TOKA MACHABAPHALA INC
LAW I ADVISORY I FORENSIC

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

ANNEXURE "A"

CONSOLIDATED SUMMARY TABLE OF THE DUJA INVESTIGATION REPORT WITH RECOMMENDED ACTION PLANS

1. SUPPLY CHAIN MANAGEMENT ISSUES

General

DUJA REPORT

1. The DUJA Report identifies at least 11 instances of types of violations of procurement laws by specific individuals or categories of individuals (such as members of the Bid Evaluation Committee or Bid Adjudication Committee).
2. The Report recommends that the CETA consider the institution of appropriate disciplinary action in respect SCM contraventions. However, DUJA does not specifically recommend disciplinary action against anyone – except to say that should CETA decide to institute disciplinary action against anyone, it should confirm that with DUJA's investigation team first.
3. We set out each of DUJA's 11 findings below.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

ADVOCATE JOHANN ENGELBRECHT SC LEGAL OPINION

1. The SC Opinion finds that DUJA Draft Report is far from complete, lacks essential information and is very vague – and should have no effect until completion of the investigation. Says that the Report will not be completed until detailed interviews were conducted with all former board members.
2. The SC Opinion states generally that the DUJA findings were based on unsupported speculations and that no proper foundation was laid for such unclaimable accusations. That the Report failed to elaborate and explain the grounds for the doubts created that the documents were not tampered with prior to evaluation.
3. According to the SC, most of the allegations / findings are made from unreliable witnesses and unreliable sources, with no legal basis to impose disciplinary action.
4. The SC Opinion concludes that – considering the time that has elapsed since the alleged improper conduct was alleged to have been committed – it would be unfair to recommend any disciplinary or criminal action.

TOKA MACHABAPHALA ANALYSIS

1. It should be noted that the SC was giving his opinion on the Draft DUJA Report, dated 07 June 2021. WHEREAS, we now have access to what DUJA deems to be the Final Report, dated 25 October 2021.
2. DUJA has confirmed to us that its Final Report was made in consideration of the findings of the SC Opinion.
3. A significant limitation of the SC Opinion in this respect is that much of its criticisms of the DUJA Report are made without reference to specific findings. The reader is left to assume if this refers to all findings or specific ones. Overall, we found it hard to rely on the outcomes of this limitation, amongst others. Therefore, some of the Follow-Up Recommendations we make in this Action Plan are contrary to the advice of the SC.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

4. We request the CETA and DHET to take into account that DUJA did not perform its assignment in the capacity of registered auditors and that their report does not constitute an audit report. The scope of their appointment was limited to the analysis of documentation and information made available by CETA, therefore all findings, observations and recommendations made in the report are based on the information and documents from CETA.

5. Given that DUJA are not legal representatives, CETA and DHET must where necessary, seek legal advice to interpret the DUJA recommendations beyond the Follow Up Actions recommended herein.

6. Further, as much as CETA can take decisions on the findings and recommendations, we note that DUJA has made recommendations that the details of individual offences be confirmed with its investigation team prior to the institution of disciplinary charges against specific individuals on the basis of the report. That being said, DUJA has confirmed that its investigators are willing to serve as witnesses in any consequence management proceedings that may ensue from their Report – subject to being paid for extra time they may spend on that.

7. Further, DUJA has also agreed that it can compartmentalize the report (subject to being paid for time spent) to ensure that it can be released to only the implicated and affected persons where necessary.

8. The annexures to the report are not included in our summary table but we have obtained them from DUJA and can be provided upon request.

Specific SCM Issues are discussed from A – K below.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	SPECIFIC ISSUE INVESTIGATED	**- KEY FINDINGS OF DUJA FORENSIC INVESTIGATION REPORT**	**- SENIOR COUNSEL ("SC") OPINION**	**- TOKA MACHABAPHALA INC ANALYSIS**	**- RECOMMENDED IMPLEMENTATION ACTION**	**RECOMMENDED TIMELINES**
	A. Advertising tenders for 21 days	- SCM officials failed to ensure that bids are advertised for a minimum of 21 days before closing date – in violation Treasury Regulation 16A 6.3 (c) and para 9.4.2 of the CETA SCM Policy of 2018/2019. This was the case in the following bids: - *(Provision of a backup solution for ICT infrastructure Bid 002-2018/2019;* - *Provision of monitoring and evaluation of CETA accredited providers - Bid 003-2018/2019;* - *Construction of an ICT Data centre room. Bid 007-2018/2019; Appointment of*	- SC is of the view the DUJA report fails to address the aspect of certain bidders who were not provided with 21 days to respond. - SC also does not recommend disciplinary processes be instituted against SCM officials. - See **"general"** above.	- To take any disciplinary steps, culpability of specific SCM officials, including BEC & BAC members, needs to be considered. - We note that according to the Gobodo report dated 17 May 2019, BEC members Sipho Masombuka and Innocent Ngenzi were recorded as having submitted apologies for not attending BEC meetings but had somehow had their scoresheets included in the scoring of bidders. - The affected bids are *procurement of tablets for CETA funded learners. Bid 026 of 2017/2018 and*	- Action disciplinary processes against active CETA SCM Officials, who were BEC and BAC members at the time. (See analysis column). - CETA has instructed an independent consultant to re-evaluate and review the functionality of the SCM Department and its processes during June - July 2023.	- 1 August – 30 October 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		service provider to offer internal audit services for 24 months. - *Appointment of service provider to offer internal audit services for 24 months. Bid 012-2017/2018* - *Bid 012-2017/2018; Appointment of a panel of legal firms for 24 months. Bid 017-2017/2018;* - *Procurement of a Grade B Building for CETA Academy. Bid 010-2018/2019* - *Provision of service provider to adjudicate discretionary grants proposals. Bid 010-2017/2018* - *Provision of service provider to evaluate discretionary grants proposals. Bid 011-2017/2018*		*Appointment of a project manager for the procurement of land or building, design plan and construction or renovations of CETA head office. Bid 022-2017/2018.* - We are instructed that Innocent Ngenzi, Mahlomola Tefoo Thapelo Madibneg, Joyce Tsipa, Velile Ndlovu, Khomotso Mpandeli, Robert Semenya are no longer employed at the CETA. - Jabulane Jiyane, Sipho Masombuka, Annikie Phuthi, Vincent Namane, Lungisile Kuzana, Nokwanda Dlamini, Mitchell Govender, Sabelo Shabangu, Constance Matsapola and Tumisho Mphuthi remain active employees at the CETA. - In taking disciplinary measures, prejudice to		

