included in accrual listing**

**Audit finding**

In terms of the Framework for the preparation and presentation of financial statements paragraph 22 *Accrual Basis* states that, *“In order to meet their objectives, financial statements are prepared on the accrual basis of accounting. Under this basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent are received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

During our review of the operating lease expenditure it was noted that the following rental lease payment for the shortfall of rent from February 2011 to April 2012 was paid on 24 April 2012; however the amount up until March 2012 was not included in the accruals listing for the year ended 31 March 2012.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Description** | **Invoice #** | **Payment no.** | **Payment date** | **Client department** | **Lessor’s name** | **Amount**  **R** | **Amount to be include in 2010-11 accruals**  **R** | **Amount to be included in accrual listing 2011-12**  **R** |
| 1 | Shortfall payment from February 2011 to April 2012 | 586514 | 484620 | 24/04/2012 | International Relation and Co operation | Investec Property | 2 400 336.84 | 7 046,81 | 1 533 922,19 |
| **Total** | | | | | | | **2 400 336.84** | **7 046,81** | **1 533 922,19** |

Furthermore, it was noted that no accruals were raised for operating lease expenditure in the Pretoria region for the 2010-11 and 2011-12 financial year.  Upon inspection of the general ledger for April and May 2012, it was noted that numerous instances were recorded of arrear rentals being paid, thus the above is not an isolated event.  The total amount of understatement of accruals for the financial year ended 31 March 2011 and 2012 could not be determined.  The understatement of accruals was also raised in the prior year management report. No amendments were made to the prior year accruals (2011) disclosed as comparatives in the current year financial statements.

The above is a result of the PMTE not having an appropriate accounting system in place to identify and record accruals. The officials did not identify the transactions relating to accruals of operating lease expenditure.

The above results in the accrual amount as disclosed in the annual financial statements being understated by R1 533 922,19(2012) and R7 046,81(2011) based on the specific transaction identified above.  In addition the accruals is understated by an undeterminable amount and is thus incomplete.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should revisit the population to ensure that all accrual relating to leases are included in the accrual listing.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**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** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| √ | |  |
| If yes, what corrections will be made to the population? | Information will be provided to Head office for adjustments to be made to the population to include the amounts on accrual list (2011-2012). | | |
| 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 | D: Finance & SCM | | |
| Estimated completion date of corrective action: | 30 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:   Tlhakudi KO

Position:  D: Finance & SCM

Date: 27/7/2012

**Auditor’s conclusion**

Management is in agreement with the finding and their comments are noted.  The accruals were however not included in the listing and is thus understated by R1 533 922,19 as well as an undeterminable amount to be determined by the PMTE by revisiting the population.

Contingent liabilities

1. **COAF 128 - Contingent Liabilities: Misstatements identified in the amounts disclosed for Provisions, Contingent Liabilities and Contingent Assets in the annual financial statements for the year ended 31 March 2012.**

**Audit finding**

(a)  The International Accounting Standards (IAS) 37 Provisions, Contingent Liabilities and Contingent liabilities paragraph 10 states the following:

“*A provision is a liability of uncertain timing or amount. A contingent liability is:*

*(a) A possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or*

*(b) A present obligation that arises from past events but is not recognized because:*

*(i) It is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or*

*(ii) The amount of the obligation cannot be measured with sufficient reliability. A* *contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity*.

*“A contingent liability is:*

*(a) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or*

*(b) a present obligation that arises from past events but is not recognised because:*

*(i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or*

*(ii) the amount of the obligation cannot be measured with sufficient reliability.”*

*“A contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.”*

(b)  IAS 37 paragraph 30 states that “*Contingent liabilities may develop in a way not initially expected. Therefore, they are assessed continually to determine whether an outflow of resources embodying economic benefits has become probable. If it becomes probable that an outflow of future economic benefits will be required for an item previously dealt with as a contingent liability, a provision is recognised in the financial statements of the period in which the change in probability occurs (except in the extremely rare circumstances where no reliable estimate can be made)*”

(c)  IAS 37 paragraph 33 states that “*Contingent assets are not recognised in financial statements since this may result in the recognition of income that may never be realised. However, when the realisation of income is virtually certain, then the related asset is not a contingent asset and its recognition is appropriate*

(d)  IAS 37 paragraph 35 states that, *“Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits will arise, the asset and the related income are recognised in the financial statements of the period in which the change occurs. If an inflow of economic benefits has become probable, an entity discloses the contingent asset (see paragraph 89).”*

(e)  IAS 8  Accounting Policies, Changes in Accounting Estimates and Errors, paragraph 5 states that: *“Prior period errors are omissions from, and misstatements in, the entity’s financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that:*

*(a) was available when financial statements for those periods were authorised for issue; and*

*(b) could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.*

*Such errors include the effects of mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretations of facts, and fraud*.”

(f)   IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors, paragraph 49 states that “*In applying paragraph 42, an entity shall disclose the following:*

*(a) The nature of the prior period error;*

*(b) For each prior period presented, to the extent practicable, the amount of the correction:*

*(i) for each financial statement line item affected; and*

*(ii) If IAS 33 applies to the entity, for basic and diluted earnings per share;*

*(c) The amount of the correction at the beginning of the earliest prior period presented; and*

*(d) If retrospective restatement is impracticable for a particular prior period, the circumstances that led to the existence of that condition and a description of how and from when the error has been corrected.*

(e)  *Financial statements of subsequent periods need not repeat these disclosures*.

(g)  Public Finance Management Act Section 40(1)(a) and (b) states that, “*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; (b) must prepare financial statements for each financial year in accordance with generally recognised accounting practice;”.*

During the audit of the financial statements and the accompanying schedules for the year ended 31 March 2012, the following was noted:

**(a)  Contingent Liabilities**

The PMTE disclosed the claims against the trading entity as per the accounting policy that states that “*Contingent liabilities are included in the financial statements when is possible that economic benefits will flow from the entity, or when an outflow of economic benefits or service potential is probable but cannot be measured reliably.*”  The disclosure note for the Contingent liabilities Note 13 was prepared and disclosed as follows in the annual financial statements for the year ended 31 March 2012:

Table (a) 1

|  |  |  |
| --- | --- | --- |
| **2012**  **R** | **2011 (Restated)**  **R** | **2010(Restated)**  **R** |
| 20 458 681,44 | 19 418 770.50 | 65 76 123,00 |

**(i)     Comparative amounts restatements**

The amounts restated in the financial statements differ from the amounts in the actual prior year figures as per Table (a) 2 below.

Table (a) 2

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Financial year end** | **Opening Balance (1)**  **R** | **Current amount (2)**  **R** | **Reduced (3)**  **R** | **Closing amount**  **R** | **Disclosed  (4)**  **R** |
| 2011 | 65 776 123 | 81 258 956 | 17 599 032 | 129 436 048 | 129 436 048 |
| 2011-restated | 65 776 123 | 88 778 501 | 70 041 842 | 84 739 753 | 19 418 770,50 |
| Restatement | - | 7 519 545 | 52 442 810 | (44 696 295) | (110 017 277,50) |

1.      The opening balance taken from the financial statements for the year ended 31 March 2010 was not assessed as per the requirements of the accounting standard. The amount is reflected as it was in the prior financial statements, even though it is indicated as restated in the Note 13. Thus it is evident that the restatement was not applied retrospectively in terms of IAS 8.

   The current amount was restated with an amount of R7 519 545 which was not disclosed in the previous schedules. This reflects that the entity does not have adequate controls in place to identify, assess and report on all the claims against the entity.

   The amount of claims reduced column has increased with R52 442 810 , resulting from the assessments done by the Legal Services, however, on recalculation of the amounts per the assessments made,  it was discovered that the amount which should have been added as claims reduced is  R 51,837,553, as summarised below.

Table (a)3

|  |  |
| --- | --- |
| **Nature of restatement (31 March 2011)** | **Amount**  **R** |
| Removal of arrear rentals | 14 944 656,00 |
| Reversal of a duplicated claim | 2 443 471,00 |
| Matter settled - subsequent events | 231 034,00 |
| Recognition as provision | 33 991 421,00 |
| Claim that does not qualify as a contingent liability | 226 971,00 |
| **Total ( actual decrease in claims)** | **51 837 553,00** |
| **Amount shown in the schedule** | 52 442 810,00 |
| **Difference** | **605 258,00** |

There is an unreconciled difference of R605 258, 00 which results in an understatement of the Contingent liabilities disclosed.

Overall the restatement of the amount disclosed for the year ended 31 March 2011 has reduced with R110 017 277, 50 based on the assessments made. It was however noted that the trading entity did not do the assessments of all the claims. Claims totaling R15 275 710, 00 were not assessed at all. These claims might have been adjusted to a higher or lower figure, had the assessment been performed. Thus these claims are not accounted for and disclosed in terms of IAS 37.

**ii)    Current year figures**

Accuracy of supporting schedules

The schedules provided to support the amount disclosed for the year ended 31 March 2012 were inappropriate as follows:

(1)    The schedules provided to support the amount were not correctly totaled. The total amount of R20 458 000 which is disclosed in the financial statements is understated by the claim of R2 084 323, 00 which was not included in the calculation of the total amount disclosed.

(2)    The opening balance of the schedule stated at R 76 993 237,00 includes the amounts which were assessed or reduced in the previous financial year. The amounts were incorrectly included as follows:

Table (a) 4

|  |  |
| --- | --- |
| **Nature of claim amounts** | **Amount**  **R** |
| Amounts reflected under DPW | 26 101 679,00 |
| Amounts which were reflected as settled in the prior year | 15 275 710,00 |
| Abandoned claim already assessed in  the prior year | 212 035,00 |
| Amounts already reflected as a provision in the prior year | 1 295 327,00 |
| **Total** | **42 884 751,00** |

The above reflects that the schedules are not prepared accordingly to support the amounts presented and disclosed in the financial statements.

**(iii)  Claims for arrear rentals**

The trading entity has assessed that the claims pertaining to arrear rentals do not constitute a contingent liability due to the fact that it arises out of a contractual liability namely a lease agreement. Thus the claims should be reflected as Accruals instead of Contingent liabilities. According to the schedules provided, the amounts were referred to the Leasing Unit for inclusion in the Lease Accruals. However, per inspection of the Lease accruals schedule, it was noted that a significant number of claims for arrear rentals were not reflected in the schedule as follows:

Table (a) 5

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial year-end** | **Arrear rentals (Reduced from the Contingent liability schedule)**  **R** | **Arrear rentals reflecting in the Lease Accruals schedule**  **R** | **Difference**  **R** |
| 2012 | 12 613 547,00 | 843 295,00 | -11 770 252,00 |
| 2011 | 32 737 836,00 | - | -32 737 836,00 |

The differences above reflect that even though the amounts were removed from Contingent liabilities, they were not appropriately accounted for as per the assessment. This results in the understatement of both the disclosed Contingent Liabilities and Accruals.

**(b)  Provisions**

It is acknowledged that the entity performed assessments on the claims against the entity that qualifies for the definition and recognition criteria of the Provision in terms of IAS 37. The assessments were summed up as follows:

Table (b) 1

|  |  |
| --- | --- |
| **Provisions 2011** | **Provisions 2012** |
| ( 35 582 760,00) | (  1 332 569,00 ) |

It was noted that the trading entity did not present the Provision for claims against the entity in the financial statements, nor did it disclose the accounting policy and the disclosure note. This omission results in understatement of Expenditure and Provision and constitutes non compliance with the accounting standard IAS 37.

**(c)  Contingent Assets**

(i)    The trading entity has disclosed for the amounts for Contingent assets which are described as the claims by the PMTE arising from various activities with service providers which are being handled by the Legal Services Unit. The schedule submitted supported the amount disclosed in the financial statements, however, it was noted that the schedule was not complete as the claim against Retselisitsoe Edwin Tshehla/Lehalaki Ezekiel Kheteng was listed, but no amounts were added in the schedule totals.

(ii)   Some of the claims amounting to R59 137 729,00 were not assessed whether they meet the definition and the disclosure criteria of the contingent assets. This is not in compliance with the requirements of the accounting standards as the amounts disclosed as contingent assets need to be assessed with the available and relevant information. If these claim amounts were assessed to have expected economic benefit that is virtually certain, they would require to be disclosed as Income and Receivables. Should the expected economic benefit be assessed as probable, then a contingent asset is to be disclosed.  However there is also a possibility that the assessment will reveal that it is not probable that economic benefits will be received in which case a contingent asset is not to be disclosed.  Thus we are unable to determine whether contingent assets are over/understated.  Depending on the outcomes of the assessments income and receivables might also be understated (where applicable).

(iii)  Based on the assessments made by Legal services it was noted that claim amounts totalling R 1 767 678,00 were assessed to be, beyond reasonable doubt, receivable by the department based on the past event where the supplier was overpaid. Based on these assessments, the amounts meet the definition of an asset and thus need to be presented in the financial statements and not be disclosed as contingent. This results in overstatement of Contingent Assets disclosure and understatement of income and receivables.

(iv)   Schedules supporting the amount disclosed for 2010 for contingent assets amounting R65 776 123,00  could not be provided for audit purposes.

**(d)  Prior Period Error**

(i)     As noted in COAF 102, Contingent liabilities for prior periods have been restated; however the nature and effect of the prior period errors were not disclosed narratively. No contingent assets were disclosed in prior periods; however the narrative disclosure for that fact was not disclosed.

(ii)    The disclosure on the Provisions should have been made, including the nature and effect of the prior period misstatements. The omission of disclosure constitutes non compliance with IAS 8.

The above misstatements are a result of the lack of appropriate application and adequate review of the presentation and reporting requirements in terms of the accounting standards for preparation of the financial statements and accompanying schedules. This results in the understatement of Contingent Liabilities, Provisions, Accruals, Income and Receivables and overstatement of Contingent Assets.

Furthermore, misstatements of a similar nature were reported in the management letter of the prior year. This reflects that audit recommendations and commitments made in the audit action plans were not appropriately implemented.

**Internal control deficiency**

**Leadership:**

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

## Financial and performance management:

The entity 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**

Management that is responsible for the preparation and review of financial statements should:

(a)    Prepare a GAAP disclosure compliance checklist tool to ensure that all the requirements of presentation and disclosure of amounts in the financial statements are applied accordingly.

(b)    The officials responsible for the review must ensure that the accounting principles applied are appropriate and amounts presented and disclosed are supported by accurate and complete schedules.

(c)    All restatements of the prior year’s amounts that were accounted for incorrectly or not accounted at all must be properly disclosed, with the underlying narrative note that states that the amounts have been restated and the reasons thereto.

(d)    Legal opinions of the reasonable estimates must be obtained and applied to all the probable claims and possible obligations, as per the prescript of IAS 37

**Management response**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | |  |
| If yes, what corrections will be made to the population? | i. Outstanding assessments are in the processes of being finalised;  ii. Provision will be raised;  iii. Accruals will be raised;  iv. Note for provisions will be included in the financials | | |
| 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: Legal services and Financial Reporting | | |
| Estimated completion date of 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 |  | | |
|  |  |  |  |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date: 19/7/2012

**Auditor’s conclusion**

Management agrees with the finding. The matter will be reported.

1. **COAF 184 - Misstatement on the Contingent assets disclosed due to incomplete contingent asset schedule**

**Audit finding**

Laws, rules and regulations

*(a)* PFMA section 40(1) states that: “*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;*

*(b) must prepare financial statements for each financial year in accordance with generally recognized accounting practice;”*

During the performance of the audit, the following limitation misstatements were identified:

(a)  The contingent asset schedule supporting the “Claims by the entity” disclosed in the Contingent Assets Note 13 in the Annual Financial Statements (AFS) for the year ended 31 March 2012, was not complete as some of the claims listed did not specify the defendant to whom the matters related as listed below:.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Defendant** | **SA Ref No.** | **DPW Ref No.** | **Nature of claim** | **Amount disclosed in 2012 AFS**  **R** |
| Not indicated | 2085/03//P5 | 30589 | Claims for poor work performance | 1 770 442,60 |
| Not indicated | 1596/09/P8 | MNDPLS 6 | Breach of contract | 130 281,32 |
| Not indicated | 7193/2011/Z18 AJA/KF | PRM/12/10/2011 | Counterclaim from rental paid | 78 855,40 |

Enquiries were made with the legal services officials to provide the information to enable the process of obtaining the confirmation of the legal cases from the state attorneys for the claims; however it was confirmed that the officials could not provide the information. This constitutes a limitation of scope on the planned audit procedures to be performed to enable sufficient reliable audit evidence to be obtained.

The above matter is a result of lack of measures in place (and/or implementation thereof) to ensure that the appropriate level of review is applied at each stage of documentation, prior to submission of supporting documentation for reference to the annual financial statements.

(a)    Furthermore, the listing of claims in the schedule which are incomplete, results in the risk that the financial statements disclosure may be misstated  The financial impact of the incompleteness of supporting documentation and the inconsistency of the claim listed amounts to a total of R1 979 579,32.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should adequately review the financial statements to ensure that all information contained in the schedules used in compiling PMTE’s financial statements are complete and accurate.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 14/08/2012. No evidence provided to the contrary, therefore the finding remains valid. The limitation will be reported in the management report.

1. **COAF 258 - Misstatements identified in the amounts disclosed for Provisions, Contingent Liabilities and Contingent Assets in the annual financial statements for the year ended 31 March 2012**

**Audit finding**

(a)  IAS 37 paragraph 37 states that: “The best estimate of the expenditure required to settle the present obligation is the amount that an entity would rationally pay to settle the obligation at the end of the reporting period or to transfer it to a third party at that time. It will often be impossible or prohibitively expensive to settle or transfer an obligation at the end of the reporting period. However, the estimate of the amount that an entity would rationally pay to settle or transfer the obligation gives the best estimate of the expenditure required to settle the present obligation at the end of the reporting period”.

(b)  Framework for the preparation and presentation of financial statements par.49 (b) states that: “A liability is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits”

IAS 8  Accounting Policies, Changes in Accounting Estimates and Errors, paragraph 5 states that: “Prior period errors are omissions from, and misstatements in, the entity’s financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that:

(a) was available when financial statements for those periods were authorised for issue; and

(b) could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.

Such errors include the effects of mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretations of facts, and fraud.”

(c)  Public Finance Management Act Section 40(1)(a) and (b) states that, “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; (b) must prepare financial statements for each financial year in accordance with generally recognised accounting practice;”

During the audit of the financial statements and the accompanying schedules for the year ended 31 March 2012, the following was noted:

**Claim by Lona Buildings – amount R9 457 004.00**

(a)  On 7 May 2009 a notice of motion was issued to the Department of Public Works for:

         An amount of R985 104,63 plus interest  at 15, 5% per annum from 18 December 2008 to date of payment within 7 days from the date of the order

         A progress payment certificate for an amount of R8 471 898,96 within 7 days from date of this order as well as interest thereon at 15,5% per annum from 7 January 2009 to date of payment within 21 days from the date of issuing of such progress payment certificate

The claim was by Lona building projects for the default of payment of a certified amount in terms of a contract with the department and for default in terms of the contract for the certifying of further work in an amount of R8 471 898,96.

In response to the letter of motion, the department opted for Prayer 4  which stated that “*the respondent is ordered to comply with clause 23(2)a of contract PT05/028 between the parties and issue a progress payment certificate based on a reasonable estimate of the value of the work in the opinion of the representative of the respondent within the ambit of clause 23(2)(b)(i) of the contract within 7 days of date of the order and to pay to the applicant the amount of such certificate together with the interest thereon at the rate of 15.5% per annum from 7 January 2009 to date of payment within 21 days from date of issuing of such progress payment certificate.”*

In the letter of correspondence dated 1 June 2009 between departmental legal official and the state attorney, it was confirmed that the department acknowledged that there was an obligation to the  the applicant  for an amount of R985 104.63 and also stated that the department was  in the process of paying the money including the one which was not certified. The department official further admitted in the letter that was addressed to the claimant attorney that the amount of R985 104.63 was due and was certified on 27 November 2008 thereby incurring interest on the late payment at 15.5%p.a.

Based on the payment certificate drawn up by Gosiame Quantity Surveyors  for progress payment of R3 387 839.99 for the alterations, repairs and general upgrading progress payment, the EFT payment of R3 387 000 was made to Lona building projects (Pty)Ltd on 27 July 2009.

It was further noted that attached to an email from Lona Buildings’ attorney to the state attorney representing the department, was a settlement agreement, The settlement agreement was a proposed agreement between Lona and DPW for the order of court that the payment made by DPW on 27 July 2009 of R3 387 839.99 was not full and final payment   for works executed by the applicant in terms of contract PT05/028 between the parties. However the agreement was not signed and dated by either party, nor did the department indicate that they acknowledge the payments which were outstanding.  The table below serves to summarise the above mentioned.

The WCS system report of payments reflected that the following payments had been made to Lona Buildings subsequent to the Notice of Motion:

|  |  |  |
| --- | --- | --- |
| **Payment No** | **Payment date** | **Payment amount (R)** |
| 028 | 27July 2009 | R 3 387 839,99 |
| 029 | 19 October 2009 | R 1 500 000,00 |
| 030 | 16 May 2012 | R 3 206 995,33 |
| **Total** | | **R 8 094 835,32** |

1. (b)  The above events indicate the following:

**2009-2010 financial year**

A contingent liability of R9 457 004, 00 was disclosed in the financial statements, even though the departmental officials had formally acknowledged the obligation of R 985 104, 63. Furthermore, two payments totalling R4 887 839, 99 were made to the supplier in the same financial year. Thus the contingent liability should have been assessed for probability and the amounts already paid should have been excluded. Thus the disclosure of the 2010 comparative figures is misstated and requires adjustment of a prior period error in terms of IAS 8.

**2010-2011 Financial year**

Initially, the department the amount of the contingent liability was disclosed in full as R R9 457 004,00, however, the amount was later assessed to have been settled, and thus reflected as nil. However only the amount of R4 887 839, 99 was settled and there was no further correspondence of whether the remainder of obligation was waived (R4 569 164,01 excluding interest at 15.5%). Thus there is no evidence of the whole settlement as indicated. This constitutes a prior period error and thus requires a retrospective adjustment in the financial statements in terms of IAS 8.

**2011-2012 Financial year**

 Payment no 494367 (Advice no P-217312) was made to Lona Building Projects for an amount of R3 206 995,33 on 11 May 2012 (subsequent to year-end). The payment was indicated as the final account payment for the abovementioned contract, as per the valuation of the quantity surveyors. Thus the total of payments made to Lona Building Projects amounted to R 8 094 835,32 including VAT. There was no indication of the decision taken by the parties of the case for the remainder of the obligation. There was no evidence of the settlement of the interest that had accumulated at 15.5% from 7 January 2009 on the principal claim as indicated in the Notice of Motion.

Assessments performed by the legal services officials are not supported by the appropriate and reliable assumptions and evidence. The amounts are either disclosed or omitted for disclosure without taking into account the underlying facts and events. The schedule of contingent liabilities was not properly reviewed by the senior officials for accuracy and completeness of disclosure.

The above misstatement resulted in the overstatement of the Contingent liabilities for the financial years 2009-2010 of R R4 887 839, 99 which was already settled on 31 March 2010. The 2010-2011 financial statements were understated by an amount of R4 569 164, 01 which was not appropriately assessed. Current financial statements were understated by an amount of R1 362 168, 68 which was indicated as settled without any supporting evidence.

**Internal control deficiency**

**Leadership:**

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

**Recommendation**

(a)  An assessment of whether individual claims meet the definition and recognition criteria of a Provision, Contingent Liability or a Payable should be concluded after taking into account all the relevant events that support the assessment. Assessments must be supported by documentation (i.e. Payment advices, signed agreements, minutes of meetings and other correspondences) that are kept in file.

(b)  The schedule of contingent liabilities must be reviewed by the senior official against the supporting documentation for accuracy of information disclosed

**Management response**

Management response to 2009-2010 financial year

This was in view of that in that financial year disclosure was made according to the entire claim as it appears in the summons not the assessed probability.

Management response to 2010-2011 financial year

The parties’ legal representatives agreed on a settlement amount thus legal services indicated that the amount should be nil. Pursuant to that agreement it is important to note that Legal Services is not involved with payments to contractors. We request the relevant line functionary to carry out the payment and provide us with proof thereof after payment is effected.

The settlement amount agreed on was not the original amount as claimed in the summons but a compromise which was aimed at finalizing the matter. The amounts agreed on are as follows:

R 3 387 839.99 payment by July 2009

* Quantification of any additional amount that may be payable to applicant after scrutinizing their documents;
* Issuing of another payment certificate if found out that there were still money due to them;
* Interest on the amount R985 104.63, which the Department conceded when summons where issued that is was due and
* Any other amounts which may be due after due diligence was conducted.

It is important to note further that it was agreed that the amount of R3 387 839.99 was payable immediately. The Project Management and the Quantity Surveyor were conduct due diligence to establish whether there were any amounts payable and how much that was.

From a legal point of view this matter was settled when the settlement agreement was signed by both parties, however we kept the file in abeyance until the final quantified amount was paid by Projects.

Management response to 2011 – 2012 financial year

An assessment was made as per AG instruction and our assessment came to Nil only in 2011/12 as the matter was in our view settled. No misstatement has thus occurred.

**Auditor’s conclusion**

Management’s response has been noted, however the finding remains valid as there as signed settlement agreements by both parties has not been furnished and the lack of an appropriate restatement of contingent liabilities in terms of IAS 8 remains uncorrected.

1. **COAF 259 - Misstatements identified: Incomplete disclosure for Contingent Liabilities/Provisions and Prior Period Errors in the annual financial statements for the year ended 31 March 2012**

**Audit finding**

(a)  The International Accounting Standards (IAS) 37 Provisions, Contingent Liabilities and Contingent Assets paragraph 10 states the following:

*“A contingent liability is:*

*(a) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or*

*(b) a present obligation that arises from past events but is not recognised because:*

*(i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or*

*(ii) the amount of the obligation cannot be measured with sufficient reliability.”*

(b)  IAS 37 paragraph 30 states that “*Contingent liabilities may develop in a way not initially expected. Therefore, they are assessed continually to determine whether an outflow of resources embodying economic benefits has become probable. If it becomes probable that an outflow of future economic benefits will be required for an item previously dealt with as a contingent liability, a provision is recognised in the financial statements of the period in which the change in probability occurs (except in the extremely rare circumstances where no reliable estimate can be made)*”

(c)  IAS 8  Accounting Policies, Changes in Accounting Estimates and Errors, paragraph 5 states that: *“Prior period errors are omissions from, and misstatements in, the entity’s financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that:*

*(a) was available when financial statements for those periods were authorised for issue; and*

*(b) could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.Such errors include the effects of mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretations of facts, and fraud*.”

