

**FINAL OVERALL REPORT ON THE INVESTIGATION REVIEW OF SSETA  
PROCUREMENT PROCESSES IN TERMS OF APPROPRIATE LAWS,  
REGULATIONS AND POLICIES, RELATING TO CERTAIN COMPANIES TO WHICH  
TENDERS WERE AWARDED BY THE SERVICES SETA**



## OVERALL SUMMARY OF THE PROJECTS

### 1 INTRODUCTION

1.1 Werksmans Attorneys and Fumi & Mixo were appointed on 21 February 2023

1.2 This constitutes an overall report of the tenders we have been instructed by the Services SETA to investigate. There is a total of nine tender awards which we were required to investigate. The tenders were awarded to the following bidders:

- **Grayson Reed Consulting (Pty) Ltd.**
- **Star Sign (Pty) Ltd.**
- **Africawide Consulting (Pty) Ltd.**
- **Falametrix (Pty) Ltd.**
- **IQ Telecommunications Services (Pty) Ltd.**
- **Blackseed Consulting (Pty) Ltd.**
- **The Institute of Anti-Corruption in Africa**
- **The Consortium of I-Firm Trading & Projects, Ntumba & Associates Consulting and NMK Forensics.**
- **and Ntumba & Associates Consulting (Pty) Ltd.**

1.3 Two of the nine tenders were reviewed by the Organisation for Undoing Tax Abuse (OUTA) namely, Grayson Reed Consulting (Pty) Ltd; Star Sign (Pty) Ltd. However, we have not relied on the OUTA reports; we have investigated the tenders independently.

### 2 SCOPE OF WORK

2.1 The scope of work is as follows:

- Investigation review of SSETA procurement processes in terms of appropriate laws, regulations and policies, relating to certain companies to which tenders were awarded by the SSETA



### 3 MODUS OPERANDI

- 3.1 Our *modus operandi* has largely been to do desk reviews of briefing documents we have been furnished with; investigating issues arising from the briefing documents; Interviewing role players.
- 3.2 Our general approach has been to review all bid documents from the initiation of procurement all the way to the award of a tender, checking for compliance with relevant prescripts and policies. However due to budget and time constraints, our review of bid proposals was largely limited to the winning bidders' documents only, with the view of assessing justification for awarding the tender to the bidder where we could do so, on an objective basis.
- 3.3 If we did not have budgetary and time constraints and all bid documents we requested were furnished to us, we would have extended our review to the bid documents of all participating bidders in order to assess whether they were legitimately disqualified or not.

### 4 BRIEFING DOCUMENTS

- 4.1 At the outset of the project, we have been furnished with briefing documents relating to the nine projects. However, there have been gaps in the briefing documents we received. We have been liaising with xxxxxxxx as our go to person within the SSETA regarding the missing documents, to plug the gaps.
- 4.2 So far, we have made the requests and the received responses stated on pages 4 and 5 hereof from SSETA. While the SSETA has largely responded to our requests, we still do not have all the documents we have requested.
- 4.3 This report is valid only to the extent of the briefing documents we have been furnished with, it being placed on record that we made several requests for documents from the SSETA in the course of our review and investigation. As such, the report is informed by the totality of the briefing documents.



Date Requested	Documents requested	Response by SSETA
13 March 2023	SCM Policies applicable at the time of the projects.	SSETA Sent the SCM Policies
16 March 2023	Documents initiating the procurement process; Requests for bids/ proposals; all bidders' responses to the requests for bids/ proposal; Documents relating to publishing of the tender; all documents relating to the BEC evaluation of the tenders, all documents relating to the BAC'S approval of the BEC's recommendations; Service Level Agreements relating to each tender; for all tenders.	We were provided with most of the documents requested but not all.
02 May 2023	We sent a spreadsheet to the SSETA indicating the briefing documents we have been provided with and the documents we are still awaiting for.	SSETA responded by sending us the spreadsheet with comments that included, among other things, that the SSETA does not record or minute their SCM Committees meetings. They also said other files have been requested from MetroFiles. We still have not received the documents requested from Metro File to date.



12 May 2023	Addressed follow up email to Mr <b>xxxxxxxxx</b> for outstanding documents from the Finance Unit.	We received invoices relating to IQ Telecommunications, IACA, Africawide, FalametriX Solutions, Ntumba, Blackseed, Star Sign and Print. We have not received invoices relating to Grayson Reed and Ntumba (PROC T240). Two physical files relating to payments were collected from SSETA offices on 22 and 24 May respectively.
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4.4 The major outstanding documents are the bid proposal of the unsuccessful bidders in relation to **PROC T240, PROC T359, PROC T425** which, we have been informed, have been requested from MetroFiles.

4.5 So far, we have received invoices relating to **IQ Telecommunication, Ntumba (PROC T345), IACA, Blackseed, AfricaWide, Falahmetrix and Star Sign & Print**. We have not been furnished with invoices relating to **Grayson Reed and Ntumba (PROC T240)**.

4.6 These outstanding documents adversely impact our finalisation of report.

## 5 SUPPLY MANAGEMENT POLICY (FIN/POL/01/2018)

5.1 The legend on the front page of the policy referred to above states that it was approved on 20 March 2018 and its effective date is April 2017. This is obviously an anomaly, as it suggests that the policy became effective before it was approved. Should there be legal challenges relating to the period when the policy was enforced, the anomaly will result in serious legal *quagmire*.