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- *Provision of CETA Biometric system for leaner attendance administration. Bid 013-2017/2018 (Re-advert)* - *Comprehensive Insurance Services. Bid 016-2017/2018.* - *Provision of alarm with armed response services and security at the CETA Head Office in Midrand Bid 018 2017/2018* - *Appointment of CIDB Registered constructor for the construction of technology laboratory building at University of Venda (Re-advertised). BID 019-2017/2018.* - *Procurement of tablets for CETA funded learners. Bid 026 of 2017/2018* - *Appointment of a project manager for the procurement*		employees must be considered given the delay of more than two years since the findings were made.		

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		of land or building, design plan and construction or renovations of CETA head office. Bid 022-2017/2018. *- Provision of IP MPLS Service. Bid 023 of 2017/2018* *- Appointment of an entity for LAN and VOIP infrastructure maintenance and support service. Bid 025 of 2017/2018* *- Procurement of an Exhibit Panel Truck. Bid 031-2017/2018.* *- Re-Advert - Procurement of a Grade B building. Bid 001 of 2019/2020* *- The persons who were sitting on both the BEC and BAC committees include:* *- Jabulane Jiyane, Sipho Masombuka, Innocent Ngenzi, Annikie Phuthi, Vincent Namane, Lungisile*				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		Kuzana, Robert Semenya, Pitsi Tsipa, Nokwanda Dlamini, Mitchell Govender, Mahlomola Tefoo, Thapelo Madibneg, Joyce Tsipa, Sabelo Shabangu, Velile Ndlovu, Khomotso Mpandeli, Constance Matsapola and Tumisho Mphuthi.				
	B. Failure to open bids in public on closing date	- SCM officials failed to open bids in public on the closing date – in violation of para 10 of National Treasury Guide of 2004 and para 9.5.4 of CETA SCM Policy. - This affected no less that twenty (20) bids, including: Bid 001-2018/2019; Bid 002-2018/2019; Bid 003-2018/2019; Bid 004-2018/2019; Bid 006-2018/2019; and Bid 007-2018/2019.	- The SC Opinion suggests that this finding is an unfounded speculation that tenders might have been tempered with prior to evaluation. - SC further indicates that the report failed to stipulate which bids did not comply because of not being done in public [sic] and fails to explain	- DUJA Report seems to be saying that the correct procedures of opening the bids on the closing date were not followed. - The SC opinion takes the issue too far by assuming that failure to follow procedure must necessarily mean that tenders were tempered with. - The SC misdirects himself somewhat in his opinion where he indicates that the report fails to stipulate which bids did not	- Action disciplinary processes against active SCM officials who failed to abide by the National Treasury Guidelines, as well as for failing to report the failure even if the violation was done at the behest of the then CFO, Ms Ndlovu. - Our view is that SCM policy is somewhat hollow in that as much as it requires the bids	- 1 August – 30 October 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- This was alleged by a few SCM officials who said that this was done at the instruction of the then CFO (Ms Ndlovu). Some of the information was allegedly disclosed under Protected Disclosure framework. - According to DUJA, when an SCM official opens bids in public, they are in compliance with the abovementioned provision and further provide assurance of the transparency of the process to the bidders. The instruction, conveyed by the CFO, served to remove the assurance and created an opportunity to tamper with the bid documents away from any witnesses prior to the commencement of the evaluation process.	why the bids constitute non-compliance with the National Treasury Guide. - Further, SC is of the view that there is no proper foundation for the unclaimable accusations as the report fails to elaborate and explain the grounds for creating doubt that the documents were tampered with prior to evaluation	comply because of not being done in public. - It is not the tenderers being implicated in this heading; it is the SCM personnel who are alleged to have breached SCM policies. - DUJA relied heavily on a statement purportedly made by Ms Tumisho Mphuthi dated 22 August 2019, purporting to be a protected disclosure in terms of the Protected Disclosures Act. This statement contains various allegations of gross misconduct and gross negligence within the CETA SCM Department. It is interesting to note however, that Ms Mphuthi has allegedly denied having made such a statement. - Our view is that the contents of the report based on actual	be opened in public in line with Treasury Regulations, it is not clear as to which SCM official should be responsible for opening these bids in public. An evidentiary weakness must be reviewed and corrected within the SCM Policy to cater for impracticalities and must be updated to deal with exceptional circumstances that would call for a less stringent compliance to this requirement, failing which the interpretation may be found to be based on circumstantial evidence from a subjective perspective. - CETA has instructed an independent consultant	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				interviews with employees shall suffice for purposes of considering the institution of disciplinary, civil or criminal proceedings. - In taking disciplinary measures, prejudice to employees must be considered given the delay of more than two years since the findings were made.	to re-evaluate and review the functionality of the SCM Department and its processes during June - July 2023 - Therefore, we do not recommend that any disciplinary processes be considered other than the SCM Policy and Procedure Review.	
	C. Signing of Bid Submission Register	- Mr Kuzana (former SCM specialist) completed and signed the bid submission register by himself and not with another official as required by para 9.5.4 of the CETA SCM Policy. - The Report refers to 4 bids in which Mr Kuzana did so in 2017/18: *Bid No 17 of 2017/18 (Procurement of a panel of legal advisors); Bid No 23 of 2017/18 (Provision of*	- The SC Opinion criticizes this finding, saying that it assumes that there was room to temper with bid documents after submission. Says that this assumption is far reached, irrelevant and inappropriate.	- DUJA Report seems to be saying that an important requirement in respect of the bid submission register was not complied with by Mr Kuzana. - The SC opinion takes the issue too far by assuming that failure to follow procedure must necessarily mean that tenders were tempered with or will be tempered with.	- We recommend that the SCM Policy be modified in such a manner that it provides for two SCM Officials to actually sign the Bid submission Register as evidence of the collection of bids by them, as well to provide for alternatives that would apply in exceptional circumstances.	- 1 August – 30 October 2023