(d)  IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors, paragraph 49 states that “*In applying paragraph 42, an entity shall disclose the following:*

*(a) The nature of the prior period error;*

*(b) For each prior period presented, to the extent practicable, the amount of the correction:*

*(i) for each financial statement line item affected; and*

*(ii) If IAS 33 applies to the entity, for basic and diluted earnings per share;*

*(c) The amount of the correction at the beginning of the earliest prior period presented; and*

*(d) If retrospective restatement is impracticable for a particular prior period, the circumstances that led to the existence of that condition and a description of how and from when the error has been corrected.*

(e)      *Financial statements of subsequent periods need not repeat these disclosures*.”

(g)  Public Finance Management Act Section 40(1)(a) and (b) states that, “*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; (b) must prepare financial statements for each financial year in accordance with generally recognized accounting practice;*

*(d)* IAS 10 Events After the Reporting Period par. 3 states that:  *“Events after the reporting period are those events, favourable and unfavourable, that occur between the end of the reporting period and the date when the financial statements are authorised for issue. Two types of events can be identified: (a) those that provide evidence of conditions that existed at the end of the reporting period (adjusting events after the reporting period); and (b) those that are indicative of conditions that arose after the reporting period (non-adjusting events after the reporting period).”*

During the audit of the financial statements and the accompanying schedules for the year ended 31 March 2012, the following was noted:

The entity identified the following events that took place subsequent to the year end 31 March 2012:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Supplier (Plaintiff)** | **Nature of the Claim** | **Rand value of claim** | **Date referred to State Attorney** |
| **1** | 1.  Pandeta Trading cc | Claim for work done and materials supplied | 288 506,16 | 11 April 2012 |
| **2** | 2. JMH property holdings (Pty) Ltd | Claim for costs of restoring leased accommodation | 49 855,00 | 30 April 2012 |
| **3** | 3. Cila Executive Apartments cc | Claim for damaged caused to the plaintiff's premises which were leased by the DPW on behalf of Home affairs | 1 300 000,00 | 30 March 2011 |

Through the review of the events, the following was identified:

**1.    Pandeta Trading cc**

Pandeta Trading cc filed a plea at the regional court for the regional division of Kwa Zulu Natal on 27 March 2012 for a matter between Pandeta Trading CC (plaintiff) and Minster of Public Works (Defendant) in respect of renovations executed by the Pandeta at the 'DPW premises situated at the Durban Magistrate's Court, (4th and 12th floor ) for a sum of R288 506,16. As a result the Plaintiff prayed for a judgment in their favour against the Defendant for an order in the following terms:

         Payment in the sum of R288 506.16;

         Interest thereon at the rate of 15.5% per annum, from 07/04/2011 to date of payment;

          Costs of suit;

          further alternative relieve.

Although the Department's state attorney accepted the service of the plea in April 2012, o the claim against the Department rose prior to the  financial year end31 March 2012  The matter constitutes an adjusting event as defined in IAS 10 and should have been assessed as either a Provision or a Contingent liabilities for the year under review.

**2.    JMH property holdings (Pty) Ltd**

  The Department of Pulic Works and JHM Property Holdings (Pty) Ltd had entered into an agreement of lease on 4 May 2010, during the course of the  occupation the Department undertook certain improvement to the lessor’s  premises which included but was not limited to installation of wooden wall panels, cladding and other items of a decorative nature.  On vacating the leased premises the Department removed the abovementioned fixtures from the leased premises as it was entitled to do in terms of Clause 10.1) of the main lease agreement.  In terms of clause (10.1) the Department upon removing the fixtures was obligated to restore the leased premises to the condition in which it was before the installation of the fixtures fair wear and tear accepted.  The Department failed to restore the leased premises to the condition it was before the installation of the fixtures, fair and wear and tear accepted.  As a result the plaintiff prayed for judgment on 15 March 2012 at the Durban Magistrate Court as follows:

         Payment in the sum of R376 865.00 plus Vat (for restoration of the premises) and interest thereon a temporary mora at the rate of 15.5% per annum;

           Payment in sum of R11 990.00 plus Vat (for painting of premises); interest thereon a temporary mora at the rate of 15.5% per annum;

         Costs of suit; further and/or alternative relief.

The claim relates to the conditions that existed at year end (31 March 2012) thus adjusting event in terms of IAS 10 and should have been assessed as either Contingent  Liability or Provision.

**3.    Cila Executive Apartments cc**

Cila Executive Apartments 1 CC filed a claim at the Western Cape High Court for a matter between itself (plaintiff) and the Minister of Public Works (defendant).  The claim was for the payment of the amount of R2 689 096.31 by the Department which was due and payable in terms of an agreement concluded between  Cila Executive Apartments and the Department i during August 2010 and which  resulted in  the amount due and payable by the Department  for the refurbishment of  premises. The claim was referred to the state attorney on 31 March 2011.  The claim relates to a circumstance that existed prior to the last day for the financial year of 31 March 2011 and 2012 and thus should have been treated as an adjusting event in terms of IAS 10 in the financial statements..   The fact that the matter was not appropriately treated in the financial statements for the year ended 31 March 2011 constitutes a prior year error in terms of  IAS 8 and requires to be disclosed as such.

The above misstatements are a result of the lack of appropriate application and adequate review of the presentation and reporting requirements in terms of the accounting standards for preparation of the financial statements and accompanying schedules. IAS 10 definitions and requirements were entirely not applied results in incomplete presentation and disclosure in the financial statements and comparative information.

Provisions and Contingent liabilities have been understated by R1 638 361, 16. The disclosure of the prior period error had been understated by R1 300 000.00.

**Internal control deficiency**

## Financial and performance management:

The entity 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.

**Leadership:**

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

**Recommendation**

(a)    PMTE should develop a policy/guideline for preparation and presentation of financial statements  for the PMTE should which should include among others the guide for ensuring completeness of financial information, including the identification of subsequent events and presentation there of or

(b)  Management that is responsible for the preparation and review of financial statements should prepare a GAAP disclosure compliance checklist tool to ensure that all the requirements of presentation and disclosure of amounts in the financial statements are applied accordingly.

**Management response**

Management’s response

1. This matter came to the attention of Legal Services Head Office after the reporting period of 31 March 2012.
2. This matter came to the attention of Legal Services Head Office after the reporting period of 31 March 2012.
3. This matter was previously treated as a provision by our Cape Town Office; however they were advised by the Office of the AG after the reporting period of 31 March 2012 to treat the matter as a contingent liability.

**Auditor’s conclusion**

Management’s response has been noted, however the finding remains valid as the requirement of IAS 10, adjusting events has not been accounted for, and reflected in the financial statement.

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Rates and taxes

1. **COAF 168 - IE Works & PMIS – Rates and Taxes and Immovable Asset register**

**Audit finding**

Laws, rules and regulations

1. (a)  Section 38 (a)(i) of the PFMA states the following: *“The accounting officer for a department, trading entity or constitutional institution must ensure that the department, trading entity or constitutional institution has and maintains an effective, efficient and transparent systems of internal control.”*

During the information systems review of the IE works system as well as PMIS the following files were used to perform the review on:

1. PMIS: File MASTERFILE-35872\_CONSOLIDATED\_31 May 2012 v5.xlsx:

The above file consisted of 35 872 records as indicated in their file abbreviation used. Two additional fields were created based on the property code (field - “Property Code”) and title deed number (field - “Title\_Deed\_Number”).(The file is with the auditors at request)

1. IEWorks: File NATPROV1.rar (NATPROV1.xls):

The above file consisted of 20 914 records to the value of, in total, R 1 145 360 693, 92 (total of amount filed).  Two additional fields were created based on the property code (field - “PROPCODE”) and the title deed number (field - “TITLE\_DEED”) fields. (The file is with the auditors at request)

For the tests performed on the above files the following exceptions were noted:

         Limitations on the above mentioned files:

(a)    PMIS lists the following two different field names; Property\_Code” and “Land\_Number” and then “Unique\_Property\_Code” which is a combination of the first two fields whilst the IE works file only lists a property code number without a land number. The land number is important during the payments of rates and taxes as the land number determines for which part rates and taxes are paid for.

(b)    4 648 cases in PMIS where the title deed number field is listed as either “NO DATA”, N/A, “NOT FOUND”, “NO DATAFOUND”, “DUM”, “NO INFO ON DEED”, etc.

(c)    67 cases where no property code was listed on PMIS.

(d)    The value of the properties was not listed in either PMIS or IE Works.

         Exceptions on the above mentioned files:

(e)    One case was identified in the duplicate run on the unique property code and title deed number. Refer to annexure A – Duplicate \_Master\_Consolidated\_PC\_TD.DBF

(f)     Three cases were identified in the duplicate run on the unique property code. Refer to annexure B – Duplicate\_Master\_Consolidated\_PC.DBF

(g)    Forty payments to the value of R1 154 281, 76 with no property code or title deed number. Refer to annexure C – IEWorks\_Payments\_without\_any\_PC\_code\_TD\_Number.DBF. Furthermore in these cases only the IEW\_LANDNO are listed which do not relate to the property code at all

(h)    Payments in respect of various stands (ERF\_NO) with the same property code and title deed number of which one is located in the city of Cape Town and the rest located in Johannesburg.

(i)     Fifty six cases where negative amounts are listed appear appeared in the IE Works information file. Refer to annexure D – IEWorks\_Negative\_Amounts\_Paid.DBF

(j)     Eighty cases where an amount equal to zero is listed appear in the IE Works information file. Refer to annexure E – IEWorks\_Amount\_Paid\_Equal\_Zero.DBF

(k)    The comparison of the IE Works May 2012 information file with the PMIS Consolidated May 2012 information file revealed the following: Unmatched Primary records/payment transactions that were listed in the IE Works file that could not be found in the PMIS consolidated file based on the property code and title deed number (excluding records where Title Deed number is empty) resulted in 10 337 cases to the value of R656 831 855, 30. Refer to annexure F – IEWorks\_PMIS\_Unmatched\_Primary\_PC\_TD.DBF

(l)     The comparison of the IE Works May 2012 information file with the PMIS Consolidated May 2012 information file revealed the following: Unmatched Primary records/payment transactions that were listed in the IE Works file that could not be found in the PMIS Consolidated file based on only the property code (excluding records where the value is equal to zero) resulted in 10 717 cases to the value of R663 093 542, 88. Refer to annexure G -  IEWorks\_PMIS\_Unmatched\_Primary\_PC

The above deviations occurred as a result of the following:

(a)  Management does not have appropriate policies and procedures to ensure that data is captured correctly on IE Works and PMIS. Management has not implemented the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that all data captured on IE Works and PMIS is accurate and complete.

The above deviations constitute non compliance with the applicable laws, and rules as listed above and as a result the information as produced from the above systems will be inaccurate and incomplete which in turn will affect the accuracy and completeness of the amounts disclosed in the financial statements i.e. Rates and Taxes as IE works reflects the payments of Rates and taxes and PMIS lists all properties owned by the department.

**Internal control deficiency**

|  |
| --- |
| **Leadership:** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

Furthermore the accounting officer has not communicated policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities.

## Financial and performance management:

The entity did not review and monitor compliance with applicable laws and regulations.

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

(a)    Management must ensure that sufficient documented processes are in place and implemented by all officials to ensure that the data captured on PMIS and IE Works are accurate.

(b)    Management must revisit the IE Works and PMIS and ensure that the information captured thereon is accurate and complete.

**Management response**

No management comments was received for findings (b), (c), (d), (e) and (f) as listed above, thus the finding remains valid.

Finding (a)

iEWorks has IEW\_LANDNO that is a system generated number to uniquely identify portions of the land; however this number is not important for any type of payments because it is not included in the interface file to BAS, it’s a system control number.

Finding (g)

All of the properties but 2(which we are investigating) that don’t have property codes are provincial properties that were collected straight from the users, the property code is a PMIS unique property identifier and most provinces don’t use property\_code as their unique property identifier, but fields like ERF\_NO, ACCOUNT\_NO,etc. and we have found many instances where provinces would want to pay on a property that hasn’t been registered (Vested) as yet hence some have no title deeds but most properties should have account numbers and ERF\_NO, etc so that identification can still be possible.

Finding (h)

we are investigating this issue as there were no references given; two processes are currently taking place: 1. to isolate instances where this has happened and 2. Checking if it happens when capturing on iEWorks or its data received from PMIS so that we know where to fix.

Finding (i)

the negative amounts are payments that should be interfaced as credit notes made on iEWorks, the script that was run for the report does not take this into consideration; however it is impossible to pay negative amounts so the negative just indicates the type of payment, and BAS doesn’t accept negative amounts.

Finding (j)

Sometimes people will pay on properties without loading tariffs first; this is one of the reasons for zero amounts, when we get a payment like that we don’t interface it to BAS but it is on the report because the script for the report just looks for each and every payment made, however a zero amount payment does not go through to BAS

Finding (k)

This issue would require a bit of time to check and validate, upon taking a few properties as a sample (highlighted in red: annexure F – IEWorks\_PMIS\_Unmatched\_Primary\_PC\_TD ) we could find them in the dumps that we receive from PMIS on regular basis, we would need to investigate this issue together with PMIS to understand how they got to the “PMIS Consolidated May 2012 information file” for instance, does it include archived properties( as some properties might be archived on PMIS, while payments against them are continuing on iEWorks) , etc.

Finding (l)

This issue would require a bit of time to check and validate, upon taking a few properties as a sample (highlighted in red: annexure G – IEWorks\_PMIS\_Unmatched\_Primary\_PC ) we could find them in the dumps that we receive from PMIS on regular basis we would need to investigate this issue together with PMIS to understand how they got to the “PMIS Consolidated May 2012 information file” for instance, does it include archived properties( as some properties might be archived on PMIS, while payments against them are continuing on iEWorks), etc.

**Auditor’s conclusion**

Management comments were not received as per the agreed date: 28/08/2012. Management response was received late on 05/09/2012. Managment comments are noted; however the finding remains valid and the matters as raised above will be communicated in the.

**Procurement and contract management**

1. **COAF 12 - Limitation of scope RFI nr 41**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following documents as per request for information no 41 were requested but not provided to date:

Needs assessments (minutes of meetings, project plans, strategies, budgets and other interactions with the client department) relating to the Construction projects listed below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Supplier** | **WCS no** | **Tender no** | **Tender Amount**  **R** |
| **1** | Kwagga Holding Pty Ltd | 045889 | H11/005 | 5 922 013,78 |
| **2** | Yikusasa Building Construction | 048905 | H11/006 | 8 127 873,30 |
| **3** | BSE Distributors | 048902 | HP11/30 | 7 620 398,10 |
| **4** | Ascul Construction | 048065 | H11/14 | 3 095 822,52 |
| **5** | VGI Consult Projects | 046880 | HP11/011 | 14 753 213,10 |
| **6** | Johannesburg Scaffolding Pty Ltd | 048338 | HP11/047 | 488 809,20 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope on performance of planned audit procedures.

**Internal control deficiency**

**Financial and performance management:**

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management disagrees with the finding that documents are not easily available. These projects are of a special nature and do not have needs assessments in the traditional sense. The requirements were clarified with the AG team and communicated to the KAM team.

Attached, please find the documents as requested.

|  |  |  |
| --- | --- | --- |
| WCS | Annexure | Comments |
| 045889 |  | Regional office Pta. Project completed during 2007/08 financial year |
| 048905 | A | Low cost bridges. Request to KAM from IGR. Implementation Protocol between DPW and DoD. |
| 048902 |
| 048065 | B | Letter to KAM from CD: ICR and Projects (Salvokop) |
| 046880 | C | Dolomite risk management. Letter from Professional Services |
| 048338 | D | HG De Wit building. Letter to KAM from CD: ICR and Projects |

Name: Juanita Prinsloo

Position: CD: Trading Account

Date: 20/2/2012

**Auditor’s conclusion**

The following need assessment information is still outstanding:  
1. Kwagga holdings (WCS 045899)  
2. Yikusasa (048905)  
The response indicated that the information is with Prestige, however nothing was subsequently received. This limitation on performance of compliance procedures will be reported. Due to the above mentioned procurement files relating to construction projects performed on behalf of other client departments, this limitation will not impact on the completeness of irregular expenditure for PMTE as the irregular is disclosed in the books of the client department responsible for the expenditure incurred on the above mentioned projects.

1. **COAF 21 - Deviations with the Supply Chain Management Prescripts: Delport Du Preez and Associates (Pty) Ltd (Delport)(Tender HP11/051: Repairs, Renovation and Upgrade of Old Government Garage for Government Printing Works – Pavilion Two: Additional Development - Electrical)**

**Audit finding**

Laws, rules and regulations

(a)      Practice note 8 of 2007/2008, paragraph 3.3.3 states that: “*If it 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)      Construction Industry Development Board – Standard for Uniformity in Construction Procurement – May 2010, paragraph 4.2.1.6 (Table 3: Standard method for procuring different classes of construction contracts – Engineering and construction works) states the negotiation procedure may be used if *“The works are largely identical to works previously executed and it is not in the organisation’s interest to solicit other offers or cannot be technically or economically separated from a previous contract”.*

Table 4: Standard method for procuring professional services, states that the negotiated procedure may be used if “*An assignment that represents a natural continuation of previous work carried out by firm”.*

Background to the appointment of Delport

(a)     In an internal memorandum, dated 16 May 2011 from the CD: Professional Services to the NBAC, it was motivated and recommended that the services of the previous professional team and the contractor for the Repairs, Renovation and Upgrade of Old Government Garage for Government Printing Works(GPW) be extended for the additional construction that was required by the GPW. The memo makes reference to the previous contractor (Yikusasa Building Contractors SA CC) and the professional team which includes Delport, responsible for electrical engineering. The Department of Home Affairs through the GPW had issued the procurement instruction to DPW to refurbish second pavilion of the Old Government Garage.

In a letter dated 11 May 2011, referenced 3/1/2 from the Acting CEO of GPW to Director: KAM (DIRCO & OTHERS) at DPW, it was stated that during a meeting held in January 2011 between GPW and DPW it was resolve to appoints the same contractor and professional team responsible for rendering the original renovation at the Government Garage.

The Request for approval of the procurement strategy for professional services to be rendered on the additional construction services at the Government Garage was compiled by the Project Manager (M E Mabuso) on 25 May 2011 and supported by T Phiri: Head: Projects on 26 May 2011. The NBAC approved the strategy on 14 June 2011.

A tender proposal was received from Delport on 19 July 2011 and evaluated by the BEC on 28 July 2011. A tender evaluation report was submitted by the BEC to the NBAC on 3 August 2011 recommending the appointment of Delport at a contract amount of R136 086,05 for the electrical engineering works for the additional construction at the Government Garage. The NBAC approved the appointment of Delport on 12 August 2011. The Form of Offer and Acceptance was signed by Delport on 18 July 2011 on submission of their bid documentation and accepted by DPW on 15 August 2011.

(b)     The following internal control weaknesses were noted with regards to the appointment of Delport:

(i)      In the appointment of Delport, the prescribed quotation process was not followed. However, the deviation was recorded and approved by the NBAC as required in terms of PN 8 of 2007/2008.

(ii)    The bid documentation was signed-off by Delport on 18 July 2011 and submitted to the DPW on 19 July 2011 according to a letter that accompanied the tender proposal. However the “Procurement received” stamp indicates that the bid was received 15 July 2011

(iii)    The form of offer and acceptance which is part of the agreement was signed by the representatives of DPW and Delport and witness as required. However, it was noted that only the representative of Delport initialled the annexures to the agreement.

The above discrepancies are a result of a lack in management control to ensure that documentation is properly filed, stamped and signed. Weaknesses in the internal control system can lead to litigation if the dates are questioned during a dispute raised by an unsatisfied bidder.

Furthermore, if a contract is not initialled by all the parties to the contract, it may render the contract invalid resulting in none of the terms and conditions being enforceable.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

Management control should be implemented to ensure that all the required documentation relating to the sourcing and appointment of service providers are filed on the tender file.

(b)     Management controls should be implemented to ensure that the “Procurement received” stamp is correctly dated to ensure that procurement records reflect accurate and reliable information.

(c)     In future, the DPW Legal department should ensure that all contracts entered into are signed and initialised by all the parties to the contract to ensure the validity of the contracts.

**Management response**

B(i)      The deviation was approved by the NBAC as per the PN 8 of 2007/2008.

(ii)       I am in agreement with the finding. This was an error from the official who was stamping. The date was not accordingly adjusted. We do however confirm that the document was received at the closing time and date as per the PA13 held in the pink file.

(iii)       Legal Services: This seems to have been an oversight by a new official. The office will ensure that all contracts entered in to are signed and initialled.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | To ensure that stamps are accordingly adjusted before stamping. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
|  | | no |
| If yes, what corrections will be made to the population? | Stamps will be adjusted before documents are screened | | |
| 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 | D: SCM | | |
| Estimated completion date of corrective action: | 22/05/2012 | | |
| 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 |  | | |

Name: Eulala Kruger

Position: Acting Chief Director: SCM

Date: /5/2012

**Auditor’s conclusion**

1. The response is noted.
2. The DPW is in agreement and the finding will be reported.
3. The DPW acknowledge the internal control weakness. The finding will be reported.
4. **COAF 32 - Limitation of scope - RFI nr 47**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no 47, dated 10 February 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | All supplier’s lists used by PMTE (comprehensive supplier lists which includes all suppliers used by the regions for PMTE as well as HO) including, but **not** limited to the CIDB suppliers list. |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 18/02/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 39 - Limitation of scope RFI 48**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following documents as per request for information no 48 dated 13 February 2012 were requested but not provided to date:

Request for Information No.48

1. A list /records of all the contractors that have been identified and notified for non performance or under performance
2. Details of all the construction contracts that are behind schedule.

The specific information to be provided above was clarified as per the discussions at the Audit Steering Committee meeting on 15 February 2012.

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope on performance of planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b) The information requested should be submitted without further delay

**Management response**

Management is partially in agreement with the finding.

The information requested has not been submitted, but not due to the reason that documents are not available.

The information requested is available, but not in a consolidated list format as requested by the AG. Due to the magnitude of projects running in the department, the information is decentralised to the specific regions, and further, down to the individual project managers.

Name:

Position:

Date:

**Auditor’s conclusion**

Management comment noted.  The limitation of scope as raised above will not impact directly on the financial statements of the entity; but will be a result of management’s inability to measure and monitor compliance within the entity and will be reported as such in the management report.  Our concerns regarding the lack of a proper, well functioning project management system will also be highlighted in our management report.  Our concerns are based on the fact that the information is not readily available due to the entity not having an adequate project management system in place in which such information can be recorded and readily retrieved when needed/ requested.  This will hamper the entity’s ability to monitor compliance regarding procurement processes.  Thus it would be advisable for management to consider the implementation of such a project management system and/or implement a policy in which clear procedures are set out for the recording such information on WCS.  The monitoring of such information captured should also be performed as such information is important for consultation before contractors/suppliers are appointed to perform work for the entity.  The entity should not only refer to National Treasury’s list of restricted suppliers.

1. **COAF 40 - Limitation of scope on requested information: Consultants contract files**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following tenders as per request for information 59 had been requested:

(a)  Request for Information 59 had been issued on the 20 February 2012 the following tender files had been requested:

| **No** | **Supplier** | **WCS No** | **Type of contract** | **Management Reason for non-submission** | **Expenditure 1 April to 31 December 2011** |
| --- | --- | --- | --- | --- | --- |
| **1** | Ingcali Consulting Engineers | 41821 | Consultant | With respective Project Managers | 596 872,54 |
| **2** | Reabetswe Projects CC | 48865 | Consultant | With respective Project Managers | 7 085 796,51 |
| **3** | Preben Naidoo & Associates CC | 34729 | Consultant | With respective Project Managers | 18 901,88 |
| **4** | Worley Parsons RSA (Pty) Ltd | 34724 | Consultant | With respective Project Managers | 5 975,04 |
| **5** | Mazibuko Wessels Architects | 45905 | Consultant | With respective Project Managers | 508 077,38 |
| **6** | Lucas Chauke Quantity Surveyors | 46976 | Consultant | With respective Project Managers | 2 280 290,59 |
| **7** | Kwezi V3 Engineering | 39304 | Consultant | With respective Project Managers | 39 988,03 |
| **8** | Phumelele Africa Professional Engineers | 36771 | Consultant | With respective Project Managers | 1 071 535,74 |
| **9** | PE Mahapa & Associates cc | 48490 | Consultant | With respective Project Managers | 255 359,96 |
| **10** | Aurecon South Africa Pty Ltd | 48865 | Consultant | With respective Project Managers | 3 330 674,86 |
|  |  |  |  |  | **15 193 472,53** |

The representatives of Legal Services, a section which is in custody of contract files stated in the response to the request for information that the contract files for consultants are kept by the respective project managers. No further information was provided.

The representatives of Legal Services, a section which is in custody of contract files stated in the response to the request for information that the contract files for consultants are kept by the respective project managers. No further information was provided.

Failure to provide the information within the agreed upon timeframe constitutes a limitation of scope on performance of planned audit procedures.

The limitation of scope on contracts for professional services was also raised in the prior year (2010-11) management report.

**Internal control deficiency**

## Financial and performance management:

The entity 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)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

(c)   The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 01/03/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 45 - Limitation of scope - RFI no. 69 (Property maintenance)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 69 (PTA Region), dated 8 March 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No.** | **Information requested** |
| 1. | All relevant supporting tender/procurement documentation for the two payments listed in annexure 1(Bid/Quote no:PTQ 09/034) |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Agree

Cause: The region has the procurement file but the procurement strategy was misplaced or lost during the payment process.

Action Plan

The procurement file will be created and properly filed and the copies will be made to support the payment process.