- 5.2 The SCM Policy lacks in detail regarding the SCM Committees, namely BSC, BEC and BAC (regarding their composition; quorum, processes, and procedures etc). One of the BEC Reports we came across stated that because 60% of the members of the BEC were present when evaluations commence, that meant that the committee was quorate and could proceed with its evaluation duties. That suggests that the issue relating to a quorum of the BEC is somehow regulated. However, there is no such provision in the SCM Policy, which suggests that, that provision must be contained in some other document we have not been furnished with.

## 6 TYPICAL PROCESS FLOW

- 6.1 From our reading of the briefing documents, we have been furnished with and the relevant SCM Policies, the following process ought to have been followed before the award of the tenders:

- A business case/ motivation by the user department
- A meeting of the BSC, including the representative of the user department
- Outcome of the BSC by way of Tender Specification and terms of reference
- Publishing the request for bids based on the terms of reference
- Receipt of the Bid Proposals
- Pre-compliance qualification checks
- A meeting of the Bid Evaluation Committee declaring their confidentiality and interest
- The evaluation of the Bid proposals by the BEC
- Recordal of the BEC deliberations
- The BEC's report to the Bid Adjudication Committee (BAC)
- Recordal of BAC deliberations
- The BAC report to the EXCO of the Accounting Authority/ Transformation Committee
- EXCO Resolution
- Recordal of the EXCO deliberations
- Tender award to the winning bidder
- The Signing of the Service Level Agreement.
- Execution of the tender



- 6.2 The tender projects we reviewed do not comply with the typical process flow mentioned above in that, in respect of all of them, we have not been furnished with documents indicating that the following steps were complied with: A business case/ motivation by the user department, recordal of the BEC deliberations, recordal of BAC deliberations and recordal of the EXCO deliberations
- 6.3 When we enquired about documents relating to the steps mentioned above, the SSETA SCM Function, in response to a request to further briefing documents we had made, informed us that SSETA does not record/ minutes the proceedings of the SCM committees. However, this does not seem to be true as we have come across many BEC Reports stating that minutes of BEC meetings were kept. In any event, the non-keeping of SCM Committees minutes is a very serious omission and is not in keeping with the best SCM practice. We further elaborate on this in the paragraph titled " **Breach in SCM Standard Practice** " below.

## 7 BREACH OF SCM POLICY AND PROCESSES

- 7.1 Paragraph 21.5.3 (e) and (f) of the 2017/2018 SCM Policy provides as follows

"A Bid evaluation committee must:

- (e) as far as possible be composed of two or more officials from the user departments (with no voting rights) and at least one SCM official (With no voting rights) from Services SETA and from any other Services SETA official or external experts formally delegated/ appointed by the CEO (with voting rights)
- (f) the Bid Evaluation Committee (BEC) should be composed of 60% members and 40% external/ expert's members"

- 7.2 In most of the tender projects we reviewed, we have not come across an instance where the relevant BEC composition complied with paragraphs "e and "f".



- 7.3 This could be grounds for legal challenge of the recommendation of the BEC and subsequent approval and award of the tender to the winning bidder.
- 7.4 The same observation in regard to the non-compliance with the SCM Policy in relation to the composition of the Bid Evaluation Committee (BEC) also extends to the Bid Specification Committee (BSC) and the Bid Adjudication Committee (BAC). The conclusion that there was general disregard of the legislative and policy prescripts in the handling of the tenders is inescapable. Furthermore, the non-compliance with the legislative and policy prescripts makes the award of the tenders liable to legal challenge.
- 7.5 We noted serious irregularities and contravention of the law regarding signing of Bid Documents by some of the successful bidders in the projects we have investigated. We have established this and other reasons to conclude that the successful bidders ought to have been disqualified and not awarded the tenders. We deal with this in detail in the relevant project report.

## **8 BREACH IN SCM STANDARD PRACTICE**

- 8.1 In response to our request for further documents we have been advised that SSETA does not record and/ minute the proceedings of the BSC/BEC/BAC. This is a serious breach of Supply Chain Management standard practise. In response to our query Ms xxxxxxxxxx conceded that from 2017/2018 fiscal year on wards, SSETA did not include the refence to minutes. Ms xxxxxxxx also conceded that in relation to the BEC Reports where minutes of the meetings are referred to were erroneously referred to as SSETA does not keep minutes of proceedings of its procurement committees. This is a serious flaw, it is goes against SCM best practise and makes the procurement processes vulnerable to abuse.
- 8.2 From our observation both the chairperson of the BEC and the BAC signed their evaluation and recommendation reports on their own. They are not co-signed by other members of the BEC/BAC, nor are they backed up by recordings/ minutes of the BEC/ BAC meeting. This is fertile ground for chairpersons of the BEC/BAC to go on a frolic of their own. This is a key missing step in providing checks and balances.





- 8.3 According to paragraph 8.2.2 (f) of the 2017/2018 SCM Policy the Accounting Authority can delegate in writing ***"Any of the powers, functions/ duties entrusted, delegated, conferred or imposed on it by the Constitution and the PFMA, to any appointed members of the Accounting Authority or any employee of SSETA via the Accounting Authority."***
- 8.4 We have also noted that all the tender awards in respect of the projects we are investigating were approved by the Executive Committee (EXCO) of the Accounting Authority (AA), or the Governance Risk and Strategy Committee (GRSC) or the Transformation Committee (TRC). We assume that the AA delegated its SCM responsibilities/ duties in accordance with paragraph 8.2.2 (f) of the 2017/2018 SCM Policy.
- 8.5 If what we have seen so far is anything to go by, it seems that the AA in office at that time permanently delegated its SCM functions/ duties to these committees. This is more so that we have not come across any evidence that the AA ratified the decisions of these committees. It is an undesirable situation because it resulted in the AA delegating one of its crucial functions permanently to only a few of its members and or their delegates. This amounts to abdication of responsibility.
- 8.6 It bears mention that xxxxxxxx, in his capacity as the BAC Chairperson, seldom, if ever, signed the date on which he did the evaluations. This is of great concern considering that he was the BEC Chairperson in relation to most the tenders we evaluated. He ought to have been setting the standard of proper conduct for the rest of the BEC members. He clearly failed. This also negatively impacts his oversight function of the evaluation process. His conduct is also reflected in other BEC members doing likewise. This leaves room for improper conduct and manipulation of the evaluation function.