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		IP MPLS Service); Bid No 25 of 2017/18 (Provision of LAN and VOIP service) and Bid No 15 of 2017/18. - DUJA recommends that CETA gives consideration to the institution of appropriate <u>disciplinary action</u> against Mr Kuzana.		- Paragraph. 9.5.4 of the CETA SCM Policy of 2018/19 actually requires at least two officials to be present when the bid documents are opened and recorded in the bid submission register. The policy does not require that these two officials append their signature to the bid submission register.	- CETA has instructed an independent consultant to re-evaluate and review the functionality of the SCM Department and its processes during June - July 2023. - Therefore, we do not recommend that any disciplinary processes be considered other than the SCM Policy and Procedure Review.	
	D. Adding bidder names to Bid Submission Register after the register was signed off	- Ms Ndlovu (former CFO and BAC Chairperson) added names of bidders to the register after completion of the register by the SCM. - The Report refers to 2 bids where this happened. It is reported that Ms Mphuthi made this allegation. The relevant bids are: *Bid No 23 of 2017/18 (Provision of IP*	- According to SC, various unsupported speculations were made throughout the Report in the possibility that documents might have been tampered with prior to evaluation.	- It was irregular for Ms Ndlovu to add the bidders' names after the bid submission register was signed off especially when she failed to indicate that same were late and not eligible for evaluation. - Her conduct and the subsequent evaluation of these late bids was unfair and in	- For the reasons stated in the Analysis column, we recommend that <u>no</u> follow-up action be taken against Ms Ndlovu. - That CETA must consider pursuing the review and setting aside of the Dataproof SLA as its appointment was in	- 1 August - 30 October 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		MPLS Service) [Name of Net15 subsequently entered]; and Bid No 25 of 2017/18 (Provision of LAN and VOIP infrastructure) [Name of Data Proof Communications subsequently entered]. - Ms Ndlovu admitted to adding 2 bidders but indicated that she indicated in the same register that the respective bids were submitted late.	- SC feels that no proper foundation was laid for such unclaimable accusations, and that DUJA failed to elaborate and explain the grounds for the doubts created that the documents were not tampered with prior to evaluation.	contravention of section 217 of the constitution. - Anyhow, if Ms Ndlovu is no longer employed by CETA, there no tangible action that can be taken against her.	contravention of procurement laws and constitutes irregular expenditure (R 6 803 400 inclusive of VAT) in breach of PFMA requirements. - If Net15 was appointed as a successful bidder, that CETA must consider the review and setting aside of the NET15 SLA. The amount of R8 889 879.60, inclusive of VAT falls to constitute irregular and wasteful expenditure. - It follows that the consequential irregular expenditure must be reported to the AG and National Treasury, and	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					any proven loss recovered.	
	E. The BEC's evaluation of bids that were not listed in the Bid Submission Register	- The BEC evaluated bids which were not listed in the bid submission register – in violation of para 4.10 of National Treasury Guide of 2004. - The Report refers to 4 bids where this happened: *Bid No 15 of 2017/18 (Procurement of PPE) (Re-advert); Bid No 17 of 2017/18 (Procurement of a panel of legal service providers); Bid No 18 of 2017/18 (Procurement of alarm and armed response) (Amount for one bidder not in register); and Bid No 33 of 2017/18 (Procurement of ICT hardware).*		- The bid submission register should be prima facie evidence that only the bids listed therein were submitted timeously. Unless contrary evidence is proven, only the bids listed on the bid submission register should be evaluated. - If the members of the BEC concerned are no longer employed by CETA, there is no tangible action that can be taken against them. - We note that according to the Gobodo Report dated 17 May 2019, and in respect of Bid 026 of 2017/2018 (Procurement of tablets for CETA funded learners), the opening register reflects that 33 bids were received but the BEC minutes	- Evaluation of late bids would be in contravention of section 217 of the Constitution and the PFMA – particularly where it is shown that bidders who were not listed on the bid submission register were appointed. Where any of the said bidders were appointed, CETA must consider pursuing the review ad setting aside thereof. - Disciplinary action be taken against the said members of the BEC who evaluated the bids, who are as follows - Jabulani Jiyane, Constance Matsapola,	- 1 August – 30 October 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				state that 34 bids were received. It was found that Preray Investment was not reflected in the opening register but was included for evaluation. - Further, in respect of Bid 022-017/2018 (*Appointment of a project manager for the procurement of land or building, design plan and construction or renovations of CETA head office.*) the opening register reflected that 5 bids were received but the BEC minutes record that 6 bids were received. - An entity by the name of Mabangu Solutions was not reflected in the bid register but was evaluated for compliance with mandatory requirements. - We note that the bid submission registers for these	Lungile Kuzana, Nokwanda Dlamini, Sipho Masombuka, and Vincent Namane, – to the extent that they are still employed by CETA. - Steps be taken to establish whether these employees were disciplined on the basis of the Gobodo Report findings to avoid *res judicata* being raised as a point in limine when charges are instituted on the basis of the DUJA report.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				bids are handwritten. This constitutes a contravention of National Treasury SCM directives on the compilation of Bid Submission registers.		
	F. Bid Evaluation Meetings proceeding without the SCM Advisor present	- Members of the BEC evaluated bids in the absence of an SCM Advisor – in violation of paras 9.10.2 and 9.10.3 of the CETA SCM Policy. - The Report refers to 7 bids where this happened: *Bid No 10 of 2017/18; Bid No 11 of 2017/18; Bid No 13 of 2017/18; Bid No 17 of 2017/18; Bid No 23 of 2017/18; Bid No 25 of 2017/18; and Bid No 29 of 2017/18.* -	- SC does not agree with the recommendations to institute disciplinary action since in his view there were procedural errors made due to non-compliance of admin and no proper rules set out – without elaboration.	- Indeed, if DUJA is factually correct in its finding, then paragraphs 9.10.2 and 9.10.3 of the CETA SCM Policy appear to be violated. - If the members of the BEC concerned are no longer employed by CETA, there no tangible actions that can be taken against them. - It appears to us that a violation such as this may attract minimal penalty even if proved (especially considering effluxion of time) and the fact that such failure to comply with procedural or administrative requirements may not	- Disciplinary action (in the form of warnings) be taken against the said members of the BEC – to the extent that they are actively employed by CETA.	- 30 October 2023