Name: K Tlhakudi

Position: Director Finance and SCM

Date: 30/3/2012

**Auditor’s conclusion**

Management comments noted, however our concerns previously raised regarding the proper filing of procurement documentation has again been confirmed in management’s response above.  Note should also be taken that original documentation is required for auditing purposes and not copies. The non submission of the procurement file will lead to limitation as we will not be able to execute our planned audit procedures.  The finding is therefore not resolved.

1. **COAF 60 Limitation of scope (RFI no. 83)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 83 dated 2 April 2012 tabled below:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | A comprehensive register of all the contracts entered into from 01 April 2011 to 31 March 2012 (excluding Operating Leases),  for head office and all the regions with  the following details among others- where applicable: |
| 1.1 | WCS number and the tender number |
| 1.2 | Client department |
| 1.3 | The description and duration  of services |
| 1.4 | Class of goods and services (Planned Maintenance/PACE/Property Maintenance/Cleaning/Gardening etc) |
| 1.5 | Date of award |
| 1.6 | Procurement Method |
| 1.7 | Responsible project manager |
| 1.8 | Authorized Contract amount |
| 1.9 | Regional office |
| 1.10 | Status of the contract as at 31 March 2012 |
| 1.11 | Value of variation orders approved as at 31 March 2012 |
| 1.12 | Value of expenditure as at 31 March 2012 |

However the following information is still outstanding:

Value of variation orders approved as at 31 March 2012 for the list of projects submitted at Head Office

Information pertaining to Supply Chain Management and Project management is not consolidated in a manner that is readily accessible for monitoring and audit purposes. Each official that is involved in the procurement/contract management process keeps the information individually, which makes it hard to retrieve it when required. The commitments on the internal control report (Dashboard report) for the period June to December 2011 and the PMTE/DPW action plans pertaining to the accessibility of documentation have not been effectively implemented.

Failure to provide the information within the agreed upon time constitutes a limitation of scope and will be reported in the management letter.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

1. On a timely basis (for instance, monthly), officials responsible for Supply Chain Management should consolidate contract information from each project manager and region include all the payments made and keep track of the changes in the progression of the projects, until closed/completed.
2. The projects system (WCS) must be updated timeously with all the variation orders approved for the contracts with suppliers so that the information may be easily retrieved when required.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Although no formal response was received, some information was forwarded by management. This list is however incomplete, therefore the limitation will be reported in the final management report.

1. **COAF 61 Limitation of scope (RFI 83)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 83 dated 2 April 2012 tabled below:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | A comprehensive register of all the contracts entered into from 01 April 2011 to 31 March 2012 (excluding Operating Leases),  for head office and all the regions with  the following details among others- where applicable: |
| 1.1 | WCS number and the tender number |
| 1.2 | Client department |
| 1.3 | The description and duration  of services |
| 1.4 | Class of goods and services (Planned Maintenance/PACE/Property Maintenance/Cleaning/Gardening etc) |
| 1.5 | Date of award |
| 1.6 | Procurement Method |
| 1.7 | Responsible project manager |
| 1.8 | Authorized Contract amount |
| 1.9 | Regional office |
| 1.10 | Status of the contract as at 31 March 2012 |
| 1.11 | Value of variation orders approved as at 31 March 2012 |
| 1.12 | Value of expenditure as at 31 March 2012 |

However the following regions have not submitted any of this information:

1. Umtata regional office
2. Bloemfontein regional office

Information pertaining to Supply Chain Management and Project management is not consolidated in a manner that is readily accessible for monitoring and audit purposes. Each region and keeps the information individually, which makes it hard to retrieve it when required. The commitments on the internal control report (Dashboard report) for the period June to December 2011 and the PMTE/DPW action plans pertaining to the accessibility of documentation have not been effectively implemented

Failure to provide the information within the agreed upon time constitutes a limitation of scope and will be reported in the management letter.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

1. On a timely basis (for instance, monthly), Head office officials responsible for Supply Chain Management should consolidate contract information from all the regions and project managers, for all projects undertaken during the year.
2. A register of all contracts per class of goods must be designed, regularly updated and monitored to include all the information and keep track of the changes in the progression of the projects, until closed/completed.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 04/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 68 - Limitation of scope RFI 116**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 116 dated 25 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documents (contract files) for the projects listed below: |
| 2 | Procurement instructions for the projects listed below: |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Capital Works and Contractors | | |  |  |  |  |  |
| REGION | CLIENT DEPT CODE | WCS NO | STATUS CODE | CONTRACT AMOUNT | AMOUNT AUTHORISED | CPAP | UNFORSEEN |
| UMTATA | 11 | 046573 | 5B | 32,347,824.70 | 35,582,607.20 | 1,617,391.24 | 1,617,391.24 |
|  |  |  |  |  |  |  |  |
| Consultant Files | |  |  |  |  |  |  |
| REGION | CLIENT DEPT CODE | WCS NO | STATUS CODE | EXPECTED FEE | AMOUNT AUTHORISED | EXPENDITURE | PROJECT LEADER ID |
| HEAD OFFICE | 19 | 049122 | 4C | 30,285.00 | 30,285.00 | 30,282.39 | OPWBIR |
| PRETORIA | 19 | 048338 | 5B | 6,500,000.00 | 6,500,000.00 | 2,813,464.71 | OPW984 |
| PRETORIA | 19 | 048338 | 5B | 5,000,000.00 | 5,000,000.00 | 3,587,995.84 | OPW984 |
| PRETORIA | 19 | 049500 | 4 | 68,080,000.00 | 68,080,000.00 | 2,617,231.40 | OPWART |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Information partly received - contract files WCS 049122, 048338 (2x files), 049500, 046573.

Management comments not received as per the agreed date: 15/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 69 - Limitation of scope RFI 117 (Procurement documentation)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 117 dated 25 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documents (contract files)  for the projects listed below |
| 2. | Procurement instructions for the projects listed below |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client Dept Code** | **Client Department** | **Wcs No** | **Category Type Code** | **Contract Description** | **Contract Award Date** | **Contract Amount** |
| 1 | 90 | Sa Police Service | 033323 | Cw | Young Str: Repair And Renovations Of Flying Squad | 2011/11/25 | 24,445,471.64 |
| 2 | 90 | Sa Police Service | 033753 | Cw | Construction Of Police Station And Single Quarters | 2011/10/13 | 20,712,143.58 |
| 3 | 11 | Arts And Culture | 043904 | Cw | Repair And Maintenance Programme: Mechanical And E | 2011/04/14 | 21,129,679.98 |
| 4 | 95 | Correctional Services | 045517 | Pm | Repair And Maintenance Of Civil Works | 2011/04/19 | 75,737,162.02 |
| 5 | 85 | Defence And Military Veterans | 045862 | Pm | Joint Support Base: Repair And Renovations Of Livi | 2011/05/24 | 25,489,161.72 |
| 6 | 90 | Sa Police Service | 048853 | Cw | Roodeplaat Dog School, Repair And Renovation, Exec | 2011/10/14 | 23,320,567.89 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 15/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 70 - Limitation of scope RFI 100**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 100 dated 19 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documents for the Claims (PACE) payments transactions below: |

|  |  |  |  |
| --- | --- | --- | --- |
| **REF\_NO\_HD** | **BEN\_NAME** | **Contract value** | **Expenditure to date** |
| 83000000044193 | MVELA PHANDA CONSTRUCTION (PTY) | 163,688,000.00 | 207,100,534.13 |
| 83000000043422 | MAGIC LABOUR HIRE & SECURITY SER | 22,526,821.01 | 18,119,010.69 |
| 83000000046256 | RISIMATI ENGINEERS (PTY) LTD | 7,369,826.40 | 4,108,208.88 |
| 83000000050128 | PHAKAMILE ENGINEERING CC - HEAD | 400,000.00 | 341,927.47 |
|  |  | **193,984,647.41** | **229,669,681.17** |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 15/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 76 - Limitation of scope RFI 82**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 82 dated 30 March 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documents for the transactions below: |

|  |  |  |
| --- | --- | --- |
| **Ref number** | **Beneficiary name** | **Amount** |
| 444633 | GVK-SIYA ZAMA BUILDING CONTRACTO | 5,000,000.00 |
| 445971 | MUHLE UNLIMITED DESIGNS CC | 7,763,214.42 |
| 435770 | MUNYAI MALAKA ENGINEERS (PTY) LT | 1,202,514.63 |
| 439210 | CONSULTIUM PROJECT PLANNING | 791,993.42 |
| 374840 | AURECON SOUTH AFRICA (PTY) LTD | 3 451 059,59 |
| 397214 | AURECON SOUTH AFRICA (PTY) LTD | 7 606 727,83 |
| 398600 | MULTI-PRO COST ENGINEERING (PTY) | 3 799 295, 90 |
| 418352 | STEWART SCOTT | 3 230 417, 61 |
| 435398 | SEMENYA FURUMELE CONSULTING (PTY | 2 215 962,15 |
| 435399 | BABEREKI CONSULTING ENGINEERS CC | 2 619 536,71 |
| 419925 | Naren Mistry Achitects cc | 1 931 690,74 |
| 434461 | RISIMATI ENGINEERS (PTY) LTD | 1 486 661, 48 |
| 444961 | TKDS CONSULTING AND SUPPLIERS CC | 2 465 173, 24 |
| 450250 | SEMENYA FURUMELE CONSULTING-HEAD | 2 222 773, 53 |
| 432059 | AURECON SOUTH AFRICA (PTY) LTD | 907 459,08 |
| 383517 | JH SYSTEM ENGINEERS (PRETORIA) | 777 096, 11 |
| 390393 | JH SYSTEM ENGINEERS (PRETORIA) | 748 766,14 |
| 444960 | ADI INVESTMENT (PTY) LTD | 768 162,66 |
| 432081 | KHATIMA ENGINEERING SERVICES | 716 961,99 |
| 469774 | FULWANA PLANING CONSULTANTS | 397 826, 68 |
| 473427 | BABEREKI CONSULTING ENGINEERS CC | 3 531 510, 47 |
| 476094 | BABEREKI CONSULTING ENGINEERS CC | 1 786 257,15 |
| 473860 | ADI INVESTMENT (PTY) LTD | 812 242, 65 |
| 418614 | COOL BREEZE AIRCONDITIONING & RE | 3,190,567.37 |
| 421750 | AURECON SOUTH AFRICA (PTY) LTD | 108,890.48 |
| 370825 | SPLISH SPLASH CONSTRUCTION | 402,306.91 |
| 391294 | XTREMETEC MANAGEMENT AND CONSULT | 725,439.40 |
| 394673 | DUEL ELECTRICAL CC | 67,661.19 |
| 400352 | MVELA PHANDA CONSTRUCTION (PTY) | 1,879,136.62 |
| 378463 | GVK-SIYA ZAMA BUILDING CONTRACTO | 8,500,000.00 |
| 419418 | MUHLE UNLIMITED DESIGNS CC | 9,225,617.98 |
| 396511 | GVK-SIYA ZAMA BUILDING CONTRACTO | 5,180,000.00 |
| 406253 | GVK-SIYA ZAMA BUILDING CONTRACT | 19,357,314.00 |
| 425080 | MAREE ELS & PARTNER | 6,387,355.32 |
| 377582 | LLALE & COMPANY-HEAD OFFICE | 1,245,053.10 |
| 377583 | MAREE ELS & PARTNERS | 1,571,919.46 |
| 408293 | GVK-SIYA ZAMA BUILDING CONTRACTO | 3,845,193.54 |
| 390149 | SSC ARCHITECTS CC (PREVIOUSLY BR | 5,146,585.68 |
| 390150 | E S BOTHMA QUANTITY SURVEYOR-HEA | 5,082,582.06 |
| 408321 | GRINAKER LTA T/A KEREN KULA J/ V | 1,547,042.93 |
| 417406 | MUSTAPHA AND CACHALIA CC-HEAD OF | 225,506.38 |
|  |  | **129 921 476,60** |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 17/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 80 - Limitation of scope – RFI no. 80 (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 80 dated 29 March 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Contract/procurement documents for the transactions relating to Cleaning and Gardening transactions listed below: |

|  |  |  |
| --- | --- | --- |
| **Supplier** | **Payment NO** | **Payments for the year** |
| Badiri BA Setshaba Business | AP 425833 | 1 453 637,12 |
| Siliweile Business Enterprise | AP 427689 | 1 255 908,30 |
| Khandzi Cleaning | AP 437984 | 2 116 427,77 |
|  |  | **4 825 973,19** |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

I am not in agreement with the finding for Motseng files

The finding was previously raised and responded to. It was indicated that the file was given to SIU, documentary proof has been provided to AG.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| 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 | **D: Finance & SCM** | | |
| Estimated completion date of corrective action: | 30 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 |  | | |
|  |  |  |  |

Management Report

I am in agreement with the finding

Badiri Ba Setshaba Business and Khandzi Cleaning and Projects and Siliwelile Business.

have been submitted for auditing Action plan : Proper filing system to be implemented once storage space is made available

Name:   J Thobejane

Position:  DD: SCM

Date: 25/5/2012

**Auditor’s conclusion**

Management comment noted.  The Motseng file was subsequently audited at SIU, however the procurement documents relating to the following contract files:  
Badiri BA Setshaba Business AP 425833

Siliweile Business Enterprise AP 427689

was not received for audit purposes (only the payment batches were received for the above mentioned suppliers). The finding will therefore be included in the management report.

1. **COAF 81 - Limitation of scope RFI 81**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 81 dated 30 March 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documents for the transactions listed below: |

|  |  |  |  |
| --- | --- | --- | --- |
| **WCS** | **FANO** | **SUPPLIER** | **AMOUNT** |
| 48216 | 427594 | PLANTECH ASSOCIATES(PRETORIA) | 139 755,34 |
| 43121 | 446381 | V & L LANDSCAPE ARCHITECTS- | 8 086,25 |
|  |  |  | **147 841,59** |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 21/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 84 - Limitation of scope RFI 139 (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 139 dated 17 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Please provide us with all the relevant Tender and Procurement documentation for the Cleaning transactions below: |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Tender no** | **Client** | **Description/ class** | **Authorized amount** | **Regional office** | **Status @ 31/03/2012** | **Expenditure** |
|
| PTQ11/078 | Justice | Cleaning | 305,040.00 | Pretoria | On-going | 203,360.00 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 25/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **Issued - COAF 85 - Limitation of scope RFI 140**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 140 dated 17 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Needs assessments (Minutes of meeting/procurement instruction/ budgets/etc) for the suppliers listed in the Annexure. |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 25/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 92 - Deviations with the Supply Chain Management Practices: Vusela Construction (Tender PT11/015: Roodeplaat: SAPS Dog School: Repair and Renovations: Upgrade and New Additions) Limitation of scope: RFI no. 54**

**Audit finding**

Laws, rules and regulations

(a)     The Public Audit Act Section 15(2)(b) states that *“The Auditor-General or an authorised auditor may for the purpose of an audit direct a person to produce, or to deliver at a specified place and time and in a specified format any such document, book or written or electronic record or information, including any confidential, secret or classified document, book, record or information of whatever nature”.*

(b)     PFMA, section 40(1)(a) states that *“The accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards”.*

(c)     PFMA, section 41 states that *“An accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor-General may require.”*

During the audit of tender no. PT11/015, information was requested (RFI no. 54 dated 15 February 2012). The information indicated below was not submitted for audit purposes:

a)      Complete set of returnable documentation file submitted by the bidder which includes all the returnable schedules required for the evaluation of the bid by the Bid Evaluation Committee. Documents not submitted include amongst others tax clearance certificate, company profile, CIDB certificate and site inspection certificate;

b)      Signed contract (form of offer and acceptance) including the complete annexures referred to in contract.

The prescribed documentation related to the procurement process e. g. procurement strategy and relevant approvals was submitted. However, all documents submitted were not originals but copies and loose pages. Furthermore, it is unclear how the evaluation was performed and successful bidder recommended without the returnable documentation as per the invitation of tender being submitted by the bidder. Therefore, the AGSA could not audit the tender file and conclude if the process was fair, equitable, transparent, competitive and cost effective.

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we were unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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)     Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)     A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

(c)     The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 06/06/2012. The information was only available on 10/07/2012 which was long overdue and therefore was not audited and the finding remains valid. The impact will result in a scope limitation and will be an audit report matter.

1. **COAF 96 - Limitation of scope RFI 159 (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 159 dated 29 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Please provide us with all the relevant Payment (invoices etc.) and Procurement documents for the transactions below: |

|  |  |  |
| --- | --- | --- |
| **File Number** | **Supplier Name** | **Amount**  **R** |
| 000474045 | Entitype (Pty) Ltd | 1,175,245.60 |
| 000442753 | Ovland Real Estate Trust | 653,555.36 |
| 000441675 | Folang Holdings (Pty) Ltd | 575,678.80 |
| 000379410 | Ons Tuis Beleggings | 542,609.48 |
| 000473680 | Good Example Trading And Proje | 497,700.00 |
| 000396017 | Four Rivers Trading 422 (Pty) Lt | 2,673,565.62 |
| 000479321 | Superfecta Trading 209 Cc | 2,096,441.40 |
| 000426034 | Leopont 444 Properties (Pyt) L | 2,729,571.18 |
| 000468789 | Moongate 125 (Pty) Ltd | 2,186,122.77 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 07/06/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 167 - Limitation of scope, Pretoria Thabo Tshwane, Follow on RAMP Dolomite risk management: WCS 047106 Tender No PT10/027**

**Audit finding**

Laws, rules and regulations

(a)  Public Finance Management Act (PFMA) Chapter 5, Section 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

(b)  Section 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require

During the review of the appointment of service provider South Sound Civil JV Zweni Projects CC, the following was identified:

(a)  The procurement file for the above mentioned contract was requested per request for information (RFI) 179 dated 15 June 2012. The procurement file was submitted for audit purposes on 18 June 2012. However, through inspection of the file, the following information could not be found:

(i)            Original Procurement strategy (PA 01)

(ii)           Original Request for the approval of the procurement strategy (PA 25)

(iii)          Register of bids received (PA 08/PA 13)

(iv)         Procurement instruction to execute the project

(v)          Bills of quantities

(vi)         Scoring Model (PA 20)

(vii)        Approval of the procurement strategy (PA 12)

(viii)       Declarations of the Bid Evaluation Committee (PA 18)

(ix)         Declaration of interest and the past SCM practises (PA 11)

(x)          Resolutions by the joint venture (PA 15.1/PA 15.2)

(xi)         Site Inspection meeting certificate

(xii)        CIDB certificates of the supplier

(xiii)       Tax clearance certificate

(xiv)       Capacity of tenderer (DPW 09)

(xv)        Preference points claim and affidavit (PA 16)

(xvi)       Form of offer and acceptance

(xvii)      Contract Data

Per discussions with officials, the documents are kept in the different units/ sections, which may not be possible to retrieve at times

(a)  This resulted in the inability to perform the planned audit procedures timeously, thus constituting a limitation of scope.

**Internal control deficiency**

## Financial and performance management:

The entity 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)      Management must ensure that the procurement files contain all the relevant information supporting the decisions taken to award the contract as well as sufficient evidence of compliance with SCM prescripts.

(b)      A control checklist must be maintained to ensure that all the information relevant to the awarding of the contract are filed together and easily retrievable

**Management response**

I am in agreement with the finding for the following reasons

The approval was directed to the DG’s office for approval and original file kept by the project manager:

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | All bid files will be kept at Legal Services for proper record purposes after signing of a contract | | |
| 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 | D: Projects | | |
| Estimated completion date of 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 Masina

Position: Acting D: Projects

Date: 27/7/2012

**Auditor’s conclusion**

Management agrees with the finding.  The limitation of scope will be reported on as we are unable to perform our planned procedures to determine whether compliance was achieved. Due to the above mentioned procurement file relating to a construction project performed on behalf of other client departments, this limitation will not impact on the completeness of irregular expenditure for PMTE as the irregular is disclosed in the books of the client department responsible for the expenditure incurred on the above mentioned project.

1. **COAF 179 - Deviations with the Supply Chain Management Practices: Contract no 6029/6701/1 (award date 24 June 2011) Building: Ex-Mercedes Benz Skinner and Potgieter**

**Audit finding**

Laws, rules and regulations

(a)    Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

(b)    Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

(c)    In terms of Treasury regulations 16A6.3(c), “*The accounting officer or accounting authority must ensure that 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;”*

(d)    SCM Practice note 4 of 2006 states that, “*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 8 of 2007/2008 states that, *“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).”*

(f)     Practice note 7 of 2009/10 paragraph 4.2.1 states that, *“…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.”*

(g)    National Treasury Practice Note dated 21 July 2010 (Certificate on independent bid determination – SBD 9), paragraph 3.1.1 and 3.1.2 states that: “*With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the 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. 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.”*

During the review of the procurement of the Ex-Mercedes Benz Building (corner Skinner and Potgieter Street) using the open tender process, the following was noted:

(a)  The file submitted for audit purposes contained old documents dating as far back as 2004

(b)  The following documents relating to the tender awarded on the 24 June 2011 were not included in the contract file:

(i)      Procurement Strategy PA-01.

(ii)     The tax clearance certificate and the bid evaluation report to the regional bid adjudication committee (PA – 21), minutes of regional bid adjudication committee and minutes of bid specification committee.

(iii)    The advert on the tender bulletin.

(iv)   Declaration of interest (SBD4) document or equivalent as used by the entity.

(v)    Declaration of Bidders past SCM Practices (SBD8) document or equivalent as used by the entity.

(vi)   Certificate of Independent Bid Determination (SBD9) documents or equivalent as used by the entity.

(vii)  PA-20:Scoring model

The lease file with all the relevant supporting documents including the tender/procurement documentation was requested on 16 February 2012.  The files were subsequently submitted for audit purposes; however the above mentioned documents were not included in the file.  After discussions were held with the Deputy Director and Assistance Director Property Management responsible for the contract file, only the PA-12 was submitted.

The PMTE does not have proper controls in place over filing of procurement documentation and lease documents as procurement strategy, tax clearance certificate, bid evaluation report, minutes of bid adjudication committee and specification committee, advert on tender bulletin, declaration of interest were not included in the file submitted for audit purpose

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  Management should develop a standard checklist indicating the minimum documents to be included on the lease files.  This will assist in ensuring that the relevant documentation is indeed included on the lease file and available for record keeping purposes.  Management should also consider including all relevant documentation as required for evidence of compliance to SCM legislation, regulations and policies is filed on the tender/lease files.  Such requirements should be communicate to all officials to ensure that a clear understanding of the requirements is obtained and implemented.

**Management response**

I am [not] in agreement with the finding for the following reasons

Property files are divided in terms of lease agreements and tender documents. The file audited was for lease agreements.

|  |  |  |  |
| --- | --- | --- | --- |
| **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 of 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:  K Tlhakudi

Position: D: Finance & SCM

Date: 26/7/2012

**Auditor’s conclusion**

Management comments are noted; however the tender file was not submitted with management response.  Furthermore as indicated above, as per the initial RFI the tender/procurement documents were indeed requested, however managment could only provide the lease file. The finding is not resolved and will be included in the final management report.  The above results in a limitation of scope on the performance of compliance procedures and to determine whether irregular expenditure is complete.

1. **COAF 182 - Deviations with the Supply Chain Management Prescripts: Momacha Trading CC (Tender H10/023): Groblersbridge and Stockpoort ports of entry: 36 months maintenance and servicing of building**

**Audit finding**

Laws, rules and regulations

(a)  CIDB SFU, paragraph 4.2.1.4 & 5 states that: *“Advertisements for tenderers to submit tender offers in respect of engineering and construction works contracts, shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for tenders and at least 5 working days before any compulsory site meeting. Advertisements for the submission of expressions of interest in respect of engineering and construction works contracts in terms of the P4 Qualified Procedure shall be placed on the CIDB web site using the CIDB's i-Tender@cidb service at least 10 working days before the closing date for submissions of interest and at least 5 working days before any compulsory clarification meeting.”*

(b)  National Treasury Practice Note dated 21 July 2010, paragraph 3.1.2 states that, *“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.”*

During the review of the appointment of Momacha Trading CC, the following was noted:

(a)  A request for approval of the procurement strategy (PA-01) for the project: Groblersbridge and Stockport Ports of Entry: 36 Months Maintenance and servicing of building, civil, mechanical and electrical infrastructure installations was compiled by the Project Manager on the 17 September 2010 and supported by the Head: Projects on the 27 September 2010.  The strategy indicated an open procedure and an estimated value of R10 052 513,00. The approval of the strategy by the National Bid Adjudication Committee (PA-12) was granted on 5 October 2010. The tender was advertised from 22 October 2010 to 17 November 2010.

The SCM process followed in the appointment of Momacha Trading CC was in contravention of the prevailing prescripts in view of the following:

(a)  No evidence existed that the tender had been advertised on the CIDB website as required by the CIDB regulations, neither could the supporting documentation be provided by the SCM unit upon enquiry. It was also confirmed that the tender had not been registered on I-Tender on the CIDB website.

(b)  The specifications (responsive criteria) of the contract did not require the winning supplier to complete the certificate of independent bid determination (SBD 9/PA 29) as per the requirement of Practice note dated 21 July 2010. Thus Momacha Trading CC had not declared its independence in the bidding process. This is in contravention with National Treasury Practice Note 21 July 2010.

The above deviations from the prescripts are a result of management not implementing the necessary monitoring measures and exercising oversight to ensure compliance with the relevant laws and regulations. The department does not ensure that the relevant documentation is completed and submitted by the supplier.

The above results in non compliance with the above mentioned laws and regulations.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)      It should be ensured that the responsive criteria such as the SBD 9 (PA-29) is issued with the invitation to tender document and complies with the relevant legislative prescripts.  (b)     All relevant advertisements made on the relevant websites are printed and attached to the tender file so as to provide substantial evidence that the tender had indeed been advertised.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 07/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 185 - Deviations with the Supply Chain Management Practices: Magwa Construction CC (Tender P11/ 057: Mahamba, Bothashoop and Emahlathini port of entry: 36 months maintenance and servicing of buildings, civil, mechanical and electrical infrastructure)**

**Audit finding**

Laws, rules and regulations

*(a)* Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury Regulation 16A6.3 (c) states the following: “*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*.”