## 9 WEAK OVERSIGHT OF SCM PROCESSES

- 9.1 We have noted weak oversight of SCM Processes by the BAC, EXCO, GRSC and TRC. For instance, all the BEC Evaluation and Recommendation Reports submitted to the BAC we have come across, do not include crucial annexures, such as copies



of advertisement in newspapers and government tender bulletin. This means that the BAC merely accepts the BEC's Evaluation and Recommendation Report for what it is, without any means of verification whatsoever.

- 9.2 If the BEC Evaluation and Recommendation report says that a tender was advertised as required in the National Treasury Regulations and the SCM Policy, the BAC accepts it just as stated without verifying it through extracts from the newspapers and government tender bulletin. This has resulted in the BEC misrepresentations to EXCO, GRSC or TRC regarding the period for which tenders were advertised.
- 9.3 Similarly, from the BAC Submission to EXCO, GRSC or the TRC, we have noted that the BAC submission lacks in detail in the form of annexures. This has resulted in the BAC misrepresentations to EXCO, GRSC or TRC regarding the period for which tenders were advertised

## **10 SUSPICIOUS DEALINGS WITH THE SERVICE PROVIDER**

- 10.1 In one of the tenders we investigated, we noted an apparent less than arm's length relation between officials of the SSETA and the officials of the service provider. We noticed highly compressed timelines in placing orders, delivery of products ordered, submission of invoices, requisition for payments and payment authorisation and processing. All these processes occurred in a space of approximately 5 days not only in one but multiple occasions. This is unheard of, considering the amounts of invoices and payments involved.
- 10.2 Given the highly compressed timelines referred to above, it is seriously doubtful whether the service provider, did in fact deliver the products ordered and whether the SSETA did in fact receive and utilise the products.
- 10.3 What is also worth noting is that only one official signed the delivery notes of the relevant service provider, thereby implying that she is the one who received the goods on every occasion. This is a striking coincidence.



## **11 UNCERTAINTY ABOUT DELIVERY OF CONTRACTED PRODUCTS**

- 11.1 In one of the tenders we investigated, the service provider was appointed to roll out and manage the SSETA Biometric Learner Attendance Monitoring System (BLAMS) and Direct Disbursements of Periodic Learner Stipends.
- 11.2 Based on the briefing documents we have reviewed so far; we have not seen any evidence of the service provider delivering and operationalising the biometric devices for monitoring learner attendance. Unless evidence of delivery and operationalisation of the devices is adduced, the non-delivery would constitute very serious breach of the service providers contractual obligation.

## **12 NO THOROUGH DUE DILIGENCE OF BIDDERS' CREDENTIALS**

- 12.1 We have noted that when the BEC does due diligence on the credentials of the bidders, it limits itself on checking the Central Supplier Database to check whether the recommended bidder is active on the CSD and is not listed in the National Treasury Restricted Supplier Database and the Register of Tender Defaulters.
- 12.2 We have not seen any evidence of the BEC verifying claims made by the bidders and their bid documents on such things as previous experience or whether they have the capacity they claim to have. In one of the tenders, we conducted a limited due diligence of our own and discovered that several contact numbers the bidder had furnished in regard to reference letters it had submitted were non-existent.
- 12.3 In one of the tenders we investigated, it seemed that the references the bidder submitted were not commensurate with the number of years they had been in business. It is highly unlikely that the bidder would have established themselves well enough in the market to have attracted the calibre of its listed clientele in a period of three years.
- 12.4 In other tenders we investigated, methodology and approach were required as part of bid documents and for functionality evaluation criteria. Based on the documents we have received so far; the winning bidder's methodology and approach do not form part of the bid documents of the winning bidder. As a result, we cannot verify



if the winning bidder has the necessary experience for the tender and whether there was any justification for awarding the tender to the bidder.

### **13 NON-DISCLOSURE OF CONFLICT OF INTEREST.**

- 13.1 We noted a possible conflict of interest in the non-disclosure by the then Chief Financial Officer (CFO) in one of the tenders we investigated, whereby he had a previous relationship with the winning bidder as they were previously in the same employment. The winning bidder disclosed the relationship under SBD 4 form declaration of interest but the then CFO did not.
- 13.2 In addition, the CFO as a chairperson of the BAC had further approved the recommendation by the BEC to have the winning bidder be awarded the tender without disclosing his relationship with the winning bidder
- 13.3 This is a very serious non-disclosure by a senior official who is involved at the highest level of Supply Chain Management. He ought to have recused himself from the procurement process.

### **14 NON-STATEMENT OF THE BID PRICE IN SBD FORMS**

- 14.1 In one of the tenders we reviewed, the price quoted by the winning bidder is not reflected on the SBD 1 form neither is it indicated anywhere in the SBD 3.3 Pricing Schedule. However, this bidder was not disqualified for failure to duly complete the tender document as required. In our view the successful bidder ought to have been disqualified.

### **15 KEY OBSERVATIONS AND FINDINGS**

#### **15.1 Findings applicable to all tenders**

- 15.1.1 There is a serious flaw in SSETA procurement processes.