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				necessarily render the tender process invalid.		
	G. Failure of bidders to attend compulsory briefings	- Members of the BEC evaluated bids of bidders, specifically Singatel T/A Net15 and Dataproof (Pty) Ltd who did not attend compulsory briefing sessions as evidenced in the briefing session attendance register – in violation of Treasury Regulation 16A8.1(b) (which requires that all officials must ensure an environment where business can be conducted with integrity and in a fair and reasonable manner) and the procurement principles of fairness and equitability. - The Report refers to 3 bids where this happened: *Bid No 3 of 2018/19 (Procurement of CETA accredited providers); Bid No 23 of 2017/18*	- SC does not agree on the recommendations to institute disciplinary action since in his view there are procedural errors made due to non-compliance of admin and no proper rules set out – without sufficient elaboration. - SC does agree that bidders who did not attend the compulsory briefing sessions should have been disqualified.	- We agree with DUJA that bids of bidders who failed attend compulsory briefing sessions should not have been evaluated by the BEC, and that doing so amounted to violation of procurement laws. - If the members of the BEC concerned are no longer employed by CETA, there is no tangible action that can be taken against them. - We are aware however, that Dataproof, one of the other companies evaluated and appointed despite not having attended the compulsory briefing session, is still on CETA's list of service providers, and its Service Level	- Disciplinary action be taken against the following SCM officials –Jabulani Jiyane, Constance Matsapola, Lungisile Kuzana and Nokwanda Dlamini. - That CETA must consider pursuing the review and setting aside of the Dataproof SLA as its appointment was in contravention of procurement laws and constitutes irregular expenditure (R 6 803 400 inclusive of VAT) in breach of PFMA requirements. - If Net15 was appointed as a successful bidder,	- 1 August – 30 September 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		(Provision of IP MPLS service); and Bid No 25 of 2017/18 (Procurement of LAN and VOIP service). - In 2 of the bids, the BEC report indicates that those bidders did attend the compulsory briefing sessions despite their names not being on the attendance register, and not being on the bid submission register. The DUJA report finds that this amounts to <u>misrepresentation</u>. - The BEC Members whose names appear in the report are: - *Robert Semenya, Khomotso Mpandeli, Innocent Ngenzi, Constance Matsapola, Jabulani Jiyane, Joyce Tsipa and Lungisile Kuzana*		Agreement remains constant to date. - Given that this bidder apparently failed to attend the compulsory briefing session and was evaluated and appointed, it appears to be a contravention of section 217 of the Constitution.	that CETA must consider the review and setting aside of the NET15 SLA. The amount of R8 889 879.60, inclusive of VAT falls to constitute irregular and wasteful expenditure. - It follows that the consequential irregular expenditure must be reported to the AG and National Treasury, and any proven be loss recovered.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	H. Non-reporting of the failure of bidders to attend compulsory briefings	- In their report to the BAC, members of the BEC failed to report that certain bidders were evaluated without having attended compulsory briefing sessions. - The Report refers to 3 bids in 2017/18 and 2018/19 where this happened: *These are the same bids in respect of <u>"G"</u> above.*	- SC Opinion disagrees with the DUJA finding without any elaboration but seems to be of the view that failure by SCM officials were aware of certain breaches of the SCM processes and failed to report same, is due to other root causes within CETA. No clarity is provided.	- We agree with DUJA BEC's failure to report to the BAC that some of the bidders whose bids were evaluated failed to attend compulsory briefing sessions would amount to violation of procurement laws. - If the members of the BEC concerned are no longer employed by CETA, there is no tangible action that can be taken against them.	- Disciplinary action be taken against the following BEC – Jabulani Jiyane, Constance Matsapola, Lungisile Kuzana and Nokwanda Dlamini.	- 1 August - 30 October 2023.
	I. Failure to report the violation of SCM processes to the Accounting Authority	- SCM officials (specifically <u>Mr Kuzana</u> and <u>Ms Mphuthi</u>) who were aware of breaches of the SCM processes failed to report same to the Accounting Authority – in violation of Treasury Regulation 16A8.	- SC Opinion disagrees with the DUJA finding without any elaboration. He is of the view that there might have been a possibility that Mr Kuzana may not have been aware	- We agree that the law requires that where officials were aware of breaches of the SCM processes, they must report same to the Accounting Authority in writing. - Further, based on the findings of the Ntumba SCM Internal Audit Report dated February	- Disciplinary action be taken against Mr Kuzana and Ms Mphuthi.	- 1 August - 30 October 2023