(d)  National Treasury Practice Note 6 of 2007/2008 par.2.5 states that: “*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*”

During the review of the appointment Magwa Construction CC, the following was noted:

(a)  Key Accounts Management (KAM) issued the Procurement Instruction (PI) dated 10 August 2011 to the Director Special and major projects requesting the procurement of the Service Provider without delay through the relevant Supply Chain Management procedures. The procurement instruction indicated that the current RAMP project would expire on 2 September 2011. The previous RAMP amounting to R25 850 794,00 had addressed the serious repairs including building, fencing, road services, heating and air conditioning, fire fighting equipment, lighting, refrigeration and incinerator. The maintenance contract should address the following: structural and building, plumbing and drainage, Building electrical, fencing, cleaning and site and site keeping, bulk water supply, roads and storm water, standby power, external lighting, heating ventilation and air conditioning systems, refrigeration equipment, conventional fire fighting equipment, incinerator and waste water treatments.  The project was estimated at R4million, which would be made available from the DPW capital budget for Land Ports of Entry.

(b)  The request for approval of the procurement strategy (PA-01) was compiled by the Project Manager on the 21 October 2011 and supported by the Head of Projects dated 25 October 2011. The procurement strategy indicated that the pre-tender estimate was R12 875 244,08, the CIDB grading required was 6CE or 5CP PE or higher. The open tender process was selected as the procurement process to be followed. The procurement strategy further stated that the tender advertising period was 3.5 weeks because the contractor had to be on site in January 2012. The Bid Adjudication Committee (BAC) declined the approval of the procurement strategy on 8 November 2011 due to the fact that the procurement instruction was not signed by the Chief Operations Officer and that there were inconsistency with the CIDB grading with the same services.

(c)  A revised request for procurement strategy was compiled on 21 October 2011, in which the CIDB grading was revised to 6CE/5GB or 5CE PE/5BB PE. On 21 November 2011, the Project manager issued an Internal Memo to the BAC stating that due to the delays caused by the strategy being referred back by the BAC and the moving of offices by the procurement section, the period on the procurement strategy of 3.5 weeks would no longer be feasible and should thus be reduced to 2,5 weeks. The RAMP contract would expire on 2 February 2012 but the construction industry annual holiday would be from 15 December 2011 until 9 January 2012. The BAC approved the procurement strategy on 22 November 2011. The bid was advertised from 2 December to 16 December 2011.

(d)  Nine suppliers responded to the bid per the register of bids. The tender evaluation was performed on 10 January 2012, in which Magwa Construction CC was the highest point scorer (scored 92.4 total points). The BEC resolved that a risk assessment be performed on the highest scoring bidder. On 12 January 2012, the risk assessment performed by Virtual Consulting Engineers (Pty) Ltd indicated that the supplier had received excellent reviews for contractual commitment and quality of work, thus the professional opinion given was that the supplier could effectively maintain the contract for the tendered amount and proposed that Magwa Construction CC be awarded the contract.  The BEC held another meeting on 12 January 2012 and agreed to recommend the award to Magwa Construction CC to the BAC. The BAC approved the award on 24 January 2012.The supplier was notified of the award on 3 February 2012.

The SCM process followed in the appointment of Magwa Construction CC was in contravention of the prevailing prescripts in view of the following:

(a)  The instruction note indicated that the maintenance contract (under review) should address the following: structural and building, plumbing and drainage, Building electrical, fencing, cleaning and site and site keeping, bulk water supply, roads and storm water, standby power, external lighting, heating ventilation and air conditioning systems, refrigeration equipment, conventional fire fighting equipment, incinerator and waste water treatments. However some of these services were a duplication from the previous RAMP amounting to R25 850 794,00 that had addressed some the repairs for the Port of Entry. The following services were already addressed in the previous RAMP:

* Fencing
* Heating and air conditioning
* Fire fighting equipment
* Refrigeration
* Incinerator

The supplier might be contracted to repeat the same services as previously procured for, which constitutes fruitless and wasteful expenditure.

(b)  The risk assessment was compiled by the consulting engineers to provide the professional opinion on the quality of previous work, contractual commitment, commercial risk and the CIDB registration. The risk assessment did not consider that Magwa Construction CC had been awarded a number of contracts by the Department of Public works recently. This could result in a risk relating to the quality of work performed due to the ability of the contractor to run all projects with the limited resources and workforce. The following contracts were awarded to Magwa within the same/overlapping period:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Tender no** | **Description** | **Period** | **Award date** | **Amount**  **R** |
| H10/025 | Bray,Makgobistad, and Ramatlabama Ports of Entry Maintenance and Servicing of Buildings, Civil, Mechanical and Electrical Infrastructure and Installations. | 36 months | 28 January 2011 | 15 062 097,24 |
| H10/027 | Swartkopfontein Gate, Kopfontein Gate and Derdepoort Ports of Entry: 36 Months Maintenance and Servicing of Buildings, Civil, Mechanical and Electrical Infrastructure and Installations. | 36 months | 18 January 2011 | 17 411 120,42 |
| H11/004 | Kosi bay Border Post Maintenance and servicing of buildings, civil, mechanical and electrical infrastructure and installations | 36 months | 11 March 2011 | 3 340 148,70 |
| H11/055 | Maseru Bridge Port entry :BCOCC:36 Months maintenance and servicing of buildings, civil Mechanical and electrical infrastructure installations | 36 months | 30 January 2012 | 15 612 816,42 |
| H11/057 | Mahamba , Bothashoop and Emahlathini Ports of Entry: 36 Months maintenance and servicing of buildings, Civil , Mechanical and Electrical infrastructure installations | 36 months | 3 February 2012 | 11 898 484,38 |
| **Total** | | | | 63 324 667,16 |

The risk assessment performed reflected that two of the three references provided for Magwa Construction CC for the quality of the previous work was Virtual Consulting Engineers who was also performing the risk assessment, thus an indication that Virtual Consulting Engineers was not independent of Magwa Construction CC. Virtual Consulting had worked with Magwa Construction:

* North West Port of Entry RAMP valued at R18,5 million (DPW)
* Managa Port of Entry RAMP valued at R10,3 million (DPW)

Thus the risk assessment process was not fair and equitable to identify all the risks and to use an independent opinion of the contract. The department used the risk assessment to disqualify the highest scorers had they been assessed to pose any risk/financial loss or non compliance. However if the process that is followed is not fair and equitable, it results in non compliance with the SCM principles.

(c)  The contract was advertised for less than 21 days due lack of proper planning by both KAM; SCM and Project management. The department had known that the previous RAMP project would expire in September 2011, however the instruction to procure the service provider for the maintenance project was only issued in August 2011 and the procurement process only began in October 2011. This constitutes non compliance with National Treasury Practice Note 6 of 2007/2008 where the department dispensed from the acceptable practice due to lack of proper planning and not due to an emergency.

A proper planning and assessment of scope of work and timelines is not implemented in the department. Suppliers are procured when there is no sufficient time left to follow the acceptable procurement processes without any deviation. Though the departmental directives require that any deviation be used as the least resort, the department officials advertise the tender for less than 21 days in regular instances. Similar non compliance had been identified in the previous financial years, however the auditor’s recommendations were not implemented.

The above deviations from the prescripts are a result of non compliance with the applicable laws and regulations may result in tenders being awarded in an unfair/biased manner. This constitutes non compliance with Practice Note 6 of 2007/2008 and Treasury regulations, thus resulting in irregular expenditure. (No expenditure was incurred up until 31 March 2012)

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Recommendation**

(a)  The Bid Evaluation Committees must take into account the reliability and fairness of the evaluation process, including the risk assessments performed by the independent professional engineer.

(b)  A compliance checklist must be kept throughout the procurement process, to monitor that all the laws and regulations where applicable had been abided with.

(c)  In approving deviations from the normal SCM processes, management should ensure that the deviations are based on valid reasons (i.e. not due to poor planning), properly documented and approved on the appropriate level in line with the approved delegation of powers.

(d)  The accounting officer must in terms of section 38(1)(h) of the PFMA, investigate and take effective and appropriate disciplinary steps against any official in the service of the Department or the Trading Entity who made or permitted the irregular and fruitless and wasteful expenditure.

**Management response**

Management did not respond on (a), (b) and (c).

**Auditor’s conclusion**

Management did not respond to items (a) (b) and (c) thus the finding remains valid.

1. **COAF 228: Limitation of scope – RFI no. 238**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 238 dated 31 July 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Repairs and Maintenance Procurement Plan for the year ending 31 March 2012. |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period January to March 2012 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Supply Chain Management officials should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 10/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 234 - Limitation of scope – RFI no. 99**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 99 dated 18 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Please provide us with all the relevant supporting documents (Payment batches and Procurement documents) for the Claims PACE payments transactions below: |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **NO** | **TRANSDESC** | **TRANSAMTDT** | **TRANSDATE** | **FUNCAREANO** | **BEN\_NAME** |
| 1 | CONSULTANT PAYMENT | 1,987,929.16 | 2011/12/21 | 000450262 | MOTEKO CONSTRUCT |
| 2 | SUPPLIER PAYMENT | 100,000.00 | 2012/02/03 | 000461909 | A M MOTSHEKGA |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**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** | | |
|  |  | | |
| 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 of 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: AJF Bezuidenhout

Position: Deputy Director

Date: 13/8/2012

**Auditor’s conclusion**

Management comments are noted. We agree that the payment batches have been received for the payment numbers 450 262 and 461 909. However we have not received the procurement documents for the above, hence the finding will remain in the management report.

1. **COAF 255: Khotso Moleko Architects – Supplier validity**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including this Act; or The State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  Treasury regulation 9.1.1 states that, “*The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.*

During the review of the supplier Khotso Moleko Architects the following was noted:

(a)    The supplier details of Khotso Moleko Architects were ascertained via the following means. A vat search was performed on the supplier (vat number 4910220518) and no results could be verified as the search resulted in no records being identified. A cipro search was performed and the search revealed that the entity had in fact deregistered.  Furthermore an attempt was made to contact the supplier but the telephone number obtained was no longer in use.

The above deviations occurred as a result of the following:

(a)  SCM management not implementing the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations and that the supplier database is updated with accurate supplier details.

(b)  Management did not take appropriate action and perform sufficient follow up to ensure that the suppliers which are paid are in fact still in operation.

(c)  The PMTE does not have proper controls and processes in place for updating and maintaining the supplier details.

As a result of the supplier details not being updated on a regular basis payments may be made to fictitious suppliers resulting in irregular expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity did not review and monitor compliance with applicable laws and regulations.

**Recommendation**

(a)    Management should ensure that the supplier database should only contain suppliers which remain valid suppliers. Supplier details must be updated as soon as any changes occur with regards to the supplier details. This could be achieved through the use of supplier reconciliations being performed which entail the receipt of supplier statements from the supplier which should be reconciled to the amount payable to the supplier as reflected by the entity in their own accounting records.

(b)  Management should recover funds paid to suppliers which no longer render services to the entity.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 24/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 257: Limitation of scope – RFI no. 220**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 220 dated 9 July 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documentation for the following (WCS 41653). |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope for payments on the contract to the amount of R287 691. 67 as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 24/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 74: Deviations with the Supply Chain Management Practices: Acquisition and appointment of consultants**

**Audit finding**

Laws, rules and regulations

(a)     The Policy strategy to guide uniformity in procurement reform processes in government approved by Cabinet in September 2003 states the following:

               Par 3.2: *“It is necessary that certain minimum requirements of quality and efficiency be achieved when appointing consultants.”*

               Par 3.3: *“The promulgation of a regulatory framework in terms of section 76(4)(c) of the PFMA will establish the policy parameters for the repealing of the existing tender board legislation and will prescribe the minimum norms and standards for supply chain management practices in government. The National Treasury will issue a limited number of practice notes i.t.o. the framework to guide uniformity in practices and procedures …”*

               Par 5.1: *“It is the responsibility of the accounting officers/ authorities to work out the detailed implementation of principles contained in the Policy Strategy document.”*

(b)     PN 3 of 2003 issued by NT on 5 December 2003 applicable to all national departments states the following in regards to the appointment of consultants:

               Introduction: *“Consultants should be appointed by means of a competitive bidding process, whenever possible. All bids and contracts should be subject to the General Conditions of Contract (GCC) issued by National Treasury”*

               Par 1.1: *“In general, the procedures described for the acquisition of goods and services apply. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature. These procedures do not apply to general services ….”*

               Par 1.3: *“For the purpose of this practice note, the term consultant includes, amongst others consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organisations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organisations (NGOs) and individuals.”*

               Par 11.1: *“Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established. This panels/list should be established through the competitive bid process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.”*

               Par 11.5: *“This list should be updated continuously, at least quarterly.”*

(c)Policy: The appointment of consultants from a roster dated 7 May 2001 (DPW: Consultant policy). This policy provides as follows in regards to the selection of consultants:

Section 1: “*The establishment and computerised-assisted operation of a roster system in support of an Affirmative Procurement Policy for statutory tariff appointments of consultants on projects where fees do not exceed R2.0 million, excl. VAT.”*

Section 2.3: “*There will be three types of assignments with fees for an assignment not exceeding R2.0 million these being as follows:*

               *Routine assignments – straight forward tasks of which inputs are relatively well know and outputs can be readily defined;*

               *Specialist assignments – technical complex works where the inputs and outputs are ill-defined;*

               *Complex assignments – assignments other than routine or specialist assignments.”*

Section 4.1: “*The roster will be a single list of firms and offices covering disciplines associated with construction works and will contain inter alia data i.r.o. the head office and branch office of every firm of the number of registered principals employed at the office, the disciplines and sub-disciplines in which the office is competent, the geographical location of the office and the preferred status of the firm.”*

Section 4.4: “*Routine assignments will be made by computerised processing of the roster based on criteria as set out in section 4.1. The firm or office nominated by the computerised selection process for a routine assignment will be the firm or office nearest to the top of the roster which complies with the applicable criteria.”*

Section 4.5: “*Specialist assignments will be made by computerised processing of the roster based on the specialist discipline/sub-discipline in which the office is registered as being competent and the locality of the office. The three firms or offices nearest to the top of the roster which comply with the applicable criteria will be invited to provide details of their specialist expertise.”*

Section 6: *“Firms will be invited to make application for admission to the roster. Applications received in response to the advertisements will be processed and electronically captured over a period of five months following the advertisement. At the outset, firms and offices will be placed on the roster in a random, computer-generated order in such a manner that all affirmable professional service provider’s (APSP) are within the upper one-third of the roster.”*

Annex J – Process flow for appointment of consultants for routine assignments – after contract concluded and consultant commence: *“Position of firm/office on roster changes as follows:*

               *Preference firm moves to new position calculated in terms of formula*

               *Non-preference firm moves to bottom*

               *If fees are less than R40 000, position is not changed.”*

On 18 April 2012, Request for information no. 98 was issued in regards to the appointment of consultants from a consultant roster. A response was received 16 May 2012. The request for information required detail the three distinct areas that is crucial to the effective functioning of the roster. However, the response received only addressed two of the areas. The following was noted from the response:

(a)  In terms of DPW Consultant policy, section 1, the roster system must be operated on a computer-assisted program. The DPW confirmed in their response that the roster is running on a web-based programme which is administrated by SITA; however, the system was last updated in 2009 as a result of the decision of management to block access to the [www.pwdprocure.co.za](http://www.pwdprocure.co.za/). This poses the risk that the general and application control is not maintained and verified for correctness to ensure that the system functions effectively and that data captured into the system is processed accurately. It also holds a security risk in relation to access controls not being maintained and officials gaining unauthorised access to the system.

(b)  In term of PN 3 of 2003 and DPW: Directive: Acquisition and disposal management, the DPW may through an open bid process establish a panel of consultant for projects/services that are required on a recurring basis. This panel must be updated continuously, at least quarterly. The DPW confirmed in their response that management took a decision in 2009 not to register any new consulting firms on the roster hence no updates were made since 2009.

(c)  In terms of DPW consultant policy, when a consultant has been awarded an assignment, it will immediately be moved to the bottom of the roster according to a formula. It was however noted from an extract from the WCS system where all the consultants’ projects for 2011-2012 year were listed that consultants were appointed in 2011-2012 more than once.

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Name Of Supplier** | **Number Of Appointments During The Year Per Wcs** | **Total Expected Fee  (Where The Amount Was Indicated)** |
| 1 | Aurecon South Africa (Pty) Ltd | 5 | 8 440 002,00 |
| 2 | Bfba Consultants | 7 | 1 863 501,00 |
| 3 | Bmds Consulting Engineers | 5 | 22 836 181,25 |
| 4 | Bvi Consulting Engineers (Pty) Ltd | 14 | 2 723 800,00 |
| 5 | Ca Du Toit  (Pty) Ltd | 7 | 2 480 600,00 |
| 6 | De Villiers & Moore Pty (Ltd) | 9 | 2 009 352,00 |
| 7 | Eye Sizwe Consulting Engineers | 6 | 1 253 451,00 |
| 8 | Foreplus Group C.C | 6 | 539 701,00 |
| 9 | Kwezi V3 Engineers | 11 | 1 391 911,92 |
| 10 | Lakhanya Quantity Surveyers Cc | 5 | 2 687 610,00 |
| 11 | Mustapha And Cachalia Cc | 14 | 5 307 201,01 |
| 12 | Nkuthalo Wouter Engelbrecht(Pty) Ltd | 6 | 922 022,00 |
| 13 | Qunu Consulting (Pty)Ltd | 8 | 7 646 741,80 |
| 14 | Rj Waters & Associates | 5 | 1 090 010,00 |
| 15 | Triocon Consulting Engineers(Pty)Ltd | 5 | 460 000,00 |
| 16 | Tsekwane Investments Cc | 12 | 3 886 003,00 |
| 17 | Tshepega Civil Engineering (Pty)Ltd | 8 | 1 181 237,87 |
| 18 | Vokon Afrika Consulting Cc | 5 | 888 000,00 |
| **Total** | | | **67 607 325,85** |

(d)  No response was received on the information requested in relation to the DPW Consultant policy not being aligned with the prescripts issued by NT as it stipulates that the department only  uses the competitive procurement process (tender) if the value of the project was estimated to be above R2 000 000,00. It was however noted that the following suppliers were not procured on the open procurement process, even though their individual payments exceeded R2 000 000, 00 (which indicates that the initial estimate should have been above R2 000 000, 00:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Supplier Name** | **Account** | **Transaction Date** | **Amount**  **R** |
| 1 | Ssc Architects Cc (Previously Br | Planned Maintenance | 2011/06/17 | 5 146 585,68 |
| 2 | E S Bothma Quantity Surveyor-Hea | Planned Maintenance | 2011/06/17 | 5 082 582,06 |
| 3 | Muhle Unlimited Designs Cc | Planned Maintenance | 2011/09/16 | 9 225 617,98 |
| 4 | Maree Els & Partners | Planned Maintenance | 2011/09/29 | 6 387 355,32 |
| 5 | Muhle Unlimited Designs Cc | Planned Maintenance | 2011/12/08 | 7 763 214,42 |
| 7 | Lucas Chauke Quantity Surveyors | Construction | 2011/07/05 | 2 280 290,59 |
| 8 | Hardstone Mthethwa-Head Office | Construction | 2011/12/05 | 4 092 438,03 |
| 9 | Malcolm Willis Argitek | Construction | 2011/11/17 | 6 023 291,13 |
| 10 | Malcolm Willis Argitek | Construction | 2011/12/07 | 7 771 843,68 |
| 11 | Risimati Engineers (Pty) Ltd | Construction | 2011/12/15 | 2 539 060,88 |
|  |  |  |  | **56 312 279,77** |

This DPW is not utilising a SCM system which is fair, equitable, transparent, competitive and cost-effective when consultants are selected and appointed. The failure to update the system continuously results in newly established black owned and empowered businesses or established HDI suppliers not being provided with an opportunity to be added to the system which compromise the aim of government to reform the procurement system with international best practices and to ensure uniformity in government processes.

The practice of appointing consultants in the department is not in terms of the TR 16A6.4 and PN 6 of 2007/08 as the suppliers are not appointed on a quotation/competitive process. This constitutes non compliance with the rules and regulations of procurement and thus incurrence of irregular expenditure of R56 312 279,77 (based on selected items above) by the department responsible for the expenditure of the above mentioned projects, thus not impacting on the irregular expenditure of PMTE.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

Requested information was not available and supplied without any significant delay.

**Recommendation**

1. SITA should be consulted to review the general and application controls of the system to ensure that the system is still operating effectively and the formulas utilised to rotate consultants are still correct.
2. The DPW should ensure that the consultant roster is updated as a matter of priority to ensure the process followed in selecting consultants is fair, equitable, transparent, competitive and cost-effective.

**Management response**

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

However the Department is in a process of finalising a system (Proqoute) where acquisition of built environment consultants for project with fee value threshold of R500 000 and below will be handled. We acknowledge AG’s concern around security risks and that area is accommodated in the system to be implemented.

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 advertised in 2008 to invite built environment consultants to apply for registration on the Professional Services Supply Register to establish a panel of consultants for projects that are required on a recurring basis. The consultants registered on the Roster are required to re-register on Professional Services Supply Register (PSSR) and as and when appointments are done on the Roster confirmation of information is done on the PSSR as it has updated data. The registration of consultants is on-going. See attached advert (AnnexureA).

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

It is challenging to establish as to whether the transactions in question were done through the Roster system. It will be appreciated if WCS number or Roster code is provided.

However, there are numerous reasons that can contribute to consultants to be appointed more than once:

1. The position of a firm which obtain a specialist or complex assignment will remain unchanged on the Roster system if:

* Theestimated fee value doesn’t exceed R40 000
* The appointed firm required to appoint and co-ordinate a team of industry specialists to satisfy the brief

1. The appointment on the roster depends on the number of active firms registered per discipline versus the number of search requests received from project management.
2. The number of offices registered per consulting firm on the Roster system

d) 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 Roster policy under paragraph 1(Scope), it is stated clearly that the Roster system will support built environment consultants on projects where fees do not exceed R2 million exclusive of VAT. Where fees exclude R2 millionthe appointment will be by means of competitive selection. The office of the Auditor General keeps on referring the R2 million threshold as the project value.

We acknowledge AG’s concernregarding the open and routine assignment however it should be noted that we as supply chain management we receive search requests from project management with a guess estimate based on the need assessment from the client. The actual or rather realistic estimate will be determined by the appointed consultant who is informed by a detailed scope of work. The increase in the scope of work is informed by the clients’ needs and what is deemed necessary to include.

See attached reports drawn from Roster system as an example indicating the fee value per project.(Annexure B).

**Auditor’s conclusion**

Management comments not received as per the agreed date: 27/08/2012. Management comments were received late on 30/08/2012. Management comments are noted however the finding remains valid and the non compliance will still be reported.

Leases

1. **COAF 65 - Limitation of scope (RFI 115)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 115 dated 24 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Lease files, lease agreement, letter of approvals, submissions and all the relevant supporting documents including tender/procurement documentation for lease contracts listed below: |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Information** | **File number** | **Property code** | **Building name/description** | **Supplier name** | **Amount** |
| Lease files, lease agreement and procurement documents | 6029/6025 | 296886 | Mimosa Centre | GD JAMMINE | R21 641.59 |
| Not provided | 318252 | SOSHANGUVE PLAZA | SOSHANGUVE PLAZA | R238,758.78 |
| 6029/5480 | 293287 | Manzef Building | MANZEF PROPERTIES | R20 267.91 |
| 6029/6351 | 300495 | West Park Centre | OPHEEM PROPERTY INVESTMENT CC | R15 089.54 |
| 6029/6762 | 31289 | Pretoria Parcade | FIRST PROPERTY TRUST | R12 539.87 |
| 6029/1188 | 107 | Garden Medical Centre | METRO PROP (PTY) LTD | R18 203.77 |
| 6029/6348 | 300609 | PMP Explosives magazine | DENEL INDUSTRIAL PROPERTIES | R 6 824.21 |
| 6029/1376 | 273921 | 28 Church Street | CITY PROPERTY | R33,517,038.20 |
| 6029/3913 | 123 | Pretorius Street 540 | ERIS PROPERTY GROUP (PTY) LTD | 68,121,288.24 |
| 6029/6171 | 298834 | Sinodale Centre | NEW HEIGHTS 326 PTY LTD | R184 886.70 |
| 6029/1637 | 310584 | Pretmed | CITY PROPERTY | 12,021,699.46 |
| 6029/1091 | 124 | PMP Factory | SILVER MEADOW PROPERTIES 142 | R84 342 566.10 |
| 6029/0164 | 138 | WONDERBOOMPOORT SAPS | MADERS BUTCHERY | R18 646.35 |
| 6029/2786 | 17 | General Piet Joubert | NEW HEIGHTS 326 PTY LTD | 406,306.49 |
| 6029/0073/1 | 64 | ICS Building | Phomella Property (Pty) Ltd | 1,378,167.62 |
| 6029/0127 | 109 | PRETORIA WEST POLICE STATION | JOHAN JANSE VAN RENSBURG TRUST | R63 785.51 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 10/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 100 - Limitation of scope RFI 156 (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 156 dated 28 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | The following information relating to quotation procurement for the supplier listed in Annexure A.  1. Original tax clearance certificate,  2. SBD4(Declaration of interest)  3. Preference point scoring sheet, request for quotation stipulating preference point system used and evaluation criteria applied in evaluating the quotations.  4. Original quotations of the competitive suppliers if there were any invited beside the winning quote.  5.Please indicate if the suppliers in the annexure are included as  part of approved supplier(Approved suppliers list)  7.PA-12: Approval by sub/national/regional bid adjudication committee for suppliers listed in Annexure B |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period January to March 2012 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Supply Chain Management officials should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 08/06/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 111 - Suppliers VAT registration information not found on SARS website, supplier paid without valid invoice/lease** **contract and without original tax clearance certificate (Pretoria region)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following:

**“*fruitless and wasteful expenditure*** *means expenditure which was made in vain and would have been avoided had reasonable care been exercised;”*

***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

(a)        *this Act; or*

(b)       *the State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(c)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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 40(1)(a) of the PFMA states that, “The accounting officer for the 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 the prescribed norms and standards.

(e)    Section 41 of the PFMA 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.”*

(f)     Practice note 8 of 2007/2008 states “*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).”*

During the review of lease expenditure, the following matters were identified:

(a)  The payments listed below were made without valid invoices/lease contracts.