## 15.2 Key Observations and Findings for PROC T240

- 15.2.1 PROC T240 was awarded on 28 May 2023 to **IFirm Trading & Projects, Ntumba and Associates Consulting, NMK Forensic.**
- 15.2.2 The value of the tender was **R 39 786 632.70** (thirty-nine million seven hundred and eighty-six thousand and six hundred and thirty two rands and seventy cents)
- 15.2.3 It is prudent and commendable that the BAC signed the DCI each time they met. This should be the standard procedure followed in all SCM processes when evaluating and awarding tenders. This admirable because it ensures that the parties fully disclose or are given an opportunity to disclose any interest they might have gained in the period between the meetings.
- 15.2.4 There are two BAC reports in this project, which is unusual.
- 15.2.5 The first one is titled "*Services Sector Education and Training Authority (SSETA) Submission of bid award recommendation to the Accounting Authority*" for convenience, it will be referred to as the BAC Award Recommendation. It is dated 04 May 2014 and signed by **xxxxxxx** in his capacity as Chairperson of the BAC, as per the declaration which appears before the signature. There is no indication of "p. p" next to the signature.
- 15.2.6 The BAC Award Recommendation states the date of submission as 22 April 2014. It is unclear what this date of submission means. It further states that the tender was advertised for a period of seven days and that the closing date was 26 March 2014.
- 15.2.7 In the BAC Award Recommendation, it is stated that the request for bids was advertised in the Sunday Times for a period of 07 Days (this presumably means seven days before the closing date.). The extract from the Sunday Times is not among the briefing documents we have been furnished with. We have only been furnished with an extract from the City Press and there is no date on this extract.



- 15.2.8 Regarding tender details, the BAC Award Recommendation states that the tender was advertised seven days prior to the closing date, and further states that the tender was not advertised as prescribed by the National Treasury Regulations (16A6.3) it further states, "however, the AA approved the deviation with regards to the media used and the period of advertisement (refer appendix of the AA resolution"
- 15.2.9 Regarding tender compliance the BAC Award Recommendation Report states that 34 bids were received and after compliance checks, 13 bids were disqualified, and 21 bids qualified to be evaluated on functionality. It further states that after the functionality assessment, four companies were evaluated on price and B - BBEE status.
- 15.2.10 Regarding tender award, the BAC Award Recommendation Report states that the IFirm Trading & Projects, Ntumba and Associates consulting, NMK Forensic (Consortium) as the recommended service provider.
- 15.2.11 The BAC Report states that the tender was only advertised for seven (7) days however we have not been provided with an approval form the AA.
- 15.2.12 Regarding tender compliance the BAC Award Recommendation states that 34 bids were received and after compliance checks, 13 bids were disqualified, and 21 bids qualified to be evaluated on functionality. It further states that after the functionality assessment, four companies were evaluated on price and B-BBEE status.
- 15.2.13 Regarding tender award, the BAC Award Recommendation states the IFirm Trading & Projects, Ntumba and Associates consulting, NMK Forensic (Consortium) as the recommended service provider.
- 15.2.14 We also found that score sheets relating to some companies were missing. The missing score sheets relating to the companies stated immediately below, make us come to the conclusion that bid submissions by these companies were not evaluated and therefore tender PROC T240 was awarded irregularly.



(In violation of the SSETA procurement processes). The companies we are referring to are as follows:

- Ne ngwekhulu Tshiwandalani Inc
- Total Projects Services (Pty) Ltd
- Analytical Risk Management
- Mazars/ Moor Roodland Forensic
- Kwlwana Equifin advisory Services
- MJ Vermark Incorporation
- Masephula Dinga Corporation
- Boikane Accountants Incorporated
- Makwande Chartered Accountants & Business advisors
- Mageza Rafee Mokoena Inc

### **15.3 Key Observations and Findings for PROC T417**

- 15.3.1 PROC T417 was awarded to **AfricaWide Consulting (Pty) LTD** on 19 July 2017
- 15.3.2 The value of the tender **R 12 895 923.00** (twelve million eight hundred and ninety five thousand and nine hundred and twenty three rands)
- 15.3.3 We have observed that the BAC Recommendation was authorised by the GRSC, which was delegated by EXCO, which itself was delegated by the AA. In the scheme of things, there have been two downward delegations of the AA's supply chain management functions. We have not been furnished with reasons for doing so but the net effect is that the approval of the award of the tender was left in the hands of fewer and fewer people, which is undesirable and imprudent.
- 15.3.4 On the face of it, AfricaWide was given an unfair opportunity of increasing its contract price after the award of the tender, without undergoing the SCM processes. This seems to constitute a serious circumvention of the SCM processes, as AfricaWide was given a second bite at the cherry to the exclusion of other bidders.