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- *These are the same bids in respect of "G" above.*	of any breach and as a result could not report it. This view is vague and was also not elaborated on. - His view further is that the alleged failure to report SCM breaches is due to other root causes. He fails to provide reasons or details for this view.	2020, CETA must take steps against BEC members for the inclusion of tenders onto the Procurement Plan without evidence of the needs analysis and market analysis reports being complied. This is a risk for CETA to spend funds on non-priority items.		
	J. Irregularly appointed Service Providers for CEO Psychometric Assessments	- Ms Ndlovu and Ms Senkoto who acted in an unethical manner in procuring the services of Organisation & Management Technologies (OMT) to conduct psychometric assessment in the appointment of CEO. The basis of this that: (a) Ms Ndlovu instructed an SCM official (Senkoto) to	- The SC Opinion is silent on the culpability of Ms Ndlovu, Ms Senkoto and Ms Mphuthi in the appointment of OMT.	- It is worth noting that the total implicated amount is less than R50 000. However, this should not have an impact of guilt or otherwise. - The Gobodo Report dated 17 May 2019 and commissioned by the Department of Higher Education and Learning corroborates the findings made herein in respect of OMT and	- Disciplinary processes be actioned against Ms Senkoto and Ms Mphuthi. - Consider the institution of civil proceedings against OMT for the recovery of any loss. - Report any irregular, fruitless and wasteful	- 1 August – 30 September 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		recommend/appoint OMT improperly/unethically; and (b) Ms Senkoto was improper in that she committed an act that she knew was unethical. - The improper/unethical conduct here was the allowance of an appointed service provider to charge an amount more than double that of the purchase order. - The conduct of Ms Mphuthi was improper in that she instructed Ms Senkoto to proceed with the execution of an instruction that was clearly irregular and then coerced Ms Senkoto into writing an affidavit that set out the irregular conduct.		finds the transaction to be an abuse of SCM processes and/or noncompliance therewith, including fraud due to misrepresentation of the fact that no bidder qualified whilst in fact a bidder had qualified. - Ms Ndlovu is no longer employed by CETA.	expenditure to the AG and National Treasury.	
	K. Abuse of SCM Processes/Backdati	- Ms Senkoto irregularly issued a <u>backdated</u> purchase order for the appointment of TNI Superior General Trading	- The SC Opinion is silent on the culpability of Ms Senkoto in the	- The Gobodo Report dated 17 May 2019 corroborates the findings made herein in	- Disciplinary processes be actioned against Ms Senkoto.	- 1 August – 30 October 2023.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	ng of Purchase Order	(TNI) to provide security services. Another irregularity is that there was more than one quotation.	appointment of TNI Superior General Trading.	respect of TNI Superior General Trading.	- That CETA must consider pursuing the review and setting aside of the TNI SLA on the basis that its appointment was in contravention of procurement laws and constitutes irregular expenditure. - It follows that the consequential irregular expenditure must be reported to the AG and National Treasury, and any proven loss recovered.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