(b)  Original tax clearance certificates of the suppliers listed below could not be obtained for the payments made.  The certificates were not attached to the batches, nor could they be provided for audit purposes as per Request for information (RFI) no. 129 dated 11 May 2012 and Communication of audit finding (COAF) no. 82 dated 17 May 2012.

(c)  Furthermore, no evidence was attached to the batch indicating that VAT vendor searches were performed by the entity’s officials before being paid using the PP38.   Subsequent VAT vendor searches performed by the AGSA did not yield satisfactory results as no VAT records could be found on SARS website for the below mentioned suppliers.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Payment no.** | **Payment date** | **Supplier name** | **Amount (incl. VAT)**  **R** | **Amount (excl. VAT)**  **R** | **VAT**  **R** |
| 1 | 399311 | 13 July 2011 | Aluane Town Lodge | 1 637 222,40 | 1 436 160,00 | 201 062,40 |
| 2 | 405288 | 25 July 2011 | Old Mutual Properties | 3 518 870,52 | 3 086 728,53 | 432 141,99 |
| 3 | 371422 | 19 April 2011 | Encha Properties Pty Ltd | 3 901 028,62 | 3 421 954.93 | 479 073,69 |
| 4 | 371447 | 19 April 2011 | Superbia Four Pty Ltd | 1 264 483,52 | 1109196.07 | 155 287,45 |
| 5 | 382589 | 25 May 2011 | Encha Properties Pty Ltd | 3 901 028,62 | 3 421 954.93 | 479 073,69 |
| 6 | 382713 | 25 May 2011 | Midcity Property Pty | 1 880 019,10 | 1649139.56 | 230 879,54 |
| 7 | 413416 | 26 August 2011 | Phomella Properties Pty Ltd | 2 521 839,60 | 212140.00 | 309 699,60 |
| 8 | 423041 | 27 September 2011 | Encha Properties Pty Ltd | 3 901 028,62 | 3 421 954.93 | 479 073,69 |
| 9 | 419317 | 12 September 2011 | Encha Properties Pty Ltd | 8 049 392,20 | 7060870.35 | 988 521,85 |
| 10 | 423151 | 27 September 2011 | Tacora Investments Pty Ltd | 2 368 534,33 | 2077661.69 | 290 872,64 |
| **Total** | | | | **32 943 447.53** | **28 897 760.99** | **4 045 686,54** |

The reasons for the matters listed above are as follows:

(a)  The finance officials did not perform VAT vendor searches in order to confirm whether the suppliers are registered VAT vendors before affecting the payments.

(b)  Payments are made per information captured on PMIS.  The information is captured on the system without a valid signed lease agreement that is applicable to the period of payment and/or the supplier did not provide a valid tax invoice to support the payment made.

(c)  Information relating to tax clearance certificates and lease payment invoices are not filed by SCM and finance management in a manner that is readily accessible and traceable for monitoring as well as audit purposes.

The above results in non compliance with Practice Note 8 of 2007-08, thus constituting irregular expenditure of R32 943 447.53.

.

Furthermore, the VAT portion paid to the supplier of R4 045 686, 54 may result in fruitless and wasteful expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity 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)  Management must comply with Practice Note 8 of 2007-08 by ensuring that valid tax clearance certificates are obtained for all suppliers with whom the entity does business.

(b)  For every invoice where a supplier claims VAT, the official at finance section must perform a VAT search to confirm that the person is indeed a registered VAT vendor.

(c)  Proof of such a VAT vendor check should be attached to the payment batch.

(d)  .Management should ensure that payments made from PMIS are supported by valid lease agreements before approving such expenditure.

**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: | A VAT Vendor search will also be implemented for PP38 payments and proof will be attached to per list. Original TCC will also be obtained for suppliers paid on PP38 and put in the cross-referencing file. Lease agreements will be confirmed and will serve as “invoices”, since it not possible to obtain a formal invoice. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| X | |  |
| If yes, what corrections will be made to the population? | For all those suppliers which were erroneously paid VAT, they will be notified and given the opportunity to refund the department, failing which, interest bearing debt accounts will be opened for them. | | |
| 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: Finance & SCM | | |
| Estimated completion date of corrective action: | 31 March 2013 | | |
| 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:   Mpho Selepe

Position:  Deputy Director

Date:   26/7/2012

**Auditor’s conclusion**

Management comment noted and cognisance is taken of the fact that management agrees with the finding.  The finding remains unresolved and follow up will be performed during the next audit cycle to determine whether management had indeed followed up on the matters mentioned above and instituted the necessary actions to recover the VAT paid to non VAT vendors.  The amount of fruitless and wasteful expenditure should be recorded in the register and investigated.  The non compliance will be reported.

1. **COAF 152 - Limitation of scope – RFI no. 213 (Pretoria region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 213 dated 3 July 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Please provide us with list of expenditure/payment regarding the following leases for South African Police services for the following regions (i.e. leases that were under investigation by the Public Protector relating to Roux Shabangu)  1.1  Pretoria -  Middestad Sanlam Centre  1.2 Durban – Transnet building |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

The information requested was not received for audit purposes per the agreed date: 16/07/2012 and thus we were unable to determine whether such payments were made for the following leases and thus whether such expenditure (if made) should have been included in irregular expenditure.

No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 175 - Suppliers VAT registration information not found on SARS website, supplier paid without valid invoice/lease agreements and without original tax clearance**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following:

**“*fruitless and wasteful expenditure*** *means expenditure which was made in vain and would have been avoided had reasonable care been exercised;”*

***“irregular expenditure”*** *means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—*

(a)        *this Act; or*

(b)       *the State Tender Board Act, 1968 (*[*Act No. 86 of 1968*](http://inmagicserver/nxt/gateway.dll/jilc/kilc/u4sg/ngtg/ogtg?f=templates$fn=document-frameset.htm#0)*), or any regulations made in terms of that Act; or...”*

(c)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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 40(1)(a) of the PFMA states that, “The accounting officer for the 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 the prescribed norms and standards.

(e)    Section 41 of the PFMA 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.”*

Practice note 8 of 2007/2008 states “*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).”*

During the review of lease expenditure, the following matters were identified:

(a)  The payments listed below were made without valid invoices/lease contracts.

(b)  Original tax clearance certificates of the suppliers listed below could not be obtained for the payments made.

(c)  Furthermore, no evidence was attached to the batch indicating that VAT vendor searches were performed by the entity’s officials before being paid using the PP38.  Subsequent VAT vendor searches performed by the AGSA did not yield satisfactory results as no VAT records could be found on SARS website for the below mentioned suppliers.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Payment no.** | **Payment date** | **Supplier name** | **Amount (incl. VAT)**  **R** | **Amount (excl. VAT)**  **R** | **VAT**  **R** |
| 1 | 460858 | 24/01/2012 | Sugar Creek Trading 278 (pty) | 1 248 877.16 | 1 095 506.28 | 153 370.88 |
| 2 | 439943 | 21/11/2011 | City Property Administration | 156 607.50 | 137 375.00 | 19 232.50 |
| 3 | 427131 | 06/102011 | Encha Properties Pty Ltd Trust | 4 024 696.09 | 3 530 435.17 | 494 260.92 |
| 4 | 433492 | 27/10/2011 | Leopont 444 Properties (Pty)Ltd | 519 032.90 | 455 292.02 | 63 740.88 |
| 5 | 445059 | 02/12/2011 | Zambli 216 Pty Ltd | 331 968.00 | 291 200.00 | 40 768.00 |
| 6 | 435235 | 28/11/2011 | Midcity Property Service (Pty) Ltd | 548 877.61 | 481 471.59 | 67 406.02 |
| **Total** | | | | **6 830 059.26** | **5 991 280.05** | **838 779.21** |

The reasons for the matters listed above are as follows:

(a)  The finance officials did not perform VAT vendor searches in order to confirm whether the suppliers are registered VAT vendors before affecting the payments.

(b)  Payments are made per information captured on PMIS.  The information is captured on the system without a valid signed lease agreement that is applicable to the period of payment and/or the supplier did not provide a valid tax invoice to support the payment made.

(c)  Information relating to tax clearance certificates and lease payment invoices are not filed by SCM and finance management in a manner that is readily accessible and traceable for monitoring as well as audit purposes.

The above non compliance with Practice Note 8 of 2007-08,  thus constituting irregular expenditure of R5 991 280.05.

Furthermore, the VAT portion paid to the supplier of R838 779.21 may result in fruitless and wasteful expenditure.

**Internal control deficiency**

|  |
| --- |
| **Leadership** |

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

**Financial and performance management:**

The entity 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)  Management must comply with Practice Note 8 of 2007-08 by ensuring that valid tax clearance certificates are obtained for all suppliers with whom the entity does business.

(b)  For every invoice where a supplier claims VAT, the official at finance section must perform a VAT search to confirm that the person is indeed a registered VAT vendor.

(c)  Proof of such a VAT vendor check should be attached to the payment batch.

(d)  Management should ensure that payments made from PMIS are supported by valid lease agreements before approving such expenditure.

**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: | A VAT Vendor search will also be implemented for PP38 payments and proof will be attached to per list. Original TCC will also be obtained for suppliers paid on PP38 and put in the cross-referencing file. Lease agreements will be confirmed and will serve as “invoices”, since it not possible to obtain a formal invoice. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| X | |  |
| If yes, what corrections will be made to the population? | For all those suppliers which were erroneously paid VAT, they will be notified and given the opportunity to refund the department, failing which, interest bearing debt accounts will be opened for them. | | |
| 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: Finance & SCM | | |
| Estimated completion date of corrective action: | 31 March 2013 | | |
| 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:   Mpho Selepe

Position:  Deputy Director

Date:   27/7/2012

**Auditor’s conclusion**

Management comment noted and cognisance is taken of the fact that management agrees with the finding.  The finding remains unresolved and follow up will be performed during the next audit cycle to determine whether management had indeed followed up on the matters mentioned above and instituted the necessary actions to recover the VAT paid to non VAT vendors.  The amount of fruitless and wasteful expenditure should be recorded in the register and investigated.  The non compliance will be reported.

1. **COAF 176 - Difference between amounts paid to the landlords and the amounts as per the lease agreement as well as differences between details as per the lease agreement and PMIS records**

**Audit finding**

(a)  Section 38 (a)(i) of the Public Finance Management Act states: *"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 effective, efficient and transparent systems of internal control.*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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...."*

(c)  In terms of the Framework for the preparation and presentation of financial statements paragraph 22 *Accrual Basis* states that, *“In order to meet their objectives, financial statements are prepared on the accrual basis of accounting. Under this basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

During the review of leases the following differences were noted between the details as per the lease agreement and the details on PMIS:

* 1. The following instances were noted where the payment made to the lessor as per PMIS/BAS differed from the amount as per the lease agreement:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No** | **Supplier Name** | **Payment Number** | **Amount Paid Bas/Pmis**  **R** | **Amount On Contract**  **R** | **Difference**  **R** |
| 1 | Four Rivers Trading 422 (Pty) Ltd | 423201 | 1 878 453,65 | 2 616 195,48 | 737 741,83 |
| 2 | Manaka Property Investment | 423051 | 1 995 985,53 | 2 750 115,78 | 754 130,25 |
| 3 | Encha Properties (Pty) Ltd | 423041 | 3 901 028,62 | 4 024 696,09 | 123 667,47 |
| 4 | Phomella Property (Pty) Ltd | 413416 | 2 521 839,60 | 3 720 475,74 | 1 198 636,14 |
| 5 | Four Rivers Trading 422 (Pty) Ltd | 392334 | 1 878 453,65 | 2 616 195,48 | 737 741,83 |
| 6 | Redefine Properties (Pty) Ltd | 392266 | 2 141 187,33 | 2 131 004,11 | (10 183,22) |
| 7 | Redefine Properties (Pty) Ltd | 392247 | 1 694 434,21 | 1 757 061,25 | 62 627,04 |
| 8 | Midcity Property | 382713 | 1 880 019,10 | 150 832,54 | (1 729 186,56) |
| 9 | Tuffsan 89 | 382608 | 2 637 653,01 | 4 475 761,01 | 1 838 108,00 |
| 10 | Encha Properties (Pty) Ltd | 382589 | 3 901 028,62 | 4 024 696,09 | 123 667,50 |
| 11 | Superbia Four(Pty) Ltd | 371447 | 1 264 483,52 | 1 393 826,38 | 129 342,86 |
| 12 | Encha Properties (Pty) Ltd | 371422 | 3 901 028,62 | 4 024 696,09 | 123 667,50 |
| 13 | Old Mutual Properties | 405285 | 3 518 870,52 | 4 570 973,65 | 1 052 103,13 |
| 14 | Redefine Properties (Pty) Ltd | 455690 | 1 513 440,99 | 1 480 838,34 | (32 602,65) |
| 15 | Leopont 444 | 433492 | 519 032,90 | 2 378 539,19 | 1 859 506,29 |
| 16 | Tuffsan 89 | 459656 | 3 650 572,63 | 1 493 795,94 | (2 156 776,69) |
| 17 | Midcity Property | 485885 | 548 877,61 | 613 486,32 | 64 608,71 |
| **Total** | | | **39 346 389,70** | **44 223 189,48** | **4 876799,78** |

(b)  The following instances were noted where the square meters for office, storage and archives as well as the number of parking bays on the contract did not agree with the details as captured on PMIS.  Refer to table 1 and 2 below:

**Table 1: Office, storage and archives square meters**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Name Of The Supplier** | **Name Of The Building** | **File No** | **Office Square Meters As Per Lease Agreement** | **Office Square Meters As Per Pmis System** | **Difference** |
| 1 | Summermania Seven (Pty) Ltd | Ndinaye Building | 6029/7016 | 0 | 2 900 | 2 900 |
| 2 | Encha Properties Pty Ltd Trust | Thibault Navarre Watchuis | 6029/0157 | 41 927 | 41 929 | 2 |
| 3 | Old  Mutual Properties | Prodinsa Building | 6029/6619 | 9 781 | 6 303 | 3 478 |
| 4 | Superbia Four (Pty) Ltd | Sol Plaatjie Building | 6029/0209 | 19 024 | 2 900 | 16 124 |
| 5 | Tuffsan 89 Investment Holdings | Forum Building | 6029/0107 | 42 955 | 20 515 | 22 440 |
| 6 | Midcity Property Service Pty | 38 Planburo Consilium Park | 6029/7057 | 1 675 | 1 509 | 166 |
| 7 | Redefine Properties Limited | Poyntons Building | 6029/6270 | 22 727 | 0 | 27 727 |
| 8 | Redefine Properties Limited | Siemens (Watloo) Building | 6029/7008 | 30 858 | 0 | 30 858 |
| 9 | Four Rivers Trading 422 (Pty) Ltd | Tulbagh Park Building | 6029/6344/1 | 30 858 | 17 747 | 13 111 |
| 10 | Redefine Properties Limited | Batho Pele | 6029/6679 | 14 257 | 15 130.87 | 873.87 |
| 11 | Zambli 216 (Pty) Ltd | Destin Building | 6029/6424 | 2 800 | 1 108.47 | 1 691.53 |
| 12 | City Property Administration | Ina Building | 6029/0078 | 3 925 | 5 000 | 1 075 |
| 13 | Midcity Property Service (Pty) Ltd | Dynamech Office Park | 6029/6360 | 1 508.57 | 5 708 | 4 199.43 |
| 14 | Fountainhead Property Trust | Goven Mbeki Building-260  Walker Street And 240 Walker Street | 6029/0353 | 13 087 | 7 808 | 5 279 |
| 15 | Phomella Property Pty Ltd | Liberty Life Building | 6029/0319 | 33 865 | 33 885 | 20 |
| 16 | Manaka Property Investments | Halla Mark Building | 6029/0059 | 22 865 | 0 | 22 865 |

**Table 2: Parking bays**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Name of the supplier** | **Name of the building** | **File no** | **No of parking bays as per lease agreement/acceptance letter** | **No of parking bays  as per pmis system** | **Difference** |
| 1 | Aluane town lodge | No name of the building | 6029/6798 | No square meters indicated on letter of acceptance | 10 | 10 |
| 2 | Encha properties pty ltd trust | Thibault navarre watchuis | 6029/0157 | 147 | 0 | 147 |
| 3 | Superbia four (pty) ltd | Sol plaatjie building | 6029/0209 | 33 | 20 | 13 |
| 4 | Tuffsan 89 investment holdings | Forum building | 6029/0107 | 270 | 83 | 187 |
| 5 | Midcity property service pty | 38 planburo consilium park | 6029/7057 | 49 | 46 | 3 |
| 6 | Redefine properties limited | Poyntons building | 6029/6270 | 112 | 0 | 112 |
| 7 | Redefine properties limited | Siemens (watloo) building | 6029/7008 | 636 | 0 | 636 |
| 8 | Four rivers trading 422 (pty) ltd | Tulbagh park building | 6029/6344/1 | 318 | 761 | 443 |
| 9 | Manaka property investments | Hallmark building | 6029/0059 | 28235 | 0 | 28235 |
| 10 | Redefine properties limited | Siemens building | 6029/7008 | 318 | 636 | 318 |
| 11 | Leopont 444 | Weavind park broadcasting centre | 6029/6346 | 850 | 0 | 850 |
| 12 | Redefine properties limited | Batho pele | 6029/6679 | 257 | 212 | 45 |
| 13 | Midcity property service (pty) ltd | Dynamech office park | 6029/6360 | 46 | 38 | 8 |
| 14 | Tacora investments pty ltd | Merino - rentmeester building | 6029/6696 | 35 | 0 | 35 |

The reasons for the matters listed above are as follows:

(a)  The responsible officials did not compare the amounts to be paid as per the lease agreement to the amounts as per the PMIS records before payment was approved and effected.

(b)    The officials responsible for capturing the details as per the lease contract on PMIS did not ensure that the details were correctly captured and/or review was not performed by the official’s senior to ensure details were correctly captured on the system

(c)  The property management officials do not take appropriate steps to issue addendums to lease agreement in cases where the square meters are recalculated and found to be different from current lease agreement and PMIS records.

The above differences noted between the information as captured on PMIS and the lease agreement may possibly lead to PMTE under or over paying the landlord.  It was further noted as per the differences identified between the amounts paid as per PMIS and the lease agreement that an overpayment amounting to R3 928 749,12 should be classified as fruitless and wasteful expenditure.  The total amount of R 4 876 799,43 identified should be either classified as rental in arrears/accruals.

Furthermore, the differences as noted above will also impact on the straight-lining of leases as well as the lease commitment calculation as such amounts are determined based on the PMIS data.

**Internal control deficiency**

**Financial and Performance Management:**

The accounting officer did not implement controls over daily and monthly processing and reconciling of transaction.

The accounting officer did not design and implement formal controls over IT System to ensure the reliability of the systems and the availability, accuracy and protection of information

**Recommendation**

(a)  Management should ensure that the data as per the new lease agreements are accurately captured on PMIS by approving the new lease/amendments captured on PMIS after verifying that the details agree to the lease agreement.

(b)  Before approving payments to the landlord, the responsible officials should comparison the amounts to be paid as per the PP38 to the actual lease agreement to verify that the details and amounts as per the lease agreement are correctly captured on PMIS.

(c)  All differences noted should be rectified before payment is effected.  This will ensure that data as per PMIS is reconciled on a monthly basis.  This will ensure that arrear payments for leases are minimised.

Management should perform ad hoc checks on the comparisons performed by the officials to ensure that all differences are indeed identified and corrected.

**Management response**

Management comments have not been received

**Auditor’s conclusion**

Management comments not received as per the agreed date: 15/08/2012. No evidence provided to the contrary, therefore the finding remains valid.

Operating expenditure

1. **COAF 63 Limitation of scope (RFI 109)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 109 dated 23 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Original batches, invoices and any other supporting documents for the transactions: 1 batch outstanding - payment no. 473129 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2012 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Other information was received on 15 May 2012 - 1 batch outstanding - payment no. 473129 thus resulting in the limitation of scope.

1. **COAF 67 - Limitation of scope RFI 122 (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 122 dated 7 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Supporting documents (Payment batches and Procurement documents) for the  Construction transaction below: |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **TRANSDATE** | **RESLEVEL3D** | **ITEMLEVELD** | **TRANSAMTDT** | **FUNCAREANO** |
| 2012/03/07 | PRETORIA REGIONAL OFFICE | REC:DOM:CLMS:NAT PACE:CLAIM RECO | 23,484,000.00 | 000471719 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 10/05/2012. No evidence provided to the contrary, therefore the finding remains valid.

1. **COAF 125 - Limitation of scope – RFI no. 203 (Pretoria region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 203 dated 25 June 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Please provide reasons including supporting documentation for the following variances concerning the expenditure items below: |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **G/L Account** | **2011** | **2012** | **Variance** | |  | | --- | | **%** | |
| Cleaning Services | (43,381,144.41) | (22,567,687.21) | 20,813,457 | -48% |
| Gardening Services | (49,522,089.72) | (41,322,500.16) | 8,199,590 | -17% |
| OWN&LEAS PROP EXP:CON REFUR/REHA | (92,592,296.85) | (8,004,086.79) | 84,588,210 | -91% |
| OWN&LEAS PROP EXP:UPGRADE&ADDITI | (252,873,459.23) | (80,776,370.70) | 172,097,089 | -68% |
| OWN&LEASE PROP Exp:Contrac Prop Main | 306,509,809.65 | 485,732,558.32 | 179,222,748.67 | 58% |
| P/P: Safeguard&Security | 8,093,055.87 | 11,295,111.48 | 3,202,055.61 | 40% |
| OWN&LEASE PROP EXP:MUNICIPAL SERV | 6,776,277.20 | 10,577.71 | -6,765,699.49 | -100% |
| THEFT AND LOSSES | 14,070,235.29 | - | -14,070,235.29 | -100% |
| RENT ON LAND | 10,979.69 | 12,352.23 | 1,372.54 | 13% |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management comments have not been received.

**Auditor’s conclusion**

Management comments not received as per the agreed date: 06/07/2012. No evidence provided to the contrary, therefore the finding remains valid. Thus this results in a limitation of scope on the planned audit procedures.

1. **COAF 142 - Non-compliance with Delegations of Authority: Payments not approved in terms of delegations issued by the accounting officer**

**Audit finding**

Laws, rules and Regulations:

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

(b)    PFMA section 44(1) states that, *“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.”*

(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 unauthorised 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)  The Department of Public Work’s delegation of powers in terms of the Public Finance Management Act dated 17 January 2005, signed by the then Accounting Officer; makes 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 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 payments made for planned maintenance were not approved by the duly delegated official as per the approved delegations:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Supplier's name** | **FANO** | **Invoice no.** | **Payment date** | **Approved by** | **Maximum Approval Per financial delegations**  **R** | **Payment Amount approved**  **R** |
| 1 | GVK Siya Zama Building | 406253 | S2990 | 02/08/2011 | D E Sewada (Acting Director) | 10 000 000,00 | 19 357 314,00 |
|  | **Total** |  |  |  |  |  | **19 357 314,00** |

The following payments made for construction were not approved by the duly delegated official as per the approved delegations:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Supplier's name** | **FANO** | **Invoice no.** | **Payment date** | **Approved by** | **Maximum Approval Per financial delegations** | **Payment Amount** |
| 1 | Magalies Water | 471719 | INV16252 | 07/03/2012 | T Masina (Deputy Director) | 5 000 000.00 | **23 484 000,00** |
| 2 | N.K Makhaya Attorney’s Trust | 476788 | 29 | 23/03/2012 | D E Sewada (Acting Director) | 10 000 000.00 | **13 752 670,84** |
|  | **Total** |  |  |  |  |  | **37 236 670,84** |

The non-compliance is due to policies and procedure not being properly introduced to all staff members which leads to the incorrect application of the appropriate protocol.  Officials thus lack proper understanding of the financial delegations, thus resulting in non delegated officials approving payments.

The aforementioned deviations result in:

(a)  Non compliance with Treasury Regulation 8.2.2.

(b)  Irregular expenditure of R56 593 984,84 being incurred

(c)  Understatement of irregular expenditure disclosure note in the annual financial statements.

**Internal control deficiency**

**Leadership:**

Management did not effectively communicate policies and procedures to enable and support understanding and execution of internal controls objectives, processes and responsibilities.

**Financial and performance management:**

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

**Recommendation**

(a)  Management should ensure that all policies and procedures are clearly communicated and understood by all staff members.  Additional controls should be implemented to ensure that payments are approved by the appropriate official i.e. before approval takes place on the system the manual approval should be assessed to ensure that the payment was indeed approved by the appropriate official.

(b)  Regular training interventions should take place where weaknesses are identified to ensure controls are understood and implemented at all times by all officials.  Officials who contravene should be held accountable for their actions

(c)  All payments should be authorised by an appropriate ranking official as indicated by the delegation issued by the Accounting Officer: Department of Public Works.

**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: | We will ensure that delegations are communicated to all staff (Projects) | | |
| 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 | Admin Offices | | |
| Estimated completion date of corrective action: | 20/07/2012 | | |
| 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 |  | | |

Name:   Cebo Ndlovu

Position:  Act Director Projects

Date: 20/7/2012

**Auditor’s conclusion**

Management comments are noted and the non compliance identified will be reported.

1. **COAF 192 - Limitation of scope – RFI no. 92**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 92 dated 12 April 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | Procurement documentation for the CA Claims transactions below: |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **NUMBER** | **TRANSAMTDT** | **TRANSDATE** | **FUNCAREANO** | **BEN\_NAME** |
| 1 | 15,085,354.64 | 2011/10/20 | 000429674 | G LIVIERO & SON BUILDING PTY LTD |
| 2 | 25,410,725.00 | 2011/11/04 | 000435775 | G LIVIERO & SON BUILDING PTY LTD |
| 3 | 28,894,456.84 | 2011/12/14 | 000447527 | G LIVIERO & SON BUILDING PTY LTD |
| 4 | 19,278,722.37 | 2012/02/08 | 000462737 | G LIVIERO & SON BUILDING PTY LTD |
| 5 | 720,627.36 | 2011/10/27 | 000433967 | JEREMIE MALAN ARCHITECTS CC-HEAD |
| 6 | 540,666.57 | 2011/05/23 | 000380873 | JEREMIE MALAN ARCHITECTS CC-HEAD |
| 7 | 535,959.60 | 2011/11/28 | 000442843 | NTSU ENGINEERING CONSULTANTS |
| 8 | 437,178.37 | 2011/12/12 | 000446684 | JP PARTNERSHIP- HEAD OFFICE |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management:

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

No management comment has been received.