#### **15.4 Key Observations and Findings for PROC T489**

- 15.4.1 PROC T489 was awarded to **IQ Telecommunications (Pty) LTD** on 29 March 2018.
- 15.4.2 The value of the tender was **R 23 625 600** (twenty-three million six hundred and twenty five thousand and six hundred rands)
- 15.4.3 There seems to be general sloppiness and/ negligence in the evaluations of the bid submissions. There is also lack of quality control and oversight by the Chairperson of the BEC.
- 15.4.4 The evaluators seemed to have done as they pleased, as they did not observe even basic protocols such as stating the date on which the evaluations were made; clearly stating the name of the company being evaluated; and signing their evaluation score sheets.
- 15.4.5 After analysing the evaluation score sheets it raises serious concerns that the evaluations made by **xxxxxxx**, who was the BEC Chairperson at the time, have the most irregularities when he was expected to lead by example.
- 15.4.6 As stated earlier, the bidder's due diligence was limited to checking the CSD register. We think that it not prudent to limit the due diligence investigation to examining the CSD records only. We are of the view that issues such as the bidders' capacity and or capability must be examined thoroughly before tenders are awarded
- 15.4.7 The BAC Recommendation Report states that the RFB was advertised in compliance with National Treasury Regulations. This is not true in that the request for bids was published on the Tender Ebulletin for approximately 11 days. As such, what is stated by the BAC in its Recommendation Report constitutes misrepresentation.
- 15.4.8 We have noted serious contradictions within the BAC Report and between the BAC and the BEC Reports. For instance, the BAC Recommendation Report





states on page 13 of 19, that seven (7) companies were evaluated on functionality while page 16 of 19 of the BAC Report states that fourteen (14) companies evaluated on functionality and one (1) company qualified for further evaluation on price and B-BBEE status level contribution and four were none responsive on price.

- 15.4.9 On the other hand, page 5 of 11 of the BEC Evaluation and Recommendation Report it is stated that fourteen (14) entities submitted bid proposals and **all fourteen** bid proposals were compliant with pre-compliance requirements. The above contradiction points to lack of attention and negligence in the compilation of the reports.

## 15.5 Key Observations and Findings for PROC T434

- 15.5.1 PROC T434 was awarded to **Grayson Reed Consortium** on 12 October 2017.
- 15.5.2 The value of the tender was **R 162 669 000** (one hundred and sixty-two million and six hundred and sixty-nine thousand rands)
- 15.5.3 The date of signing of the DCI's is different from the date of evaluations. This suggests that the DCI is completed only once by a particular procurement committee and that evaluations do not happen on the same day. There is much that can happen from the date of signing the DCI and the date of evaluation. It would be prudent to sign the DCI every time committee members meet
- 15.5.4 Some score sheets were unsigned and undated. This is a very bad practise and can result in the abuse of the SCM processes. The fact that the date is not stated makes it impossible to determine when the evaluations took place, and whether they took place when they were supposed to. Furthermore, the non-signing of the score sheets makes it uncertain to determine whether the evaluation was done by the person whose name is reflected on the score sheet. It opens opportunities for abuse of the system and/or fraud. The non-stating of the date of evaluation and the non-signing of the score sheet also



reveals lack of proper oversight and quality assurance by the chairperson of the committee.

- 15.5.5 Furthermore, the non-signing of the score sheet makes it uncertain to determine whether the evaluation was done by the person whose name is reflected on the score sheet. It opens opportunities for abuse of the system and/or fraud. The non-stating of the date of evaluation and the non-signing of the score sheet also reveals lack of proper oversight and quality assurance by the chairperson of the committee.
- 15.5.6 Length of the advisement of the bids in the government gazette: The Request for Bids was not advertised for the prescribed period of 21 days as per the National Treasury Regulations. There was in fact only a difference of 5 days from the date on which it was advertised and the closing date.
- 15.5.7 Judging by the BAC recommendation report to the GRSC there is no indication that the GRSC was thorough in its considerations of the report. This can be gathered from the fact that the BAC report did not have any documentary evidence, such as copies of advertisement from the newspapers and government tender bulletin, attached to it. If same were attached to the report, the GRSC would have realised that the National Treasury Regulations were not complied with.
- 15.5.8 The due diligence concerning the winning bidder was limited to searching the central database, to determine whether the winning entity was not a restricted supplier and that its tax status was compliant. This is undesirable, in this case for instance there is no indication that Grayson was required to demonstrate how their biometric system works.
- 15.5.9 Considering what we have stated in paragraph 13.4 in approving the award of the tender the GRSC did not do a thorough due diligence to determine whether the SCM policy was followed. The GRSC ought not to have approved the award of the tender, considering numerous violations of the SSETA SCM Policies.



15.5.10 The MSLA signed between the SSETA and the Grayson Reed Consortium which we were furnished with is incomplete in that it did not have the annexures referred to the MSLA. Despite our request that we be furnished with annexures to the MSLA we were not furnished with same.

## 15.6 Key Observations and Findings for PROC T472

15.6.1 PROC T472 awarded to **Falahmetrix Solutions PTY (LTD)** on 13 December 2017.

15.6.2 The value of this tender was **R 94 822 920** (ninety four million eight hundred and twenty two thousand and nine hundred and twenty rands) as per the BAC Report to the Executive Committee.

15.6.3 The pre-compliance check was conducted by xxxxxxxx of SCM by himself. We believe that it was improper for only one person to conduct a pre-compliance check, this should be highly discouraged as it is not in line with best practise in that it does not offer checks and balances.

15.6.4 The BAC was made up of the following persons:

- xxxxxxxx from finance
- xxxxxxxx, SCM
- xxxxxxxx, BEC Chairperson
- An identifiable member, from what appears to be secretariat

15.6.5 What is striking about this composition of the BAC is that it is not clear who the members of the BAC in attendance were. The BEC chairperson, would have been there to present the BEC's recommendations to the BAC. As such he did not have decision making powers. The SCM representative would have been there in advisory capacity. The person from the secretariat would have been there for record and minutes keeping. That would have left xxxxxxxx as the only member of the BAC with decision making powers. If this was



indeed the case, as it appears so on the face of it, then the BAC was not properly constituted and undertook its task in violation the SSETA SCM.