2. DISCRETIONARY GRANTS AND AWARDS - SPECIAL PROJECTS

General	**DUJA FINDINGS** 1. DUJA finds that according to the CETA Delegation of Authority Policy (read with the relevant laws), decisions on or to provide DISCRETIONARY FUNDING ("**DG**") cannot be made without the Accounting Authority making the decision itself or expressly delegating the authority to decide on the discretionary funding. 2. The Report finds that there were various discretionary funding decisions that were made without any authority of the CETA Accounting Authority (**"AA"**) and were thus made irregularly. We set these out below. **ADVOCATE JOHANN ENGELBRECHT SC LEGAL OPINION** 1. The SC Opinion criticizes DUJA for not having interviewed specific individuals. 2. SC says that DUJA did not properly justify its findings that the follows were violated: (a) CETA Delegation of Authority and Approvals policy; (b) section 3 of the CETA Code of Conduct (on Conflict of Interest); (c) para 3 of the CETA Constitution; (d) sections 10(1)(b)(ii) and 13 (3)(b) of the Skills Development Act; (e) and sections 56(1)(a), 51 (1)(b)(ii) and 50(1)(b) of the PFMA. 3. The SC Opinion confirms that some of the expenses and payments made are accountable for as irregular expenditures, but without elaborating. 4. The SC Opinion also seems to agree with DUJA that DG funding was made without proper delegation of authority, but without any elaboration. 5. The SC Opinion indicates that the DUJA report failed to set out the grounds why it was deemed that the approval of the funding proposal was not consistent, why the decisions were not decisions of CETA nor was there any evidence of the authority as indicated in the report. 6. The SC Opinion recommends that where audit reports and grants are concerned, a suitable audit company to investigate such matters.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

3. Recommends that mitigating factors should be taken by CETA, but that until "*appropriate steps were taken beforehand*", civil or criminal actions against the implicated staff members is not recommended.

4. Seems to recommend cancellation of unutilized discretionary grant funding to the extent that such is in the best interest of CETA and is not unjustly prejudicial to the affected learners – but says that CETA has already done this.

TOKA MACHABAPHALA ANALYSIS

1. We note that the DUJA Report indicates in respect of some of the funding decisions made without approval of the Accounting Authoritythere is no evidence that the Accounting Authority disagreed with or disavowed such decisions.

2. The SC Opinion lacks in detail and coherence, and in some parts is contradictory.

3. According to the Ntumba Internal Audit Report dated January 2020, CETA had been recommended through an independent adjudicator to disburse grants worth **R791 892 500** to about **21 873** approved learners. Evidence was found that CETA's commitment schedule was over-committed to disburse a further **R235 964 200** to an additional **4 097** learners (outside the adjudication report recommendations) without any reasons for the over-commitment.

Gauteng: **No.14 Angelier Street**, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	SPECIFIC ISSUE INVESTIGATED	- KEY FINDINGS OF DUJA FORENSIC INVESTIGATION REPORT	- SENIOR COUNSEL ("SC") OPINION	- TOKA MACHABAPHALA INC ANALYSIS	- RECOMMENDED IMPLEMENTATION ACTION	- RECOMMENDED TIMELINES
	A. All DG grants in 2017/18.	- The DUJA Report finds that all DG grants in 2017/18 only approved by EXCO and not the AA.	- See "**general**" above. - SC recommends the cancellation of unutilized discretionary grant funding to the extent that such is in the best interest of CETA and is not unjustly prejudicial to the affected learners.	- According to the 2018 Delegation of Authority, only the Accounting Authority (Board) of CETA was empowered and authorised to approve discretionary grants. There is no evidence from the DUJA report that suggests that this power was delegated to EXCO or anyone else. - Sections 57(c) and 51(1)(b) of the PFMA prescribes that Pilusa and other AA members who sat on the EXCO as officials of a public entity were required to take effective and appropriate steps to prevent irregular expenditure, and they contravened the PFMA in failing to do so.	- The AA to consider condoning the expenditure and follow the process prescribed by National Treasury and where there is loss or lack of value for money, recover same. - Given that these have already been found to be irregular expenditure as a result of non-approval, a loss determination test must be conducted, and confirmation must be made whether loss was suffered and the specific sums that must be recovered.	-

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				- National Treasury Instruction No. 4 of 2022/2023 (effective January 2023) provides that irregular expenditure emanating from non-compliance with delegations of authority and non-compliance with the budget of a public entity must be considered for condonation. - Condonation constitutes the acknowledgement and pardoning of the expenditure that has resulted in the incurrence of irregular expenditure. - According to National Treasury Instruction No. 4 of 2022/2023 which came into effect in January 2023, National Treasury can condone the incurrence of irregular expenditure" in cases on non-approval.	- Further, CETA must report the irregular expenditure to the National Treasury and AG in its irregular disclosure note.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				- The CETA AA can condone irregular expenditure" in cases where the budget was exceeded. - Paragraph 5.5 of the National Treasury Instruction No 4 of 2022/2023 provides that when requesting condonation, the Accounting Authority must consider various factors, including confirmation that no loss was incurred and that value for money was achieved. Hence, in seeking condonation the Accounting Authority must act on the basis of a loss determination test that would have been done by the organization. - Clause 6.1 of the National Treasury PFMA Framework (Instruction No. 4 of 2022/2023) prescribes that		

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				"upon confirmation that irregular expenditure resulted in the institution suffering a loss, the AA must recover such amounts from those responsible which may include the accounting officer or members of the AA, then in such a case the executive authority must recover the determined losses". - It should be noted that, like all decisions of organs of state, decisions concerning ratification or condonation must comply with legal principles such as the *constitutional principle of legality* and where applicable *lawfulness, procedural fairness and reasonableness* (set out in the Promotion of Administrative Justice Act, 2000).		