**Auditor’s conclusion**

Management subsequently submitted the procurement file for G Liviero & Son Builiding (Pty) Ltd; however such information was submitted late.  Thus due to the fact that such information could not be provided timeously for audit purposes, this results in a limitation of scope on the planned audit procedures relating to compliance with laws and regulations and the completeness of irregular expenditure.

1. **COAF 220 - Legal Costs – Incorrect classification of Construction (PACE receivable) and Interest payments (Fruitless and wasteful expenditure)**

**Audit finding**

Laws, rules and regulations

(a)  Section 1 of the PFMA states the following: ***“****fruitless and wasteful expenditure”**means expenditure which was made in vain and would have been avoided had reasonable care been exercised.”*

(b)  Section 38 (1)(c)(ii) of the PFMA states the following under the general responsibilities of the 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..."*

(c)  In terms of the Framework paragraph 33, the following is stated with regards to the faithful representation of transactions and events, *“To be reliable, information must represent faithfully the transactions and other events it either purports to represent or could reasonably be expected to represent.”*

During the review of invoice no 29 from N.K Makhaya Attorneys, the following was noted:

(a)    The invoice description indicated that the invoice related to the payment for an Arbitration award dated 6 January 2012 and Bill of costs which was attached as well as a letter of demand. Amounts payable relating to interest totaled R938 183,25 and should therefore be classified as fruitless and wasteful expenditure.

The above deviations constitute non compliance with the applicable laws, rules and regulations as listed above and as a result payments made for interest costs amounting to R938 183,25 should be classified as fruitless and wasteful expenditure.  The fruitless and wasteful expenditure disclosure note is understated by the above amount.  Furthermore construction is overstated and interest payments are understated by this amount.

The above deviations occurred as a result of the following:

(a)  Management did not implement controls over daily and monthly processing and reconciling of transaction as the above mentioned transaction was incorrectly classified. Officials responsible for approving the payments did not evaluate the appropriateness of the classification of the payments before effecting the transaction for processing.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

The entity did not prepare accurate and complete financial and performance reports that are supported and evidences by reliable information.

**Recommendation**

(a)    Management should ensure that before payments are effected on the system that the classification of the items are correct and that all fruitless and wasteful expenditure identified in recorded in the fruitless and wasteful expenditure register

(b)    Management should revisit the population to ensure that all payments made for interest costs are correctly classified as such. The relevant journal entries should be processed to correct the classification.

(c)    Management should disclose the interest payments made as fruitless and wasteful in the annual financial statements as these amounts could have been avoided.

**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 | | |
|  | The amount of R 938,183.25 will be disclosed as fruitless and wasteful, equally the value of construction will be reduced by the same amount. | | |
| Does the finding affect an amount disclosed in the financial statements? | Yes | | No |
| X | |  |
| If yes, what corrections will be made to the population? | The amount of R 938,183.25 will be disclosed as fruitless and wasteful, equally the value of construction will be reduced by the same amount. | | |
| 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: Finance & SCM | | |
| Estimated completion date of corrective action: | 30 September 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 |  | | |

**Auditor’s conclusion**

Management has agreed with our finding. The disclosure of the amount as fruitless and wasteful as well as the reduction of the amount which was reflected in the Construction account is accepted; however as management have not provided us with the journals for the adjustment the matter will be included on the management report. Furthermore as the amount should be disclosed as fruitless and wasteful expenditure; Section 40 (3) (b) (i) states that disciplinary steps must be taken against the relevant authority responsible for the fruitless and wasteful expenditure.

1. **COAF 221 - Tokologo Technical Assignments CC – Amount paid exceeds invoice amount (Construction Claims Recoverable)**

**Audit finding**

Laws, rules and regulations

(a)    As per section 1 of the PFMA the following is stated,*“fruitless and wasteful expenditure**means expenditure which was made in vain and would have been avoided had reasonable care been exercised;”*

(b)  Section 38(1)(c)(ii) of the PFMA states the following: “*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.”*

(c)    Section 38(1)(h) of the PFMA states the following, “*The accounting officer for a department, trading entity or constitutional institution 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*

*makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure;”*

During the review of the payment batch of Tokologo Technical Assignments CC, the following was noted:

(a)    The amount paid to the supplier as reflected in the General Ledger exceeded the invoiced amount. The payment advice number 426627 dated 6 October 2011 indicated an amount payable of R3 218 285,33 (which was the amount as per the GL). The invoice no INV 0542 dated 28 September 2011 indicated an amount of R3 210 899,33. The payment was made for the site electrical medium and low voltage reticulation (WCS 044080).

|  |  |  |
| --- | --- | --- |
| **Amount as per Payment advice GL** | **Amount per Invoice** | **Difference** |
| 3 218 285,33 | 3 210 899,49 | 7 385,84 |

The above deviations occurred as a result of the following:

(a)  Management has not implemented the necessary monitoring measures and exercising sufficient oversight to ensure compliance with relevant laws and regulations. Officials stated that the payment was processed erroneously.

(b)  Management did not take appropriate action and perform sufficient follow up to ensure that the correct amount was paid and processed in the General Ledger.

The above deviations constitute non compliance with the applicable laws, rules and regulations as listed above and as a result the amount paid in excess of the invoice amounting to R7 385,84 should be classified as fruitless and wasteful expenditure.  The fruitless and wasteful disclosure note is understated by the above amount.

**Internal control deficiency**

**Leadership:**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management:

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

**Recommendation**

(a)    Management should ensure that all supporting documentation (i.e. invoices) is inspected before the payment is processed. Additional controls in the form of senior personnel review should occur before the payment is in fact processed and paid to the supplier.

**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** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| X | |  |
| If yes, what corrections will be made to the population? | The overpaid amount will be deducted and rectified in the next payment no 25 | | |
| 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 | SPM | | |
| Estimated completion date of corrective action: | ± 31 August 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 |  | | |
|  |  |  |  |

Name:   S.H. O’NEIL

Position:  SPM

Date: 14/8/2012

**Auditor’s conclusion**

Management’s response is noted; however management has not agreed to disclose the amount as fruitless and wasteful as at the end of the 31 March 2012 year end. The issue was identified on a sample of items and will therefore need to be extrapolated over the entire population. The issue will be included in the final management report.

Payable

1. **COAF 195 - Property Maintenance: Payment made in April 2012 for invoices received in March 2012 not included in the accrual listing**

**Audit finding**

In terms of the Framework for the preparation and presentation of financial statements paragraph 22 *Accrual Basis* states that, *“In order to meet their objectives, financial statements are prepared on the accrual basis of accounting. Under this basis, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent are received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate.”*

During our review of the property maintenance expenditure it was noted that the following payments were not included in the accruals listing for the year ended 31 March 2012.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Description** | **Payment no** | **Invoice received date** | **Payment date** | **Supplier Name** | **Amount**  **R** | **Amount to be included in accrual listing 2011-12**  **R** |
| 1. | 6 Big Trees Needs to be Removed | 482892 | 22/03/2012 | 19/04/2012 | Boosta Trade 303 cc | 60  000.00 | 60  000.00 |
| 2. | Cutting and Pruning  of 10 trees | 482885 | 06/03/2012 | 19/04/2012 | Thutlwa Cleaning & Projects | 160  010.00 | 160 010.00 |
| 3. | Repair & Renovation: Zonderwater Prison | 481182 | 26/03/2012 | 4/04/2012 | Phumi Trading cc | 654 681.63 | 654 681.63 |
| **Total** | | | | | | | **874 691,63** |

The above is a result of the PMTE not having an appropriate accounting system in place to identify and record accruals. The officials did not identify the transactions relating to accruals property maintenance expenditure.

The above results in the accrual amount as disclosed in the annual financial statements being understated by R 874 691,63 based on the specific transactions identified above.  In addition the accruals are understated by an undeterminable amount and are thus incomplete.

**Internal control deficiency**

**Financial and Performance Management:**

The entity did not implement controls over daily and monthly processing and reconciling of transaction

The entity did not prepare, accurate and complete financial and performance reports that are supported and evidences by reliable information

**Recommendation**

(a)  Management should adequately review the financial statements before being submitted for audit purposes to ensure that such matters are identified and corrected before submission thereof.

(b)  Management should revisit the population to ensure that all accruals relating to property maintenance expenditure are included in the accrual listing.

(c)  Once the business case of the PMTE has been approved and certainty obtained that the accrual basis of accounting will be applicable to the trading entity going forward, the entity should acquire an accounting system to support the accrual basis of accounting.

(d)  Management should ensure that all positions in the finance division are filled with officials with the necessary GAAP/IFRS knowledge and experience.

(e)  Management should train all officials on the new accounting system to ensure that transactions are correctly captured and accounted for on the system.

**Management response**

I am [not] in agreement with the finding for the following reasons

Both payment numbers: 482892 and 482885 were included in the list of accruals for the year ended 31 March 2012 sent to Head Office.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| 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 of 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: K Tlhakudi

Position: D: Finance & SCM

Date: 31/7/2012

**Auditor’s conclusion**

(

a)  Payment no 482892 and 482885 finding is resolved as invoices were subsequently found in accrual listing

(b)  Payment no 481182 management did not respond however the amount was subsequently searched in the accrual listing and there were no records found therefore the finding is unresolved and will reported in the final management report.

1. **Non compliance: clearing of suspense account**

**Audit finding**

 Treasury Regulation (TR) 17.1.2 states that,

“*Should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a clearing or suspense account because the classification has not been resolved, the accounting officer must ensure that-*

*(a) the sources of the transactions are readily identifiable;*

*(b) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;*

*(c) monthly reconciliation’s are performed to confirm the balance of each account; and*

*(d) reports are provided to the accounting officer about uncleared items on a monthly basis.*

The item definitions on the SCOA classifications define the accounts listed below as follows:

**EBT rejection ACC:DOM**

A credit balance on this account indicates that the Automated Clearing Bureau (ACB) rejected BAS Electronic Bank Transfers (EBT) payments. Either canceling or re-issuing these payments, with the Resolve (ACB/ ACB EF 70) Interface Exceptions, clears these transactions.  This account should be zero with month and year close.

**Unp/Rc Bas Ebt Cntr Acc:Dom**

A debit balance indicates the interfaced ACB debit for a recall or rejected BAS EBT payment.  The debit leg of this transaction is posted to the Bank account and the credit leg is posted to the Unp/Recall BAS EBT Cntr Acc: Dom.  Details of the recalled or rejected EBT payments can be obtained from ACB’S VET or EF70 reports. This account should be zero with month close and must be zero at year-end.

**Conversion:Recept Depsit Cntr:Cl**

These accounts will be used when another financial system's or an old version of SCOA's figures are transferred into BAS.  The user will either debit or credit this account and debit or credit the correct allocation in BAS.  This account must have a zero balance at year-end.

Through inspection of the trail balance it was discovered that the following accounts were not cleared as required by the Treasury Regulations 17.1.2 and SCOA for the period ending 30 September 2011:

*EBT Rejection Acc:Dom*

Discussion with management revealed that circular no.31 of 2010 (approved by the CFO) states that due to the lengthy process in obtaining required information from suppliers, a decision was taken to increase the one month period to 90 working days to clear this account.  This requirement per the circular is not aligned with the TR and SCOA requirements, which requires that this account be zero at month and year end closure. The majority of the balance on EBT Rejection account as at 30 September 2011 was subsequently cleared in December 2011.

*Unp/Rc Bas Ebt Cntr Acc:Dom*

Discussion with the management revealed that the account has not been cleared since 31 March 2011 to date. This is in contravention of the TR and SCOA requirements.

The trial balance as at 30 September 2011 was as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Account description** | **Period** | **Amount** |
| 1 | EBT Rejection Acc:Dom | 30-Sep-11 | R 1 878 137,80 |
| 2 | Unp/Rc Bas Ebt Cntr Acc:Dom | 30-Sep-11 | R 9 229 799,67 |
| 3 | Conversion:Recept Depsit Cntr:Cl | 30-Sep-11 | R 57,00 |
| **Total** |  |  | **R 11 107 994,47** |

The trial balance as at 31 March 2012 was as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Account description** | **Period** | **Amount** |
| 1 | EBT Rejection Acc:Dom | 31-Mar-12 | R 469 070,70 |
| 2 | Unp/Rc Bas Ebt Cntr Acc:Dom | 31-Mar-12 | -R 746 721,61 |
| **Total** |  |  | **-R 277 650,91** |

The circular allowing 90 working days for clearing the suspense account is not aligned with the Treasury Regulations and the SCOA requirements.  There is also a lack of effective and efficient controls in place to ensure that the suspense accounts are followed up and resolved timeously.

The finding results in non compliance with Treasury Regulation 17.1.2.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting, compliance with laws and regulations and internal control.

**Recommendation**

(a)  Reconciliations should be performed on all suspense accounts and reviewed timely to identify items for follow up.

(b)  The accounts should be cleared on a monthly basis.  If not, the reasons and/or the actions taken to clear these accounts should be properly documented and followed up.

(c)  Management should ensure that policies and procedures developed and implemented are aligned to the applicable legislation and regulations.

**Management response**

Management is in agreement with the finding and recommendations.

Journals will be processed to clear the long outstanding amounts in the Unp/Rc Bas Ebt Contr Acc:Dom on/or before March 2012.

The balance in the Conversion: Recept Depsit Cntr: CI has been subsequently been cleared.

Name: J Prinsloo

Position: Chief Director: Trading Account

Date: 29/2/2012

**Auditor’s conclusion**

It is acknowledged that the management agrees with the findings; however the process to clear the findings should be expedited to ensure that the final financial statements are not misstated.

The amounts in the Unp/Rc Bas Ebt Contr Acc:Dom were not cleared as at March 2012, thus the finding will be reported in the final management letter.

1. **Correspondence with creditors not provided**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1)(a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit of advances information as per request for information number 72 dated 14 March 2012 were requested and the information indicated below were not submitted for audit purposes:

1. Correspondences for long outstanding creditors as detailed in annexure B

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide the information within the agreed upon timeframe constitutes a limitation of scope on performance of planned audit procedures.

The limitation of scope on contracts was also raised in the prior year (2010-11) management report.

**Internal control deficiency**

## Financial and performance management

The entity 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)  Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

(c)   The information requested should be submitted without further delay.

**Management response**

Management is in agreement with the finding. No such correspondence exists, therefore none was submitted.

Name:

Position:

Date:

**Auditor’s conclusion**

Management comment noted and cognisance is taken of the fact that management agrees with the finding. It would be advisable for management to keep record of important correspondence and decisions reached between itself and client departments regarding outstanding balances for future reference in support of the balances. This limitation will be included in the final management report.

1. **Trade payables – security deposits**

**Audit Finding**

Laws, rules and regulations

1. PMFA Section 38 (1) (*f)* states that *the accounting officer for a department, trading entity or constitutional institution must settle all contractual obligations and pay all money owing, including inter-governmental claims, within the prescribed or agreed period*;
2. Treasury regulations 8.2.3   states that *unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from receipt of an invoice or, in the case of civil claims, from the date of settlement or court judgment*

During the audit of Trade and other payables, it was noted that the following amount was transferred to PMTE by DPW on 5 April 2011. This amount relates to tender deposits for contracts which have already expired. These deposits should have been paid back to the contractors on completion of the contract.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Journal Number** | **Contractor** | **WCS number** | **Tender Acceptance date** | **Contract period** | **Security deposit** |
| 1 | 4843 | Hendrik Rademan konstruksie | 32580 | 4-Jun-2001 | 36 months | R 1 087 192,24 |
| Hendrik Rademan konstruksie | 32577 | 10-May-2001 | 13 months | R 990 914,25 |
| Labor Construction Co (Pty) Ltd & Focus Projects CC JV | 024369/0001 | 24-Nov-1999 | 12 months | R 983 949,16 |
| KWI Engineering & Sales CC | 32587 | 5-Feb-2001 | 36 months | R 189 425,31 |
| Advance Call CC | 40422 | 18-Aug-2004 | 60 months | R 89 946,00 |
| **Total Deposits Held** | | | | | | R 3 341 426,96 |
| Discounting effect | | | | | | -R 173 717,20 |
| **Tender deposits as per Note 5 (Trade Payables)** | | | | | | R3 167 709,76 |

The deviation is a result of the department’s officials not employing monitoring measures to ensure that the deposits held from contractors are repaid within the stipulated period after completion of contract.

This constitutes non compliance with PFMA and Treasury Regulation 8.2.3

Trade and other payables are overstated.

**Internal control deficiency**

**Leadership**

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

**Recommendation**

1. Security deposits account should be reviewed on a regular basis to ensure that any amounts due to contractors are paid to ensure compliance.
2. If a valid reason exists for delaying a payment, such as a dispute with a contractor, the reason for not paying within the required timeframe must be documented on the supporting documentation, supported by relevant correspondence with the contractor and approved by a relevant senior official.

**Management response**

1. Management is not in agreement with the finding for the following reason:
2. When projects are completed they are changed to status 8 on the WCS system and security deposits are then paid back.
3. Please see the attached WCS printouts indicating that none of the projects listed in the CoAF are in status 8. Therefore none of the projects have been completed, and therefore the security deposits are not yet due.
4. No corrective action is to be taken as none is necessary.

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that the WCS system shows the projects as still open. However, as per our inspection of the WCS system, we noted the following dates on which a payment was last made for the respective contracts:

32580 - 12 Feb 2003

32577 - 05 Dec 2002

24369 - 08 Nov 2001

32587 - 25 Mar 2002

40422 - 18 Jul 2012

With the exception of WCS 40422, there has been no activity on any of the projects for approximately 10 years. It is thus highly unlikely that these projects are still ongoing.

Management should perform investigations to confirm whether the project was completed successfully, and pay back the deposits if due. In addition, the WCS system should be updated to reflect the correct stage of the project. The finding will remain and will be reported in the final management report.

1. **COAF 239: Fruitless and wasteful disclosed as a liability**

**Audit Finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) section 41 states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
2. Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
3. Standard Charts Of Accounts( SCOA) states that *fruitless and wasteful expenditure (Fruitless Exp: Dept Vote: CA) is recognised as an asset in the Statement of Financial Position until such time as the expenditure is recovered from the responsible person or written off as irrecoverable in the Statement of Financial Performance.*

During the performance of the audit the following was identified:

1. Other liabilities include the Fruitless Exp: Dept Vote: CA account which had a balance of R7 360 069, 25 at year end. Upon enquiry from management, it was indicated that this is a misallocation from the prior years and further investigation is still ongoing.
2. This represents a misclassification in terms of SCOA, which states that fruitless and wasteful expenditure should be recognised as a current asset.
3. In addition, it was noted that this account has a negative balance, and does not agree to the amount of fruitless and wasteful expenditure as disclosed in Note 11 (Losses through criminal conduct or unauthorised, irregular or fruitless and wasteful expenditure) of the financial statements.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the annual financial statements submitted for audit purposes to confirm whether transactions are classified in terms of SCOA and SA GAAP.

Current liabilities and current assets are overstated.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

Management should ensure that the financial statements are reviewed and deficiencies resolved timeously before being submitted for audit purposes.

The CFO should perform reviews of financial statements (including ensuring that the accounts are disclosed in terms of SCOA and SA GAAP principles) before submission to the auditors.

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Correction of fruitless and wasteful expenditure transaction. | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| **X** | |  |
| If yes, what corrections will be made to the population? | Correction of fruitless/wasteful expnditure transactions relating to the 2009/10 financial year from current liabilities to theft and losses otherwise to reatined income. | | |
| 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: Financial Reporting | | |
| Estimated completion date of corrective action: | 31 August 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 | Not stated. | | |
|  |  |  |  |

Name: J Prinsloo

Position: Chief Director - Planning and Reporting (PMTE)

Date: 17/8/2012

**Auditor’s conclusion**

Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

Receivables

1. **Disallowances supporting documents not submitted (PTA region)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 127 dated 8 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information requested** |
| 1. | All supporting documentation in relation to disallowances  (including letters of recovery, proof that this debt was referred to legal services, correspondences with legal services, evidence that the debtor was registered to ITC, etc)as detailed  in the attached Annexure for RFI 79 |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management response has not been received.

**Auditor’s conclusion**

No reponse was received from management. This limitation will be reported in the final management report.

1. **Disallowances supporting documents not submitted (HO)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.

Paragraph 41 furthermore states that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.

During the performance of the audit, the following information as per request for information no. 142 dated 17 May 2012, was requested but not provided for audit purposes:

|  |  |
| --- | --- |
| **No** | **Information** |
| 1. | Please provide us with all supporting documentation in relation to disallowances  (including letters of recovery, proof that this debt was referred to legal services, correspondences with legal services, evidence that the debtor was registered to ITC, etc) as detailed  in the attached Annexure for RFI 142. |

The entity’s documents are not available and easily accessible for audit purposes. The commitments on the internal control report (Dashboard report) for the period June to December 2011 has not been effectively implemented.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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**

Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

The information requested should be submitted without further delay.

**Management response**

Management response not been received.

**Auditor’s conclusion**

No formal management response was received, however some information was subsequently submitted. Disallowances documentation of  for GJ3814 was not received. The limitation of scope thus remains and this will be reported in the final management report.

1. **COAF 200 - Limitation of scope: Disallowances (PTA)**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1) (a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Section 38(c) states that *The* *Accounting Officer must take effective and appropriate steps to—*

*(i)            collect all revenue due to the public entity concerned*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury regulations 7.2.1  furthermore states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

In terms of Treasury Regulation 11.4, the following is stated:

“*11.4.1 An accounting officer may only write off debts owed to the State if he or she is satisfied that—*

*a) All reasonable steps have been taken to recover the debt and the debt is irrecoverable; or*

*b) He or she is convinced that—*

*(i) Recovery of the debt would be uneconomical;*

*(ii) Recovery would cause undue hardship to the debtor or his or her dependants; or*

*(iii) It would be to the advantage of the State to effect a settlement of its claim or to waive the claim.*

The following matters were identified:

a)    During the performance if the audit we requested all supporting documentation such as letters of recovery, proof that this debt was referred to legal services, correspondence with legal services, etc. The only documentation provided was the print screen from the WCS system, therefore we were unable to confirm existence, valuation and rights relating to the following amount:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Reference** | **Debtor** | **Categories** | **Amount** |
| 1 | AP374896 | Mvuse Construction & Projects | Disallowances Damages and Losses Recovery | R 394 518,73 |

There are no policies and procedures for accounting of disallowances.

No follow ups are done on disallowances balances

No thorough management review is done on disallowances to confirm that each debtor exists and is correctly valued.

Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

## Financial and performance management

The entity 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.

The entity 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

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

**Recommendation**

1. ·         Policies and procedures on disallowances should be finalised as soon as possible and communicated to all staff and management should ensure that each employee is aware and understands it.
2. ·         Management should  review each transaction on disallowance account and refer all outstanding  balances to legal  and litigation unit on a monthly basis
3. ·         Allocated the transactions to the relevant accounts.
4. ·         Management should ensure that all information requested is easily retrievable and supplied timely to the auditors for audit purposes.
5. ·         The information requested should be submitted without further delay.

**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: | The disallowance account will be properly managed and reviewed monthly. The mentioned transaction will be referred to the Investigation and fraud awareness directorate as Legal service said it is not their case. After the investigations on the case have been concluded on the guilty part is, a debt file will be opened. | | |
| 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 | D: Finance & SCM | | |
| Estimated completion date of corrective action: | 31 March 2013 | | |
| 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:  Tlhakudi KO

Position: D: Finance & SCM

Date: 1/8/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agree with the finding. This limitation will be included in the final management report.

1. **Misstatements in CA figures disclosed in the financial statements**

**Audit Finding**

Section 41 of Public Finance Management Act states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue*

1. During the performance of the audit the following differences were identified pertaining to Note 3 (Trade and other receivables [Claims recoverable – CA]) to the annual financial statements.

Amounts on the age analysis schedule supplied for audit purposes do not agree to the amounts disclosed in the financial statements:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Claims Recoverable – CA** | **Amount per detailed debtors listing** | **Amount per financial statements** | **Difference** |
| 1 | < 1 year | R 134 779 040,66 | R 134 757 000,00 | R 22 040,66 |
| **Total** | | **R 134 779 040,66** | **R 134 757 000,00** | **R 22 040,66** |

1. The following difference was noted between the ageing analysis as disclosed in the debtors listing schedule and inspected supporting documentation:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Ageing per detailed debtors listing** | **Transaction date** | **Ageing per source documentation** | **Amount** |
| 1 | Correctional Services | Less than 1 year | Processed on 11 October 2011, but relates to the expenditure incurred in March 2009 | 1 to 3 years | R 2 524 724,69 |

* The above findings are an indication of the control weaknesses within the operations of the PMTE.
* The entity’s documents are not available and easily accessible for audit purposes
* No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.
* This has resulted in disclosure in the financial statements not being accurate.
* The above findings have an impact in the increasing of the bank overdraft, as expenditure payments are continually made, however claims are either issued late or not issued at all.
* An inaccurate ageing analysis will affect the provision for impairment calculation.
* Failure to provide this information constitutes a limitation of scope as we will be unable to perform the planned audit procedures.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

The entity 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.

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

1. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.
2. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
3. The information requested should be submitted without further delay.

**Management response**

***Audit Finding A***

I am in agreement with the finding, The amount disclosed in the financial statements is correct; the schedule will be adjusted to be in line with the figure.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | We agree with the finding raosed by Auditor General and the financial statements will be adjsuted to agree to the age analysis schedule. | | |
| 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 | Director: Financial  Reporting | | |
| Estimated completion date of 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: Thomas Seletela

Position: Director Financial Reporting

Date: 2/8/2012

***Audit Finding B***

 We do not agree with the finding. The finding of R 2 524 724.69 includes adjustments journal number 3801,4596,4736,5010 and 5245 for correcting misallocations. These journals were submitted to AG. the age analysis schedule for 2011/12 financial year did not have an adjustment journal column hence we included these journal under column for "< 1 year". We have added the adjustment journal column in this current age analysis schedule.

**Auditor’s conclusion**

*Audit finding a)*

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. However, the corrected age analysis was not submitted with the response for auditing. The finding will therefore be included in the final management report.