- 15.6.6 In dealing with the question of whether the tender was published in accordance with the regulations/ policies, the BAC submission states "*The tender was advertised in compliance with prescribed treasury regulations (16A6.3 which state that bids are to be advertised in at least the government tender bulletin for minimum period of 21 days before closure. except in urgent cases when bids may be advertised for such a shorter period as the Accounting Officer or Accounting Authority may determine.*"
- 15.6.7 What the BAC stated in its submission is a misrepresentation, as the Request for Bids was published in the Government Tender Bulletin for only 9 days prior to the closing date and in the Sunday Times, 14 days prior to the closing date.
- 15.6.8 In its submission to the EXCO the BAC refers to annexures. However, there are no annexures to the BAC submission we have been furnished with. As such it is not clear which documentary evidence the EXCO had regard to in approving the BAC submission. There seem to be no robust scrutiny of the SCM processes, in particular BAC submissions by EXCO.
- 15.6.9 In its submission to EXCO, the BAC Recommendation Report stated that the period of service as twelve months at the bid price of R 94 822 920.00 and recommended that Falahmetrix be appointed on a rate-based basis as approved by the DPSA subject to the entire contract not exceeding R50 million
- 15.6.10 The discrepancy in the contract / service period in the BAC submission to EXCO, and the SLA suggest that the BAC deceived EXCO. It also suggests that the EXCO was negligent in approving the BAC submission without any further document to go by. It also points out to less than arm's length relationship between the BAC and EXCO
- 15.6.11 The MSLA state the contract period as a period commencing 12 January 2018 to 31 March 2018, effectively a period of three (3) months. On the other hand, clause 2.6 of the MSLA states that Falahmetrix was contracted for an amount of R 47 430 931.20. Effectively this means that Falahmetrix was contracted to



carry out the project for a period of three months, at the total cost of R 47 430 931.20 this is contrary to what the BAC presented to EXCO, namely that the duration of the project (ie12 months).

15.6.12 In response to our request for invoices relating to tender PROC T472, the SSETA finance unit furnished us with a bunch of Falahmetrix's invoices totalling **R 94,617,179.92** (ninety-four million and six hundred and seventeen thousand and one hundred and seventy-nine rands and ninety two cents). In view of the dates of the EXCO Resolution and the MSLA, it seems that some of the invoices relate to the period before PROC T472. If anything, it indicates that Falametrix did work for the SSETA before tender PROC T472 was awarded.

15.6.13 We are not sure why we were furnished with invoices relating to a period before the award of PROC T472. However a strange coincidence is that the total amount of the invoices we have been furnished with (**R 94,617,179.92** ) is nearly the same as Falametrix's bid price for PROC T472 (R 94 822 920.00).

15.6.14 The total invoices relating to PROC T472 within the contracting period (**12 January 2018 to 31 March 2018**) amount to approximately **R 44 266 844.92 (ranging from 15 February 2018 to 30 November 2018)**

## 15.7 Key Observations and Findings for PROC T474

15.7.1 PROC T474 was awarded to **Star Sign & Print PTY (LTD)** on 22 March 2018.

15.7.2 The value of this tender was **R 6 619 592.72** (six million six hundred and nineteen thousand and five hundred and ninety two rands and seventy two cents).

15.7.3 The BAC made its submissions to the Transformation Committee to which the Executive Committee delegated authority to consider and approve the BAC Report, the TRC is even two steps away from the Accounting Authority on which the authority to consider the BAC Report lies. In the scheme of things, the Accounting Authority delegated its procurement functions to EXCO which in turn further delegated its authority to the TRC. This is highly irregular as it



leaves the Accounting Authority procurement function in the hands of a few people instead of the function being exercised by the Accounting Authority itself.

- 15.7.4        There is no record of the Accounting Authority ratifying the decisions of the TRC or the EXCO.
- 15.7.5        The people who perform due diligence confine themselves to checking the central database only. This is inadequate as demonstrated in the case of Star Sign & Print. When we did our own due diligence, we discovered that many of references that Star Sign provided could not be verified as the contact numbers. Some of them are non-existent.
- 15.7.6        Some of the references that Star sign gave are not commensurate with the limited experience of only three years before the tender was awarded to them.
- 15.7.7        Star Sign should have been disqualified at least at the functionality stage due to the irregularity their representative committed in signing the bid documents, which was in contravention of the law.
- 15.7.8        One of the startling observations we made is that Star Sign & Print was contracted for a total value of **R6,619,592.72** for a period of two (2) years. However, the invoices we were subsequently furnished with after first calling for them, indicate that Star Sign raised invoices totalling **R 89,015,190.28** during that period, the whole of which were authorised for payment.
- 15.7.8.1       Based on the briefing documents we received, we did not find any justification for the increase from the **R6,619,592.72** to **R 89,015,190.28**. Our Limitation is derived from the lack of full disclosure of relevant documents.
- 15.7.9        Furthermore from OUTA's report on PROC T474 suggests that at the time of writing its report, it was furnished with invoices totalling R 28 963 429.60 only. On the other hand we have been furnished with invoices which go beyond OUTA's period of investigation, hence the difference between the total of invoices furnished to OUTA and to ourselves.