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				- Neither of the DG Policies of 2017/2018 or 2018/2019 provide for a delegation in respect of DG approvals. So all decisions on discretionary grants ought to have been made by the AA.		
	B. DG funding to SAFSEC around 2018	- The DUJA Report finds that DG grant made to SAFSEC around March 2018 was only approved by EXCO and not the AA. [**worth R100 million**] and that the additional approval and allocation of R900 000.00 was also not a decision of the AA, but a unilateral decision of Ms Pilusa.	- SC agrees with DUJA that the approval of the funding proposal of SAFCEC was not a decision of the Accounting Authority	- The level of impropriety in this instance goes beyond just failure to allow the AA to approve. - We are instructed that the actual amount spent in respect of SAFCEC to date per CETA finance records is R71 898, 051. 12. - The actual amount paid is R58 339 362, 92. - The current commitment register indicates that R11 457 160.52 still accrues to SAFCEC.	- Same as "**A**" above in respect of condonation. - In light of "R" below, the AA should not condone the approval of this grant without taking consequence management steps for the alleged conflict of interest. - We recommend that steps be taken to ensure that further commitments in favour of SAFCEC (in the amount of	- 6 months.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					R11 457 160.52) not be honoured, in light of both non-approval and conflict of interest as indicated in "**R**" – unless funds are already committed in favour of specific learners.	
	R. Conflict of Interest involving Mr Webster Mfebe **(Note: "R" was brought up because of similarities to "B" above.)**	- Mr Webster Mfebe (a member of the Accounting Authority as well as CEO of SAFSEC) sat in an EXCO meeting of 28 March 2018 which had on its agenda the allocation of DG funding to SAFSEC to the tune of **R100 million.** - However, Mr Mfebe partially recused himself from the meeting in that he was recused during the portion of the meeting of the EXCO dealing specifically with the approval of the SAFCEC	-	- Same as "B" above. - It appears from the Ntumba Projects Management Internal Audi report dated January 2020 that SAFCEC did not have Service Level Agreement with CETA at the time of grant disbursement for RPL (**R3.5 MILLION).**	- Same as "B" above. - We also recommend that Mr Mfebe's conflict of interest be immediately reported to the Minister for breach of the CETA Constitution and Code of Conduct for appropriate sanction.	- Same as "B" above.

Gauteng: **No.14 Angelier Street**, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		funding only (but was there during the discussion thereof). - DUJA Report found this to be irregular, holding that he should have disclosed his interest and left the meeting at its commencement to enable the remaining members of the meeting to discuss the matter and determine whether he was precluded from participating in such meeting by reason of a conflict of interest. - As a result, both Mr Mfebe and members of EXCO present at the meeting violated para 3 of the CETA Accounting Authority Code of Conduct and the Standard Constitution of SETA Regulations, which renders part of the proceedings that relate to the approval of				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		SAFCEC proposal in respect of DG funding allocation approved by EXCO null and void				
	C. DG funding to WITS University around March 2018	- The DUJA Report finds that DG grant made to WITS University around March 2018 was only approved by EXCO and not the AA. [**worth R91 million**]		- Based on proper analysis based on the Delegation of Authority applicable at the time, AA approval is lacking. - We are instructed by CETA that recovery of loss is presently being pursued by Morata Mogokare Incorporated obo CETA. - From the pleadings we have seen, Morata Mogokare Incorporated has instituted action proceedings against WITS University and WITS Commercial Enterprises for the recovery of the sum of **R1 389, 128.07** under case number 13626/2022 and **R1, 441, 323.09** under case number 14883/22. We are	- We are instructed by CETA that Morata Mogokare Incorporated has been appointed to institute action proceedings for the recovery of loss against WITS University. We have no details on the extent of the instructions. - See "A" above in respect of principles applicable to condonation, which may be applicable in respect of any irregular expenditure and recovery of loss	- 6 months.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				advised that both trials are yet to be set down. - We are informed by the CETA CEO that the relationships with WITS have already been terminated and that as such there are no or should not be any ongoing or future commitments in favour of all WITS projects (including this listed in "D" to "I" below.	incurred as a result thereof, to the extent that such expenditure does not form part of Mogokare Attorneys' mandate.	
	D. DG funding offer to WITS Commercial Enterprises around March 2018	- The DUJA Report finds that DG grant offer to WITS Commercial Enterprises for CETA Academy around March 2018 was approved by EXCO and not the AA. **[worth R150 million]**		- See "C" above. - The AA must be wary not to simply seek condonation of the irregular expenditure where there was financial loss was incurred in which case steps to recover possible financial losses incurred must be taken.	- See "C" above.	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	E. Approval of DG funding to WITS Commercial Enterprises around March 2018	- The DUJA Report finds that DG grant to WITS Commercial Enterprises around March 2018 was made without by the AA. [**worth R24.8 million**]		- See "C and "D" above.	- See "C" and "D" above.	- 6 months
	F. DG allocation offer in the New Leaders Development project (WITS University Project)	- The DUJA Report found that DG grant offer to 165 learners was made for the New Leaders Development project in March 2018 without AA authority [**worth R13.2 million**]		- See "C" and "D" above.	- See "C" and "D" above.	- 6 months
	G. DG allocation offer in the New Leaders Development project. **(WITS University Project)**	- The DUJA Report finds that another DG grant offer to 165 learners was made for the New Leaders Development project in March 2018 without AA authority [**worth R2 029 500**]		- The Delegation of Authority applicable in 2018 indicates that neither the CEO nor EXCO were delegated to make this grant without approval of the AA. - **Refer to "A" above for an explanation of condonation requirements.**	- See "A" and "C" above in respect of principles applicable to condonation: - As there was no authority for the grant , AA to consider seeking condonation from National Treasury where non-	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					approval is the only issue. The AA can however condone where the irregular expenditure arose from the exceeding of the budget.Where the determination test has established a loss, the AA must take steps to recover loss.	
	H. DG allocation offer in the Future Leaders project. **(WITS University Project)**	- The DUJA Report finds that DG grant <u>offer</u> to 224 learners was made for the Future Leaders project in March 2018 without approval of the AA **[worth R1 881 600]**		- Same as "<u>G</u>" above.	- Same as "<u>G</u>" above.	- 6 months
	I. **DG allocation offer in the Contemporary Leaders Development project** **(WITS University Project)**	- The DUJA Report finds that DG grant <u>offer</u> to 33 learners was made for the Contemporary Leaders Development project in March		- Same as "<u>G</u>" above.	- Same as "<u>G</u>" above.	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		2018 without approval of the AA [**worth R580 000**]				
	J. DG funding to Umfolozi TVET College in 2017/18	- The DUJA Report finds that DG funding to Umfolozi TVET College in 2017/18 was made without approval of the AA. [**worth R150 million**]		- We are instructed by the CETA CEO that Umfolozi returned monies disbursed in terms of this grant and that the Project was discontinued. - However, we have not independently verified same, and DUJA also makes no mention of this development.	- No Follow-Up Action is required on the basis on the said instruction.	N/A
	K. DG funding to the University of Cape Town in 2017/18	- The DUJA Report finds that DG funding to the University of Cape Town in 2017/18 for associate lecturer positions was made without approval of the AA. [**worth R46 million**]		- It appears from the DUJA report that no funds were expended for this project.	- We recommend that steps be taken to ensure that any commitments in favour of University of Cape Town in this respect not be honoured in light of the non-approval – unless funds are already committed in favour of specific learners.	- 1 month