*Audit finding b)*

Cognisance is taken of management’s response. However, corrections made to debtors balances should be allocated in the ageing to where it should have been originally, and not in a specific “Adjustment” column. This causes the ageing to be distorted. The finding will therefore be included in the final management report.

1. **Misstatements in the Receivables journals**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1)(a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury Regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury Regulation 17.1.2 states that *should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a clearing or suspense account because the classification has not been resolved, the accounting officer must ensure that:*

*(a) the sources of the transactions are readily identifiable;*

*(b) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;*

*(c) monthly reconciliation’s are performed to confirm the balance of each account; and*

*(d) reports are provided to the accounting officer about uncleared items on a monthly basis*.

Treasury Regulation 7.2.1  furthermore states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

The following matters were identified:

* 1. Claims recoverable CA incorrectly cleared

|  |  |  |  |
| --- | --- | --- | --- |
| ***Journal 4901*** | |  |  |
| Description | | Debited | Credit |
| Item: | REC:DOM:CLMS:N/DEPT: CLAIM RECOV | R1 792 698,32  R49 901, 73 |  |
| Fund: | I/DEPT S&A NAT:MINERAL RESOURCES |
| Responsibility | D:CUSTOMER BILLING ( Head office) |
| PTA Head projects & Maintenance |
| Amount |  |
| Item: | REC:DOM:CLMS:N/DEPT: CLAIM RECOV |  | R1 792 698,32  R49 901, 73 |
| Fund: | I/DEPT S&A NAT:MINERAL RESOURCES |
| Responsibility | Regions ( Head office, JHB,NST) |
| Amount |  |

During the audit of the above journal (journal 4901), the following matters were identified:

         Through enquiry from management it was determined that in 2006/2007 and 2007/2008 financial years, the PMIS and WCS expenditures for both Claims Recoverable: CA and Municipal Services were claimed as Claims Recoverable: CA.

         An account for Claims Recoverable: Municipal Service was introduced in the 2008/2009 financial year and a decision was also made that all expenditures incurred through PMIS will be classified under Municipal services and WCS expenditures under CA.

         Inspected the journal no. 1279 where an amount of R1 792 698, 32 was passed to transfer Claims Recoverable: Municipal Service from Claims Recoverable CA.

         On 13 January 2012 another journal no. 4901 for an amount of R1 792 698,32 was processed to clear expenditure incurred on behalf of Department of Minerals and Energy to the regional Municipal Services expenditure and it is not clear which amount was cleared as the balance was already transferred to Municipal Services account as per journal no.1279

         Based on the above and inspection of supporting documentation there was no amount received and it is not clear on what basis this journal was processed.

         Furthermore, in journal no. 4901 it was noted that there was an amount received of R49 901, 73 cleared on a Claims Recoverable CA against the regional offices, however there is no evidence that the claim (Z59) was issued to the Department of Minerals and Energy or whether the expenditure was actually incurred by PMTE for this amount.

|  |  |  |
| --- | --- | --- |
|  |  |  |

Note:  Although only a line item of R57 596, 98 from the journal was selected in our sample for testing from the general ledger, based on the audit evidence obtained, the total amount of R1 842 600, 05 for the journal number 4901 is misstated.

**b)    Correction of misallocations**

i)      During the audit of the journal below (journal no.4603) the following matters were noted:

|  |  |  |  |
| --- | --- | --- | --- |
| ***Journal 4603*** | |  |  |
| Description | | Debited | Credit |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO | R 9 993 753,12 |  |
| Fund: | I/DEPT S&A NAT:SA POLICE SERV |
| Responsibility | D: CUSTOMER BILLING |
| Amount |  |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO |  | R 9 993 753,12 |
| Fund: | I/DEPT S&A NAT: SA POLICE SERV |
| Responsibility | HEAD PROJECTS & MAINTENANCE(DBN, PE , UMT) |
| Amount |  |

         According to processes followed by PMTE, when an amount is received from the client department the following journal is processed

         In  this case the amount was from South African Police Services and journal no.3726 was processed on 18 April 2011:

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Item: | BAS CREDIT TRANSFERS:DOM | R 9 993 753,12 |  |
| Fund: | POSTING: ASSETS&LIABILITIES FUND |
| Responsibility | CONTROL RESP.(POST) |
| Amount |  |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO |  | R 9 993 753,12 |
| Fund: | I/DEPT S&A NAT:SA POLICE SERV |
| Responsibility | D: CUSTOMER BILLING |
| Amount |  |

         Furthermore regarding PMTE processes, when a lump sum has been received by head office and a journal similar to the above has been processed, PMTE will pass a second journal clearing the lump sum received against the expenditure incurred in respective regions.

         Thus the following journal (no. 4413) was processed to clear the amount received from South African Police Services  to the respective  regions for capital works expenditure in 29 February 2008.

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO | R 9 993 753,12 |  |
| Fund: | I/DEPT S&A NAT:POLICE |
| Responsibility | D:CUSTOMER BILLING (Head office) |
| Amount |  |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO |  | R 9 993 753,12 |
| Fund: | I/DEPT S&A NAT:POLICE |
| Responsibility | HEAD PROJECTS & MAINTENANCE ( DBN, PE , UMT) |
| Amount |  |

         It was then discovered that the capturing of the fund level was incorrectly captured as I/DEPT S&A NAT: POLICE instead of I/DEPT S&A NAT: SA POLICE SERV , therefore SAPS debtor was still showing an amount owing to PMTE i.e. amount claimed from SAPS did not clear against the expenditure incurred in the general ledger.

         Journal no. 4603 was processed to correct the fund level, however the initial error was not reversed before posting to the correct fund level.

Note: Although only a line item journal no. 4603 of R 73 680, 84 was selected from the general ledger the total amount of R 9 993 753,12 for the journal number 4603 is misstated.

ii) The same process per journal no.4901 was also followed for the journal number 4598 as detailed below:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Journal number** | **Description** | **General ledger account** | **Journal Approved By** | **Date Journal Approved** | **Amount per journal** | **Total journal amount** |
| 1 | 4598 | Correction of misallocation | REC:DOM:CLMS:NAT PACE:CLAIM RECO | Peter.L Sekgobela | 02-Nov-11 | R 59 136,21 | R 12 659 378,68 |
| **Total** | | | | | | **R 59 136,21** | R 12 659 378,68 |

**c)    Transactions accounted in the incorrect accounting period**

         The following transactions were not accounted for in the correct accounting period. This constitutes non compliance with Treasury Regulation 17.1.2 which states that should the suspense account be used it  must cleared on a monthly basis.

         Therefore in prior years both claims recoverable PACE and trade and other payables were overstated by the amount received but not cleared against the claims recoverable PACE.

         These journals were passed for receipt transactions, and thus do not affect the debtors ageing analysis.

| **No** | **Journal number** | **Description** | **General ledger account** | **Amount per journal** | **Date journal approved** | **Supporting documents date** | **Days taken to process the journal** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | 3995 | JOURN PAYM MARCH 2011 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 2 387 634,08 | 21-Jun-11 | 31-Mar-11 | 82 |
| 2 | 3745 | PACE AMT CREDITED TO ADVANCE ACC | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 174 981,99 | 18-Apr-11 | 30-Mar-07 | 1 480 |
| 3 | 4010 | JOURN PAYM DEC 2010 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 32 638,37 | 23-Jun-11 | 07-Feb-11 | 136 |
| 4 | 4409 | JOURN PAYM FEBR 2008 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 17 004,55 | 04-Oct-11 | 31-Mar-11 | 187 |
| 5 | 4005 | JOURN PAYM NOV 2010 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 312 128,94 | 23-Jun-11 | 04-Jan-11 | 170 |
| 6 | 4045 | JOURN PAYM OCT 2010 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 45 734,71 | 24-Jun-11 | 08-Dec-10 | 198 |
| 7 | 4038 | DISABLED PROJ AMT FOR 29 MAR 11 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 28 699,02 | 24-Jun-11 | 31-Mar-11 | 85 |
| 8 | 4089 | JOURN PAYM SEP 2010 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 107 280,30 | 07-Jul-11 | 18-Nov-10 | 231 |
| 9 | 4133 | JOURN PAYM DEC 2010 | REC:DOM:CLMS:NAT PACE:CLAIM RECO | R 1 364 344,58 | 07-Jul-11 | 07-Feb-11 | 150 |
| **Total** | | | | **R 4 470 446,54** |  | | |

**d)     Amount incorrectly reclassified to advance account**

The following journal number 3745 was selected and tested

|  |  |  |  |
| --- | --- | --- | --- |
| Description | | Debited | Credit |
| JOURNAL NUMBER: 3745 | | | |
| Item: | REC:DOM:CLMS:NAT PACE: CLAIM RECO | R 174 981,99 |  |
| Fund: | I/DEPT S&A NAT: AGRIC,FOREST&FISH |
| Responsibility | D: CUSTOMER BILLING |
| Amount |  |
| Item: | PAYABLE:ADV:/NDEPT:ADV ACC:CL |  | R 174 981,99 |
| Fund: | I/DEPT S&A NAT: AGRIC,FOREST&FISH |
| Responsibility | D: CUSTOMER BILLING |
| Amount |  |

It was noted that an amount of R250 424,31 was received from the Department of Agriculture, Forestry and Fishing (DAFF) on 30 March 2007. Upon enquiry by PMTE, DAFF indicated that out of this balance, an amount of R223 809,00 relates to a PACE claim for March 2006. The balance relates to salaries claim for employees, which were subsequently transferred to DPW as PMTE is not responsible for salaries of employees. PMTE did not allocate the funds as requested but rather allocated it against various miscellaneous claims, resulting in a negative balance under Claims recoverable: PACE for DAFF. At year end, this negative balance was transferred to Advances.

The table below illustrates how this receipt was allocated:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Journal number** | **Description** | **General ledger account** | **Date journal approved** | **Amount per journal** | **Amount received** | **Note** |
| 1 | 3745 | PACE AMT credited to advance ACC | REC:DOM:CLMS:NAT PACE:CLAIM RECO | 18-Apr-11 | R 174 981,99 | R 250 424,31 | i) |
| -R 684,30 | ii) |
| -R 1 954,31 | iii) |
| -R 27 946,22 | iv) |
| -R 169,46 | v) |
| -R 1 987,60 | vi) |
| -R 16 079,80 | vii) |
| -R 12 357,68 | viii) |
| -R 14 257,62 | ix) |
| **Total** | | | | | **R 174 981,99** | **R 174 987,32** |  |

 i)              Amount received from DAFF

ii)             An amount of R 684,30 was claimed as a Traffic Fine: Ministers Office;

iii)            An amount of R 1 954, 31 was for a claim no. EHLAT 2000808 which was outstanding since 24 October 2008

iv)           A claim amounting to R 27 946,22 which was deducted from a payment made to DPW on 29 January 2009 i.r.o the PACE expenditure for November 2008

v)            telephone debt of former Minister Thoko Didiza at Agriculture amounting to R 169,46 was deducted from PACE claim for September 2009

vi)           Another telephone debt of former Minister Thoko Didiza amounting to R 1987,60 was  also deducted from PACE claim for July 2009

vii)          Difference between WCS and BAS

viii)         Salary claim for an employee with a Persal no. 21815739

ix)           Salary claim an employee with a Persal no. 80505627

1. ·         The above findings are an indication of the control weaknesses within the operations of the PMTE.
2. ·         There are no policies and procedures for the processing of journals.
3. ·         No thorough reviews were done on journals processed to confirm validity, accuracy, and classification.

The affected account balances (Claims recoverable CA, Claims recoverable PACE, Advance account) are misstated by an indeterminable amount.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not 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 entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

Management did not implement proper procedures to ensure that the changes were made and signed by the relevant procedures

**Recommendation**

Management should speed up the process of finalising journals policies and procedures and ensure there are communicated and understood by all employees to enable them to take corrective actions where there is a deviation by staff.

Work performed by interns should be regularly reviewed and strictly monitored.

Journals should be reviewed and authorised by a director level upwards to ensure validity, accuracy and classification.

The entire population of journals should be revisited.

**Management response**

Management response (a)

We agree with the finding raised by Auditor General. A credit balance of R 1 792 698.32 was incorrectly cleared under CA account instead of Municipal Services account through journal number 4901. The journal number 4901 will be reversed and clear the correct amount of R 1 272 628.09 which was received for Municipal services. The amount of R 1 272 628.09 will be cleared under CA account per transaction as the debit balances are lying under CA account. If there is any remaining balance for Municipal Services that is still under CA account they will be transferred to CA per transaction instead of the Global balance. The PMG statement is attached for an amount R 1 272 628.09 that was received for Municipal services. Refer to ANNEXURE A. The amount of R 49 901.73 will be investigated.

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | Journal number 4901 will be reversed | | |
| Does the finding affect an amount disclosed in the financial statements? | Yes | | No |
| X | |  |
| If yes, what corrections will be made to the population? | NONE | | |
| 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 | Assistant Director | | |
| Estimated completion date of corrective action: | 10 August 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 |  | | |

Name: Zola Damane

Position: Assistant Director

Date: 06 August 2012

Management response (b)

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

Journals were incorrectly done for Police instead of SA Police

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | To ensure that Journals are checked properly and correct accounts are used when allocating money | | |
| Does the finding affect an amount disclosed in the financial statements? | Yes | | No |
| X | |  |
| If yes, what corrections will be made to the population? | Journals have to be reversed and captured correctly, 4413, 4603, 4598 | | |
| 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 | Assistant Director | | |
| Estimated completion date of corrective action: | Before closure of August 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 | N/A | | |
|  |  |  |  |

Name: AJF Bezuidenhout

Position: Deputy Director

Date: 8/8/2012

Management response (c)

I am in agreement with the finding for the following:

Journals were done after the 30 day period.

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | To ensure that Journals for the matching of payments against the money received are done within the 30 day period, the section is now fully capacitated and work distributed evenly between officials | | |
| 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 | Assistant Director | | |
| Estimated completion date of 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: AJF Bezuidenhout

Position: Deputy Director

Date: 8/8/2012

Management response (j)

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

|  |  |  |  |
| --- | --- | --- | --- |
| DESCRIPTION | RESPONSE | | |
| Corrective action to be taken: | It will be communicated to the client that a credit balance exist on their account and they must indicate where they want to be refunded or use the money for a new invoice issued. | | |
| 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 | Assistant Director | | |
| Estimated completion date of corrective action: | Before closure of August 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 | N/A | | |
|  |  |  |  |

Name: AJF Bezuidenhout

Position: Deputy Director

Date: 8/8/2012

**Auditor’s conclusion**

Finding a)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This matter will be included in the management report.

Finding b)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This matter will be included in the management report.

Finding c)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This matter will be included in the management report.

Finding d)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This matter will be included in the management report.

1. **Trade receivables - Debt account**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 41 states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Paragraph 39 of the IFRS Framework for the preparation and presentation of financial statementsstates*: Users must be able to compare the financial statements of an entity through time in order to identify trends in its financial position and performance. Users must also be able to compare the financial statements of different entities in order to evaluate their relative financial position, performance and changes in financial position. Hence, the measurement and display of the financial effect of like transactions and other events must be carried out in a consistent way throughout an entity and over time for that entity and in a consistent way for different entities.*

During the performance of the audit the following was identified:

         In the prior year, included in trade and other receivables was a line item for Claims recoverable. This account has a zero balance in the current year.

         Upon enquiry from management, we were informed that this account previously included claims that have not yet been issued to the client department for which expenditure has been incurred, as well as disputed claims. In the current year these amounts have been included in the closing balance of municipal services, hence Claims recoverable account has a zero balance.

         However it was noted that the prior period balance for municipal services has not been restated to include this balance. Thus the balances for the current and prior period are not comparable.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes

This has resulted in disclosure in the financial statements not being accurate.

**Internal control deficiency**

**Leadership**

## The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

1. Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes..
2. The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.
3. Management should reconcile the claims sent to the client department to supporting documentation and expenditure as per the PMIS download on a monthly basis and ensure it agrees, differences noted should be followed up and corrected accordingly.
4. Management should ensure that, if over or under billing occurs, the client department is informed of the error, and on PMTE’s side the correct accounting principles in terms of SA GAAP should be applied to correct the error.  The client department’s account should reflect the correction in the following claim.

**Management response**

I am in agreement with the finding.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | Restatement of Municipal services | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| X | |  |
| If yes, what corrections will be made to the population? | Correction of the disclosure note | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of corrective action: | 17 August 2012 | | |
| Does management agree with the root cause indicated | **Yes** | **No** | |
| Note stated |  | |
| If management does not agree with the root cause indicated, please provide the root cause according to management | n/a | | |
|  |  |  |  |

Name: J Prinsloo

Position: Chief Director: Planning and Reporting

Date:10/8/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agrees with the finding and intend to restate the financial statements. However, as we were unable to audit the claims recoverable balance, the finding will remain and will be included in the final management report.

1. **Trade receivables – disallowances ageing**

**Audit finding**

a)    During the performance of the audit the following differences were identified pertaining to Note 3 (Trade and other receivables [Disallowances]) to the annual financial statements.

Amounts on the age analysis schedule supplied for audit purposes do not agree to the amounts disclosed in the financial statements:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No. | Disallowances | Amount per detailed debtors listing | Amount per financial statements | Difference |
| 1 | < 1 year | R 18 040 845,83 | R73 591 000,00 | -R55 550 154,17 |
| 2 | 1 -3 years | R186 032 772,30 | R130 482 000,00 | R55 550 772,33 |
| Total | | R 204 073 618,133 | R 204 073 000,00 | R618,13 |

b)    Inspected the detailed ageing analysis schedule provided and noted that the ageing includes a negative amount. This indicates that payments made are not cleared against invoices issued, thus distorting the ageing:

|  |  |
| --- | --- |
| Region | Ageing (30 days) |
| Cape Town | -R 14 265 288,36 |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes.

 This has resulted in disclosure in the financial statements not being accurate.

An inaccurate ageing analysis will affect the provision for impairment calculation.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

The entity 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.

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

**Recommendation**

a)    Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.

b)    The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.

c)    Payments received from client departments should be allocated to invoices issued to ensure ageing analysis is accurate.

**Management response**

***Finding a)***

The department acknowledges the audit finding however this was an oversight in casting**.**

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
| Corrective action to be taken: | More accuracy in casting will be applied | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| Yes | |  |
| If yes, what corrections will be made to the population? | It will be rectified from 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 in charge for financials | | |
| Estimated completion date of corrective action: | 17 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 |  | | |

***Finding b)***

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

The finding has nothing to do with the clearing of the invoice payments.  This account is used to make payments of the disallowances amounts and these amounts were subsequently written off as per delegated approval. The schedule was not overstated nor understated as the negative amounts of R14 million reflected the amounts already included in the schedule for completeness. The non-inclusion of the write off amount of R14 million will have resulted in overstatement of the schedule.

Name:

Position:

Date:

**Auditor’s conclusion**

***Finding a)***

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. This matter will be included in the management report.

***Finding b)***

Cognisance is taken of management's response; however the write off of an amount should be allocated to the relevant invoice in the same manner as a payment. Thus there should not be any negative balances in the age analysis. The finding remains, and will be reported in the final management report.

Revenue

1. **Revenue (Credit Notes).**

**Audit finding**

Laws, rules and regulations

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1) (a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury Regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury Regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

Treasury Regulation 15.8.1 states that *at the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund.*

In terms of Treasury Regulation 51.1.(a), the following is stated:

*Accounting Officer must take effective and appropriate steps to—*

*a)    collect all revenue due to the public entity concerned; and*

*b)    prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and manage available working capital efficiently and economically;*

IAS 1 paragraph 32 states that, an entity shall not offset assets and liabilities or income and expenses, unless required or permitted by an IFRS

The following matters were identified:

a)    Through enquiry from PMTE officials, it was indicated that the credit note (see table below) issued to Department of Health was based on the following:

During the financial year 2011/2012 the Department of Health appointed the company named Autumn Star as contractor to perform interim maintenance for a period of six (6) months from September 2011 till February 2012 with a tariff of R 1 000 000,00 per month.

Autumn Star was paid by Department of Health the full amount of R 6 000 000, 00 for the services rendered.

Department of Health then deducted R6 000 000, 00 from the 4th quarter Accommodation Charge: State-Owned claim of R 16 033 029 and paid R10 033 029 to PMTE.

A credit note dated 22 March 2012 as detailed below was then prepared by PMTE and issued to the Department of Health, thereafter revenue was debited to reflect the decrease by the amount not received from Department of Health.

 This is contravention of IAS 1 which prohibits offsetting of income and expenses unless required by IFRS. Property Maintenance expenditure incurred was never recorded in PMTE books.

Therefore both Accommodation Charges – State Owned (Revenue) and Property Maintenance (Expenditure) are understated.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Invoice no.** | **Financial Year** | **Quarter** | **Amount** |
| 1 | Health (Civitas) | CIVITAS-01-12-CR | 2011/12 | 4 | R 6 000 000,00 |
| Total | | | | | R 6 000 000,00 |

b)    All documentation and explanations supporting the Accommodation Charges – Private Leases credit notes issued (refer table below) were requested. None of the requested information was provided; therefore we cannot confirm whether the following transactions are valid, accurate and complete.

Accommodation – Private Leases as disclosed in note 4 of the financial statements may therefore be misstated.

| **No** | **Client department** | **Quarter/ Period** | **Financial year** | **Invoice no** | **Classification as per allocation schedule** | **Amount as per Private Lease transaction schedule**  **R** |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Correctional Services | 1  revised | 2011/12 | DCS-Ct1b-11/12 | Private Accommodation | 740 980,93 |
| 2 | Health | 1  revised | 2011/12 | Health-Ct1-11/12 | Private Accommodation | 2 763 436,51 |
| 3 | Human Rights Commission | Revised | 0708/10/11 | HRC-CT1-0708-1011 | Private Accommodation | 3 903 085,72 |
| 4 | Human Rights Commission | Revised | 11/12 | HRC-CT1-11/12 | Private Accommodation | 1 018 514,69 |
| 5 | ICD | 1  revised | 2011/12 | ICD-Ct1-11/12 | Private Accommodation | 5 962 064,63 |
| 6 | Justice and Constitutional Development | April - Dec 11 | 2011/12 | Justice-Add1-11/12 | Private Accommodation | 343 159,31 |
| 7 | National Prosecuting Authority | 2008/09 | 2011/12 | NPA-Ct2-11/12 | Private Accommodation | 817 102,50 |
| 8 | National Prosecuting Authority | 2006/07 | 2011/12 | NPA-Ct1-11/12 | Private Accommodation | 3 830,00 |
| 9 | National Treasury | 12 months | 2009/10 | Treasury\_CT2-11/12 | Private Accommodation | 11 406 762,93 |
| 10 | Tourism | Not indicated | 2011/12 | Tourism-Ct-11/12 | Private Accommodation | 40 530 827,30 |
| 11 | Public Service and Admin | March 2012 | 2011/12 | CR-02-17-03-11-01 | Private Accommodation | 382 712,35 |
| **Total** | | | | | | **67 872 476,87** |

c)    For the following credit notes issued, all supporting documentation was requested. Upon inspection of letters and credit notes, it was noted that they were not signed as proof of authorisation; therefore these transactions may not be valid (occurrence assertion).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Supporting documentation** | **Date as per invoice** | **Authorised by** | **Rank** | **Amount as per Private Lease transaction schedule** |
| 1 | Agriculture, Forestry and fishing | A Letter and credit note | 15-Nov-11 | No authoriser signature | No rank | R 19 422 693,69 |
| 2 | Public Service Commission | A Letter and credit note | 27-Aug-11 | No authoriser signature | No rank | R 389 742,19 |
| 3 | SASSA PE | A Letter and credit note | 27-Aug-11 | No authoriser signature | No rank | R 75 095,17 |
| 4 | SASSA Umt | A Letter and credit note | 27-Aug-11 | No authoriser signature | No rank | R 862 490,82 |
| 5 | Social Development | A Letter and credit note | 17-Jul-11 | No authoriser signature | No rank | R 6 841 681,04 |
| 6 | Statistics SA | A Letter and credit note | 02-Nov-11 | No authoriser signature | No rank | R 15 282 953,74 |
| **Total** | | | | | | **R 42 874 656,65** |

1. The above findings are an indication of the control weaknesses within the operations of the PMTE.
2. The PMTE does not have enough officials with in-depth knowledge of accounting in accordance with the South African Statements of Generally Accepted Accounting Practice, therefore incorrect accounting treatment applied for example in the case of offsetting.
3. PMTE is operating without policies and procedures, and reconciliations are not done for every client department; or where they are reconciled no proper review is performed.
4. There is no monitoring of day to day operations or detail reviews done as credit notes are processed without being approved by director general or delegated officials.

Accommodation Charges: State Owned and Accommodation Charges: Private Leases as disclosed in note 8 may be understated.

The above findings have an impact in increasing the bank overdraft, as expenditure payments are continually made, however invalid credit notes are issued to client departments.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not establish and communicate policies and procedures to enable and support understanding and execution of internal control objectives, processes, and responsibilities

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal controls

## Financial and performance management

The entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Recommendation**

Finding a)

         The process of finalizing business cases, internal policies and procedures must be expedited

         The journal that has been affected to set off the planned maintenance expenditure against revenue should be reversed.

         Consideration must be given to the fact that immovable assets are currently being accounted for in the Department of Public Works and therefore any costs qualifying for capitalisation should ultimately be capitalised onto the immovable asset in DPW to enable the department to fairly present the immovable asset disclosure note in their financial statements and expenditure incurred by client departments will be omitted in this process.

         Care must be taken that expenditure incurred in buildings owned by DPW are capitalised

Finding b)

Management should ensure that there is a safeguard pertaining documents when moving them during relocation and all supporting documentation should be provided for audit purposes.

Finding c)

         Management should speed up the process of finalising policies and procedures and ensure there are communicated and understood by all employees.

         Management should perform reconciliation between WCS and PMIS to the Z59’s issued for each client department and these reconciliation should be reviewed director/chief director and follow ups be made on time on a monthly basis.

         All transactions should be reviewed and authorized.

**Management response**

Finding a)

No response  received

Finding b)

Department des not agree with audit finding, attached is a copy of signed document proof that it has been document has been submitted.