## 15.8 Key observation and findings PRO T425

- 15.8.1 PROC T425 was awarded to **Institute of Anti-Corruption in Africa (IACA)** on 12 October 2017.
- 15.8.2 The value of this tender was **R 12 000 000** (twelve million).
- 15.8.3 There is no proof of the request for bids being advertised in the Tender Bulletin as required by National Treasury Regulation 16A63(c).
- 15.8.4 As per the Bid Specification Committee Declaration of Confidentiality and Impartiality dated 03 June 2017, the bid specification appears to have been drafted by two individuals. One of the individuals is Mr **xxxxxxx** from SCM and the other member whose name is not clear is from finance.
- 15.8.5 The following members did not sign the Bid Evaluation Committee Declaration of Confidentiality and Impartiality, but were present in the BEC meeting held on the 05<sup>th</sup> of September 2017 according to the Bid Evaluation Committee Report:
- **Xxxxxxxx** (Standing Member)
  - xxxxxxxx (SCM)
- 15.8.6 Of the members appointed by the CEO to serve as BEC members, only two were present during the evaluation of the Bid Proc T425. Members not present included, **xxxxxxx**, **xxxxxxx** and Mr **xxxxxxx**. However, the BEC report only indicated that an apology was made for **xxxxxxx**.
- 15.8.7 Therefore, only two out of five appointed members were present. However, the BEC Report states that 75% of the members were present and the quorum was met.



- 15.8.8 In addition, the Bid Evaluation Committee appointment letters were not dated. We, therefore, could not establish when BEC members were appointed.
- 15.8.9 The BEC report was signed by Mr xxxxxxxx (BEC Chairperson). However, the signing party did not write the date on which the BEC report was signed. We, therefore, could establish when the evaluation of the tender was concluded.
- 15.8.10 Only Bid Adjudication Committee appointment letters for Mr xxxxxxxx (Chief Executive Officer) and xxxxxxxx (Board Secretary) were provided. The letters were to appoint the two members until 31 March 2020. Both letters were not dated by the signing parties. As a result, we could not establish when the BAC members were appointed.
- 15.8.11 The SCM Policy of Services SETA requires that the Bid Adjudication Committee consist of at least four senior managers or executives' managers of Services SETA or external experts (All with voting rights). However, the appointment letters of other members including xxxxxxxx (SCM) and xxxxxxxx were not provided.
- 15.8.12 The recommended bidder, Institute for Anti-Corruption in Africa was approved by the Bid Adjudication Committee as signed by Mr xxxxxxxx (Chief Financial Officer) – BAC Chairperson. However, the approval was not dated.
- 15.8.13 Furthermore, no proof of previous experience in the form of contactable references and qualifications of resources was provided. We are unable to either conclude if this information was indeed provided or investigate the accuracy of the points awarded.
- 15.8.14 Irrespective of the limitation in scope highlighted above, one of the highlighted causes of concern was the fact that the tender document was not duly completed. This should have been highlighted by the Bid Evaluation Committee as the gatekeeping criteria clearly stated that failure to duly complete the tender document will result in a disqualification.





- 15.8.15 If the requirements of the SCM process or the tender document were followed, tender PROC T425 was supposed to be re-advertised properly per the requirements of the SCM Policy and treasury regulations, and the winning bidder should have been disqualified due to failure to duly complete the tender document.
- 15.8.16 Only Bid Adjudication Committee appointment letters for Mr. xxxxxxxxx (Chief Executive Officer) and xxxxxxxxx (Board Secretary) were provided. The letters were to appoint the two members. Both letters werenot dated by the signing parties. As a result, we could not establish when theBAC members were appointed.
- 15.8.17 The SCM policy of Services SETA requires that the Bid Adjudication Committee consist of at least four senior managers or executives' managers of Services SETA or external experts (All with voting rights). Yet, the appointment letters of Mr. xxxxx and xxxxxx were not provided.

## 15.9 Key Observations and findings PROC T345

- 15.9.1 PROC T345 was awarded to **Ntumba Joint Venture** 05 September 2016.
- 15.9.2 The value of this tender was **R 62 347 968** (sixty two million three hundred and forty seven thousand and nine hundred and sixty eight rands)
- 15.9.3 Out of the four members appointed by the CEO to serve as BEC members, only two were present during the evaluation of the Bid PROC T345. Members not present included, Mr xxxxxxxxx and Mr. xxxxxxxxx. However, the BEC report indicated that an apology was made for Mr. xxxxxxxxx.
- 15.9.4 Therefore, only two out of four appointed members were present. However, the BEC Report states that 60% of the members were present and the quorum was met. Yet, no appointment letters for Mr. xxxxxxxxx, xxxxxxxxx and Mr. xxxxxxxxx were provided.



- 15.9.5 The BEC report was signed by xxxxxxxxxx (BEC Chairperson). However, the signing party did not write the date on which the BEC report was signed. We therefore, could not establish when the evaluation of the tender was concluded.
- 15.9.6 The Bid Adjudication Committee Report does not specify the Bid Adjudication Members who were present at the meeting held on the 19<sup>th</sup> of August 2016.
- 15.9.7 The tender document of the winning bidder (Ntumba Joint Venture) was not entirely completed as some pages were not initialled and other pages not filled, while the tender document clearly stated that failure to duly complete the tender document will result in automatic disqualification. This was not picked up by the Bid Evaluation Committee.
- 15.9.8 If the requirements of the tender documents are to be followed the winning bidder should have been disqualified.

## 15.10 Key Observations and Findings for PROC T359

- 15.10.1 PROC T359 was awarded to **Blackseed Consulting CC** on 28 October 2016.
- 15.10.2 The value of this tender was **R 42 559 440** (forty two million five hundred and fifty nine thousand and four hundred and forty rands)
- 15.10.3 The Request for Bids for PROC T359 was not advertised for more than 21 days on the government tender bulletin as it was advertised from the 29<sup>th</sup> of July 2016 to 10<sup>th</sup> of August 2016.
- 15.10.4 We have observed through inspection of declaration of interest (SBD 4 form) during our investigation that the winning bidder (Blackseed Consulting CC) sole member, Mr xxxxxxxxxx had declared that he had previously worked with the Chief Executive Officer, Mr xxxxxxxxxx in his



previous employment and he further indicated that he was not sure that he was going to be involved in either evaluation or adjudication processes.

- 15.10.5 On further perusal of declaration of interest by the bid adjudication committee of which the former Chief Executive Officer was a member and a chairperson, it was noted that he had not declared the relationship with the winning bidder Blackseed Consulting CC sole member.
- 15.10.6 In addition, the Chief Executive Officer as a chairperson of the Bid Adjudication Committee had further approved the recommendation by the Bid Evaluation Committee to have the winning bidder awarded the tender without disclosing his relationship with the winning bidder.
- 15.10.7 As the SBD 4 form was available and would have been observed and inspected by all officials involved in the bidding process, they would have become aware of the failure by the chief executive officer to declare his relationship with the winning bidder and must have immediately reported the breach to the Accounting Authority in writing as required per the SCM policy paragraph 9 and National Treasury Regulations.
- 15.10.8 The above raises concerns regarding the bidding process whether it was fair to the other losing bidders as the relationship between the Chief Executive Officer and the winning bidder might have influenced the bidding process to favour the winning bidder.
- 15.10.9 Failure by the Chief Executive Officer to disclose his relationship with the winning supplier might have resulted in other losing bidders having been disadvantaged during the bidding process; this is evident by the fact that they had all failed during the functionality process of which the winning supplier had obtained the highest score of 89 points which then allowed it to proceed solely to the preference claim process.
- 15.10.10 There was also non-compliance with SCM policy paragraph 9 and National Treasury Regulation 16A.3.1 (a), 16A3.2 (a) and 16A8.



- 15.10.11 The above tender should have been re-advertised seeing that it was not advertised for more than 21 days on the government tender bulletin as required by Treasury Regulation 16A6.3(c), the days in which the tender was advertised on the tender bulletin was 9 days, the above contravention result in irregular expenditure.
- 15.10.12 If the appointment letters for the other two members of the bid specification committee, xxxxxxxx and xxxxxxxx, and the bid adjudication committee members, xxxxxxxx (Supply Chain Management), Mr xxxxxxxx (Senior Manager xxxxxxxx), Mr xxxxxxxx (Chief Director SCM) and Bid Evaluation Committee, xxxxxxxx (Supply Chain Management), xxxxxxxx (Supply Chain Management) are proved not to be in existence, therefore it will indicate that the composition of the bid specification, evaluation and adjudication committees were not duly formed in accordance with the SCM policy.

## 16 RECOMMENDATIONS

- 16.1 We recommend that appointment to all the SCM committees namely, BSC, BEC and BAC must be changed frequently to avoid the "sin" of familiarity and its consequences. Alternatively, the system of having standing members of these committees must be abolished. They must be appointed on a tender by tender basis.
- 16.2 The AA must play a stricter and thorough oversight of the SCM processes. Where it delegates its oversight responsibility to a committee, it must ratify the decisions of that committee. Also, where it delegates its duties to a committee of the AA, such committee should not have the power to further delegate down wards.
- 16.3 As part of the BEC Report, a list of disqualified bidders should be included, including the reasons why the bidders were disqualified.
- 16.4 Minutes of all proceedings of SCM Committees must be kept.



- 16.5 BEC and BAC reports must include vital annexures such as extracts from Government tender bulletin and newspaper, indicating the dates of publication of request for bids, to prove compliance with National Treasury Regulations and the SSETA SCM policies.
- 16.6 The BAC and BEC reports must be signed by all members thereof.
- 16.7 Charters must be developed for all procurement committees namely, BSC, BEC and BAC as the SCM Policy is very thin on the composition of the committees.
- 16.8 Tender specifications/ request for bids must always comply with the procurement plan. Furthermore, the description of the specifications/ request for bids must be identical in the advertisement calling for request for bids, BEC reports, BAC reports and all documents referring to the particular tender.
- 16.9 Pre-evaluation processes must be thoroughly evaluated to ensure that all bidders submissions comply strictly with the requirements of a particular tender. Where there is non-compliance by any bidder, it must be disqualified immediately at the pre-qualification stage. This will ensure that bids that should have been otherwise disqualified do not go through to the subsequent stages of the evaluation process.
- 16.10 The Services SETA must adopt ways to improve record keeping of tender files from bidders in such a way that they are easily and timeously accessible when required in future.
- 16.11 Documents that require signature and a date must be signed and dated in order for the person reviewing or auditing the work done to see when the work was performed.
- 16.12 The chairperson of a bid committee must ensure that all members who participate in the evaluation process sign the Declaration of Confidentiality and Impartiality every time they meet for evaluations. This accords with SCM best practise.
- 16.13 The SSETA must ensure that Request for Bids are advertised strictly in accordance with the National Treasury Regulations and the SSETA SCM policy.



- 16.14 Strict performance measures must be put in place and be implemented in order to ensure that service providers perform strictly according to the Master Service Level Agreement with the SSETA.
- 16.15 The SSETA should adhere to the typical process flow stipulated in paragraph six (6) above.
- 16.16 Where there are reasonable grounds for instituting disciplinary investigations against the implicated employees, SSETA must do so. For this purpose, we recommend that the Accounting Authority establish the names of employees implicated in wrong doing.
- 16.17 Where the Accounting Authority, after studying our individual project reports, comes to the conclusion that some cases are worth referring for criminal investigation, it should refer the cases to the law enforcement authorities.

A handwritten signature in black ink, appearing to read 'Lloyd Abraham', enclosed within a circular, hand-drawn scribble.

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**Werksmans Attorneys**

Lloyd Abraham