Finding c)

Department agree with the audit finding, it was an overside from the department side reconcilition between PMIS and Z59 issued to the client will be done and reviewed by the Deputy Director  and Director Billing to detect error's that may occur

Name: Billy Leketi

Position: Director

Date: 12/7/2012

**Auditor’s conclusion**

*Finding a)*

No formal management response received. However, an adjustment was passed in the financial statements increasing revenue and property maintenance. This journal was not supported by any supporting documentation. This matter will therefore be reported as a limitation.

*Finding b)*

Cognisance is taken of managements response, however only the actual credit note was submitted without relevant supporting documentation. We were thus unable to confirm whether these credit notes were valid and accurate. The limitation remains and will be included to the final management report

*Finding c)*

Management comment noted. Cognisance is taken of the fact that management agree with the finding. This finding will be included to the final management report

1. **Revenue (Augmentation)**

**Audit finding**

Paragraph 3 of IAS 20 *defines government grants as assistance by government in the form of transfers of resources to an entity in return for past or future compliance with certain conditions relating to operating activities of the entity.*

*Government grants are only recognised when there’s reasonable assurance that:-*

*a)    Entity will comply with the conditions attached to the grant; and*

*b)    Grants will be received.*

In terms of paragraph 12 of IAS 20, *grants are recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grants are intended to compensate*

In terms of paragraph 29 of IAS 20 *Grants related to income are sometimes presented as a credit in the statement of comprehensive income, either separately or under a general heading such as ‘Other income’; alternatively, they are deducted in reporting the related expense.”*

The PMTE receives an Augmentation from National Treasury via Department of Public Works. This Augmentation should be used for planned maintenance and rehabilitation of buildings while the buildings in question are held in the books of DPW.

PMTE does not receive the money for their own benefit and therefore this augmentation does not meet the definition of revenue.

The entity was established when DPW took a decision to devolve its funds and based on the above information the standard applicable is IAS 20 – Accounting for Government Grants

.

As per inspection of the financial statements for the period ending 31 March 2012, Augmentation has been recognised as Revenue.

The above is contravention of IAS 20 paragraph 29 and augmentation should be recognized as Other Income

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Description** | **Period** | **Augmentation received** |
| 1 | DPW Augmentation-Rev | 1 October 2011-March 2012 | R 315 094 500,00 |
| 2 | DPW Augmentation-Rev | 1 April 2011- September 2011 | R 315 094 500,00 |
| **Total** | | | **R 630 189 000,00** |

The primary reasons for the occurrence of this finding are that:

(a)  The PMTE does not have enough officials with an in-depth knowledge of accounting in accordance with the South African Statements of Generally Accepted Accounting Practice.

(b)  The required level of review did not take place prior to the submission of the financial statements.

(c)  Audit recommendations were not implemented, as the same finding was raised during the 2010/11 audit.

The audit opinion may be modified should this incorrect accounting treatment not be retrospectively rectified and the prior period error disclosed

**Internal control deficiency**

**Leadership**

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

Management does not develop and monitor the implementation of action plans to address internal control deficiencies.

**Financial and performance management**

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

**Recommendation**

Augmentation should be accounted in terms of IAS 20 in the statement of comprehensive income.

**Management response**

I am in agreement with the finding

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  |  | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| x | |  |
| If yes, what corrections will be made to the population? | Augumentation will be reclassified retrospectively - for 2011/12, 2010/11 and 2009/10 financial years | | |
| 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: Financial Reporting | | |
| Estimated completion date of corrective action: | 20 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 |  | | |

Name: J Prinsloo

Position: Chief Director: Financial Planning and Reporting

Date: 16/7/2012

**Auditor’s conclusion**

Management comment noted. Cognisance is taken of the fact that management agree with the finding. The finding will be resolved after the financial statements with changes have been submitted.

1. **Misstatements in revenue – Other operating income**

**Audit finding**

Chapter 5 of the Public Finance Management Act (PFMA) section 40(1) (a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*

Section 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury Regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury Regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue.*

IAS 18:1 deals with the scope of IAS 18 and it states that *this Standard shall be applied in accounting for revenue arising from then following transactions and events:*

*(a) the sale of goods;*

*(b) the rendering of services; and*

*(c) the use by others of entity assets yielding interest, royalties and dividends.*

Framework for the Devolution of Budgets and Introduction of Accommodation charges version 17 dated 18 December 2005 paragraph 3.1.i. states the following regarding Maintenance and property rates:

*The devolved maintenance and property rates budgets will be ring fenced and will appear on a user departments budget as part of its administration budget under the line item accommodation which can only be used to pay accommodation charges to pay for property rates , and to maintain and refurbish the national state owned property portfolio. In time, this income may also be used to build up capital for new acquisitions to the portfolio. Hence, DPW will act as landlord for the national state owned property portfolio. Annexure B and C provide a summary of the maintenance and property rates funds for the MTEF period for each budget vote respectively. It should be noted that municipalities are not yet DPW for all properties (e.g. DPW is not receiving invoices for property rates for the Union Buildings and Parliament). Further budget adjustments to take into account changes in municipal rates may thus be required.*

The following matters were identified:

a)    As per inspection of the Statement of Comprehensive Income for period ending 31 March 2012, it was noted that Accommodation Charges: Stated Owned disclosed as a line item  of revenue includes the following which do not form part of the Accommodation charges: Stated Owned in terms of the Framework for theDevolution of Budgets and Introduction of Accommodation charges. In addition, this is in contravention of IAS 18 :1

|  |  |  |
| --- | --- | --- |
| **Account no.** | **Description** | **Amount** |
| 12015 | CONTRACTOR/SUPP FINE(INC MEDSAS) | R 5 076 693,01 |
| 12017 | INS REC:PRIV SEC:PRIV ENTERPRISE | R 160 984,61 |
| 12022 | REV:FA:REC OF PREV YEARS' EXP | R 12 361 848,66 |
| **Total** | | **R 17 599 526,28** |

Upon enquiry with relevant officials at PMTE and inspection of Standard Chart of Accounts, it was ascertained that the above accounts relate to the following:

1. Account 12015 relates to fines charged to contractors for defaulting on contract terms, etc. This should be disclosed as a separate line item (e.g. Other income)
2. Account 12017 relates to interest charged on overdue debts. As PMTE does not provide finance as its primary business, interest income does not meet the definition of revenue, and should therefore be disclosed separately from revenue in the Statement of Comprehensive Income.
3. Account 12022 relates to revenue received in the current period which relates to expenditure incurred in prior periods. According to the Framework, the effects of transactions and other events are recognised when they occur (and not as cash or its equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate. Thus the revenue should be recorded as a prior period error if material, or as an adjustment to Retained Income if not.

| **No.** | **Description** | **Supplier's name** | **Clauses as per signed contracts** | **Details of the penalty or fines** | **WCS number** | **AP Number** | **Amount per general ledger** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | Contractor/Supp Fine(Inc Medsas) | Ruwacon Contractors | 1 Clause 43.1 (penalty for late completion) a) portion 1 of the works is R1000.00 per day b) portion 2 of the works is R350.00 per day c) portion 3 of the works is R400.00 per day d) Portion 4 of the works is R3500.00 per day e) portion 5 of the works is R150.00 per day | Delay report not provided | 45184 | 372146 | R 124 800,00 |
| 2 | Contractor/Supp Fine(Inc Medsas) | Pretoria Klip En Sand Bop(Pty) Ltd | 1) Clause 43.1 ( penalty for failing to complete a) portion 1 of the works is R0 per day b) Portion 2 of the works id R0 per day c) portion 3 of the works is R0 per day d) portion 4 of the works is R0 per day e) portion 5 of the works is R0 per day | Delay report not provided | 41212 | 376443 | R 47 250,00 |
| **Total** | | | | | | | **R 1 444 407,37** |

b)     For the following amounts, the payment progress batches and contracts submitted were inspected, however we could  not confirm the accuracy of the amount for penalties in respect of the late completion, as delay reports were not submitted for audit purposes:

c)    For the following contract we were unable to recalculate the amount recognised as penalty fees on BAS, as the contract does not indicate any clauses regarding penalty fees.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **NO.** | **Description** | **WCS number** | **Clauses as per signed contracts** | **Details of the penalty or fines** | **AP Number** | **Amount per General Ledger** |
| 1 | CONTRACTOR/SUPP FINE(INC MEDSAS) | 34184 | No clause | Approved extention  of time up to 14 March 2004 Penalties calculated on full contract amount 15 March 2004 - 19 March 2004 5 days @ R2000 = R10 000 First delivery on 19 March 2004 except Ponds and 5 Arches which is approved VO - R2 942 140,15 Penalties for VO amount up to first delevery 26 March 2004 R2 941 140,15/ R5969545,15\*(2000\*7 days) | 380494 | R 16 897,00 |
| **Total** | | | | | | **R 16 897,00** |

d)    For the following contract, we were unable to verify if the amount recognised as a penalty is valid as penalty clauses are only indicated on the delay report, but are not stipulated on the contract.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **NO** | **Description** | **Clauses as per signed contracts** | **Details of the penalty or fines** | **WCS number** | **AP Number** | **Amount per General Ledger** |
| 1 | CONTRACTOR/SUPP FINE(INC MEDSAS) | Not stipulated | Benoni: SAPS Mechancal School Contractual Completion date: 10 January 1. North east Quarters 2. East Building 4. Married Quarters | 41161 | 397209 | R 58 725 |
| **Total** | | | | | | **R 58 725,00** |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

Management does not adequately review the financial statements and do not have adequate resources to prepare and record transactions without a system in terms of SA GAAP.

There are no controls to ensure that the supporting documentation for fines and penalties are filed and easily retrievable.

No verification and reconciliation is done on this account to ensure that all transactions are valid, accurate and complete and supported by appropriate documentation.

Failure to provide this information constitutes a limitation of scope

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

## The entity did not 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 entity did not implement controls over daily and monthly processing and reconciling of transactions.

The entity did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information**Recommendation**

Management should ensure that:

(a)  all information requested is easily retrievable and supplied timely to the auditors for audit purposes.

(b)  the standards and principles of SA GAAP are applied in the preparation of the financial statements;

(c)  the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.

A document centre, with proper access control, should be established where all the documents pertaining to the entity are filed, thus ensuring that is traceable.

Transactions posted to the general ledger should be reviewed on a monthly basis, and agreed to the supporting documentation to confirm that the amount recognised in the general ledger has occurred, is accurate and complete.

**Management response**

Finding a)

 I am in agreement with the finding

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | Correct classification of other operating income in the annual financial statements | | |
| 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 | Director: Financial Reporting | | |
| Estimated completion date of 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 |  | | |

Name: J Prinsloo

Position: Chief Director: Financial Planning and Reporting

Date: 16/7/2012

Finding b)

b1) - Management response not received.

b2) - Management does not agree with the finding as the final account has been returned to the consultant for corrections because of errors. It is scheduled to be returned back on the 27th July 2012

Name: Koketso Masilo

Position: Project Manager

Date: 13 July 2012

Finding c)

Management response not received.

Finding d)

Delay report for project WCS 041161 not attached due to the contract files  includes final account files were requested by AG ON RFI 160 dated 4 June 2012 & files were never returned back to the PM.

Name: GK Lukhele

Position: Project Manager

Date: 11/7/2012

**Auditor’s conclusion**

Finding a)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The amended financial statements will be reviewed to confirm whether the reclassification of other operating income has been processed before this finding is closed.

Finding b)

b1) - Management response not received, the finding will be reported in the management report

b2) – Cognisance is taken of management’s response. However, as the delay report was not provided, we were unable to perform the planned procedures. Therefore the finding remains and will be reported to the management report.

Finding c)

Management response not received, the finding will be reported to the management report.

Finding d)

The contract provided for audit does not indicate the penalty clauses and we could not recalculate the panalty fees, the finding will be reported in the management report.

1. **Management fees**

**Audit finding**

Laws, rules and regulations

Section 41 of Public Finance Management Act   states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*

Treasury regulation 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*

Treasury regulation 7.2.1 furthermore states that *an accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue*

a)    During the performance of the audit the following discrepancies were identified pertaining to Note 8 (Revenue – Management Fees) to the annual financial statements.

The total municipal services expenditure incurred per PMIS download for the year ended March 2012 was requested and a recalculation was performed as illustrated on the second table below. The recalculated amount was agreed to the amount disclosed in the Annual Financial Statements under Note 8 and the following variance was noted:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Description** | **Financial year** | **Total Management fee (5%) based on the total expenditure per PMIS download for the year** | **Total amount per financial statements** | **Total Difference** |
| 1 | Management fees | 2011/2012 | R 130 501 793,51 | R 130 118 000,00 | R 383 793,51 |
| **Total** | |  | **R 130 501 793,51** | **R 130 118 000,00** | **R 383 793,51** |

Note: Management fees were calculated as follows:

| **NO.** | **MONTH** | **TOTAL MUNICIPAL SERVICE EXENDITURE per PMIS download** | **MANAGEMENT FEE based on 5% of Municipal Service Exp** |
| --- | --- | --- | --- |
| 1 | Apr-11 | R 138 403 062,12 | R 6 920 153,11 |
| 2 | May-11 | R 228 648 719,64 | R 11 432 435,98 |
| 3 | Jun-11 | R 216 741 479,00 | R 10 837 073,95 |
| 4 | Jul-11 | R 188 268 959,98 | R 9 413 448,00 |
| 5 | Aug-11 | R 242 923 330,04 | R 12 146 166,50 |
| 6 | Sep-11 | R 236 419 302,06 | R 11 820 965,10 |
| 7 | Oct-11 | R 251 767 751,19 | R 12 588 387,56 |
| 8 | Nov-11 | R 222 585 350,83 | R 11 129 267,54 |
| 9 | Dec-11 | R 202 668 262,42 | R 10 133 413,12 |
| 10 | Jan-12 | R 211 750 173,00 | R 10 587 508,65 |
| 11 | Feb-12 | R 237 997 836,94 | R 11 899 891,85 |
| 12 | Mar-12 | R 231 861 642,89 | R 11 593 082,14 |
|  | **Total** | **R 2 610 035 870,11** | **R 130 501 793,51** |

b)    The amounts invoiced as per schedule do not agree to the amount as per the invoice (Z59) issued to the client departments in the following instances:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Invoice no.** | **Period** | **Month** | **Amount claimed as per Schedule** | **Amount claimed as per Z59** | **Difference between the schedule and Z59** |
| 1 | Sports and Recreation | Z59/SRSA/2011/05/01 | Dec-11 | May | R 7 569,02 | R 1 756,85 | R 5 812,17 |
| **Total** |  |  |  |  | **R 7 569,02** | **R 1 756,85** | **R 5 812,17** |

c)    The management fees amounts received as per the schedule do not agree to the proof of receipts submitted for audit purposes.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Period** | **Month** | **Date amount was received** | **Amount received per Schedule** | **Amount received as per bank statement or proof of payment from client department** | **Difference between  Bank statement and Schedule amounts** |
| 1 | SA Micro Apex Fund | Dec-11 | February | 08-Mar-12 | R 0,00 | R 1 433,90 | -R 1 433,90 |
| **Total** | | | | | **R 0,00** | **R 1 433,90** | **-R 1 433,90** |

d)    Request for Information (RFI) 154 was issued to request the Z59’s, bank statements, allocation schedules, credit notes and all other relevant information supporting the transactions of Management Fees, however for the transaction listed below no documentation was submitted:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Client department** | **Financial year** | **Expenditure Month** | **Expenditure per PMIS download** | **5% Management fee** | **Amount claimed per schedule** | **Difference** |
| 1 | Basic education | 2011/2012 | January | R 3 407,61 | R 170,38 | R 0,00 | R 170,38 |
| **Total** | | | | **R 3 407,61** | **R 170,38** | **R 0,00** | **R 170,38** |

Furthermore it was determined through discussion with management that the above amount was not claimed from the Department of Basic Education due to the fact that the department is disputing the claim stating that the department is not occupying the building in which the municipal expenditure was incurred. However through inspection of the financial statements it was noted in Note 8 and 14 that the revenue for management fees includes the fee not claimed against the department.

The above findings are an indication of the control weaknesses within the operations of the PMTE.

No thorough reviews were done on the schedules and annual financial statements submitted for audit purposes

This has resulted in disclosure in the financial statements not being accurate.

The revenue for management fees is understated.

The above findings have an impact in the increasing of the bank overdraft, as expenditure payments are continually made, however claims are either issued late or not issued at all.

**Internal control deficiency**

**Leadership**

The accounting officer does not exercise oversight responsibility over reporting and compliance with laws and regulations and internal control.

## Financial and performance management

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

The entity did not implement controls over daily and monthly processing and reconciling of transactions

The entity 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**

Management should ensure that the financial statements and supporting schedules are reviewed and deficiencies resolved timeously before being submitted for audit purposes.

The CFO should perform reviews of financial statements (including ensuring that it agrees with underlying supporting documentation) before submission to the auditors.

A transaction listing schedule should be agreed to the supporting documentation to ensure that all transactions are valid, accurate and complete.

Management should ensure that all claims sent to the client department agree to the expenditure as per the PMIS download and thorough reviews should be carried before a claim is sent. Differences noted should be followed up and corrected accordingly.

Management should on a monthly basis reconcile the claims sent to the client department to supporting documentation and expenditure as per the PMIS download and ensure it agrees, and differences noted should be followed up and corrected accordingly.

Management should ensure, if over or under billing occurs, that the client department is informed, and on PMTE’s side correct accounting principles in terms of SA GAAP should be applied to correct the error.

**Management response**

*Audit Finding A*

I am in agreement with the finding, error occurred when calculating management fee for Public Works. Expenditure incurred between July 2011 to Jan 2012 for Public Works unknown, unutilised, leased out and prestige were erroneously excluded but was claimed against Public Works.

|  |  |  |  |
| --- | --- | --- | --- |
| **DESCRIPTION** | **RESPONSE** | | |
|  | Recalculation of management fees was done and corrected the schedules submitted for AFS | | |
| Does the finding affect an amount disclosed in the financial statements? | **Yes** | | **No** |
| x | |  |
| If yes, what corrections will be made to the population? | Adjustments of management fee amount | | |
| 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 | Deputy Director | | |
| Estimated completion date of corrective action: | 10 August 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 | Error in calculating of Public Works management fees. | | |

*Audit Finding B.*

I am not in agreement with the finding raised by Auditor General for Sports and Recreation management fee, Auditor General has used wrong formula to calculate management fee. They have calculated management fee on the amount that was already including management fee which is double counting.

*Audit Finding C.*

I am not  in agreement in the finding raised by Auditor General for SAMAF due to the fact that the date used as the date the amount was received is not actually the date the amount was received it is the date the invoices was signed. The claim for February 2012 was signed on the 8th March 2012 and these dates were used by Auditor Genera to raise these audit. In these instance wrong formulae was also used to calculate management fee.

*Audit Finding D*

I am not in agreement with the audit findings with the fact that we have indicated to Auditor General that we cannot provide any of the documents requested because the client is disputing to take responsibility and we are still doing investigations as to whom should we recover from. We cannot issue the claim for management fee on its own because it is based on the Z59

Name: Nomsa Ngwenyama

Position: Deputy Director

Date: 31/7/2012

**Auditor’s conclusion**

Audit Finding a)

Management agrees with the finding, and the finding will be closed once the  revised the financial statements have been submitted.

Audit Finding b)

Cognisance is taken of management’s response. The difference identified was not wholly attributable to the incorrect calculation being used. The calculation was reperformed, using the correct amounts, however the difference remains. Thus this finding will be included in the final management report.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Client department** | **Month Claimed** | **Total claimed amount for municipal services per schedule** | **Management fee per schedule** | **Recalculated amount  per Z59 and PMIS download** | **Difference** |
| 1 | Sports and Recreation | May 2011 | R 151 380,41 | R 7 208,59 | R 1 673,19 | R 5 535,40 |
| **Total** | | | **R 151 380,41** | **R 7 208,59** | **R 1 673,19** | **R 5 535,40** |

Audit Finding c)

As per inspection of the bank statement, it was noted that the amount was received on 30 March 2012; therefore the amount was received before year end. However the debtor listing indicates that the amount was outstanding at year end. The finding remains and will be reported in the management report.

Audit Finding d)

Management response noted, however management should ensure that all disputes are resolved before the year end to ensure that the amount is recovered within the current year taking into account that  the departments are required to surrender unused funds to National Treasury at the end of the reporting period as a results PMTE  may not be able to recover the expenditure already incurred which then increases the bank overdraft, the finding remains and will be reported to mangement report.

1. **COAF 216 - Misstatements identified in Revenue journals**

**Audit finding**

Laws, rules and regulations

1. Chapter 5 of the Public Finance Management Act (PFMA) paragraph 40(1) (a) stipulates that *the accounting officer for the department must keep full records of the financial affairs of the department in accordance with the prescribed norms and standards.*
2. Paragraph 41 furthermore states *that an accounting officer should return documents, explanations and motivations as may be prescribed or as the Auditor General may require.*
3. Treasury regulations 17.1.1 stipulates that *all the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.*
4. Treasury Regulations 17.1.2 states that *should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a clearing or suspense account because the classification has not been resolved, the accounting officer must ensure that:*
   1. *the sources of the transactions are readily identifiable;*
   2. *amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;*
   3. *monthly reconciliation’s are performed to confirm the balance of each account; and*
   4. *reports are provided to the accounting officer about uncleared items on a monthly basis*.
5. Treasury regulations 7.2.1  furthermore states that *an  accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, recording, reconciliation and safeguarding of information about revenue*

The following was identified:

a)    We requested all the supporting documentation for the following revenue journals passed. The only documents available for inspection were BAS journal reports, therefore we were unable to confirm whether these journals are valid, accurate, complete, classified correctly and posted in the correct accounting period:

| **No** | **Journal number** | **Description** | **Supporting document** | **Journal approved by** | **Rank** | **Date journal approved** | **Amount per general ledger** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | 4669 | Accom Adv  11/12 corrections | BAS report and allocation schedule | E Kriek | Deputy Director | No date | R 4 871 458,95 |
| 2 | 4671 | Accom Adv  11/12 corrections | BAS report and allocation schedule | E Kriek | Deputy Director | No date | R 33 397 135,62 |
| 3 | 4671 | Accom Adv  11/12 corrections | BAS report and allocation schedule | E Kriek | Deputy Director | No date | R 1 623 780,10 |
| 4 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 47 250,00 |
| 5 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 90 717,70 |
| 6 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 38 580,06 |
| 7 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 16 897,67 |
| 8 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 39 600,00 |
| 9 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 71 368,56 |
| 10 | 4430 | Correction of funds-contractors fines | BAS report and allocation schedule | Juanita  Prinsloo | Chief Director: Trading Account | 21-Sep-11 | R 93 815,61 |
| **Total** | | | | | | | **R40 314 513,6** |

a)    During the performance of the audit, it was discovered that journal no 4544 was incorrectly processed by debiting revenue. Upon the enquiry it was indicated that PMTE had to make a payment for an amount of R100 393,73 to a contractor, however a non compliance penalty of R18 267,75 had to be deducted. Therefore amount actually paid by PMTE was R82 025, 98; this journal was processed to clear the difference between the expenditure incurred and amount claimed. This payment did not relate to revenue, and thus it is incorrect for the difference to be cleared against revenue.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Journal number** | **Description** | **General ledger account** | **Journal approved by** | **Rank** | **Amount per journal** |
| 1 | 4544 | Penalty for Non- Compliance | Dr: Contractor fine | Nomsa Ngwenyama | Deputy Director | R18 367,75 |
| **Total** | | | | | | **R18 367,75** |

b)    During the performance of the audit, it was discovered that journal no 3814 was processed by crediting Revenue: Reconciliation of previous year’s expenditure. As per discussion with management, this amount relates to a tender deposit held for contract work. The supplier completed the services; however he could not be located. This amount should have been paid back to the supplier; and if not the amount should be held as a liability until such time as the supplier is located.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Journal number** | **Explanation** | **General ledger account** | **Journal approved by** | **Rank** | **Amount per General Ledger** |
| 1 | 3814 | Transfer to revenue account | Cr : Revenue :Reconciliation of previous years  expenditure | Alex Bezuidenhout | Assistance Director | R116 065,51 |
| **Total** | | | | | | **R116 065,51** |

The above findings are an indication of the control weaknesses within the operations of the PMTE.

There are no policies and procedures for the processing of journals.

No thorough reviews were done on journals processed to confirm validity, accuracy, and classification.

Journals are being processed without sufficient supporting documentation.

Financial statements will be misstated, as journals are processed to incorrect accounts.

**Internal control deficiency**

**Leadership**

The entity did not exercise oversight responsibility regarding financial and performance reporting and compliance and related internal control.

The entity did not 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 entity did not implement controls over daily and monthly processing and reconciling of transactions.

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

**Recommendation**

Management should speed up the process of finalising policies and procedures and ensure there are communicated and understood by all employees to enable to take corrective actions where here is a deviations by staff.

No journals should be processed without all supporting documentation attached.

Journals should be reviewed and authorised by a director level upwards to ensure validity, accuracy, and classification.

The entire population of journals processed in the current year should be revisited.

**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: | To make sure that Transactions are supported by authentic and verifiable source documents. | | |
| 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 | All approvers of transactions | | |
| Estimated completion date of 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 | n/a | | |

Name: Billy Leketi

Position: Director: Revenue and Debt

Date:2/8/2012

b)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: | 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? | Journal must be reversed and an overpaid portion must be disallowed | | |
| 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 | Deputy Director | | |
| Estimated completion date of 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 | n/a | | |

Name: Billy Leketi

Position: Director: Revenue and Debt

Date:2/8/2012

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: | 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? | Revenue must be reduced and Liabilities increased | | |
| 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 | Deputy Director | | |
| Estimated completion date of corrective action: | By end of 2011/12 Audit | | |
| 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: Billy Leketi

Position: Director: Revenue and Debt

Date:02/08/2012

**Auditor’s conclusion**

Finding a)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The limitation of scope will be reported in the final management report.

Finding b)

Management agrees with the finding,  and the correcting journal has not been provided as supporting documentation, therefore the finding will be reported in the management report.

Finding c)

Management comment noted. Cognisance is taken of the fact that management agrees with the finding. The finding will be included in the final management report.

**ANNEXURE C: ADMINISTRATIVE MATTERS**

No administrative matters were identified.