Gauteng: **No.14 Angelier Street**, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	L. DG funding to Joint Projects (JPMT) in 2017/18	- The DUJA Report finds that DG funding to Joint Projects (JPMT) in 2017/18 was made without approval of theAA. JPMT is a joint funding initiative involving CATHSETA, CETA and SASSETA [**worth R7 million**]		- Same as "G" above.	- Same as "G" above.	- 6 months
	M. DG funding for the Master's programme for CETA senior managers in 2017/18	- The DUJA Report finds that DG funding to 24 CETA senior managers in 2017/18 was made without approval of the AA. [**worth R7.2 million** at the cost of R300 000.00 per learner] - A further allocation for 24 MacBook laptops was made by the CEO and not the AA [worth R938 444.98].		- Same as "G" above. - According to the MMI Investigation Report (commissioned by CETA), it is unclear whether these personnel registered with Wits. They were not awarded any certificates for this master's programme. - DUJA confirms that none of the programme participants have successfully completed the programme or admitted to a traditional/normal Master's academic programme (NQF9	- Same as "G" above.	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				level) offered by Wits University.		
	N. DG funding to Organisational Hands On in 2017/18	- The DUJA Report finds that DG funding worth R1.4 million was made to Organisational Hands On for Cooperative Empowerment Training without approval of the AA. - The DUJA Report finds that DG funding worth R250 000. 00 was made to Organisational Hands On for Kit Cooperative without approval by the AA. - The DUJA Report finds that DG funding worth R3 million was made to Organisational Hands for school renovation without approval by the AA the AA.	- SC does not address this issue directly.	- Evidence of impropriety in respect of this matter appears to be strong – especially in consideration of CETA's other forensic investigations. There appears to be evidence to the effect that the funds were not used for the intended project. Therefore, the element of intention to defraud the CETA exists. - Thus, care should be taken not to condone decisions where impropriety goes beyond just lack of AA approval. - According to the Ntumba Projects Management Internal Audit Report dated January 2020, Organizational Hands On did not have a Service Level Agreement with CETA	- See "A" and "C" above in respect of principles applicable to condonation: - As there was no authority for the grant, AA to consider seeking condonation from National Treasury in the case on non-approval. - The AA can however condone where the irregular expenditure arose from the exceeding of the budget. - Where the determination test has established a loss, the	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

				when it received R2 500 000.00 for Short Skills Programme in 2019. [This amount is excluded from the R4 650 000.00] - This creates a risk of lack of accountability from entities/CETA should projects fail or not be implemented as intended.	AA must take steps to recover loss.	
	Q. DG funding to National African Federated Building Industry (for mentorship) in 2017/18	- The DUJA Report finds that DG funding to National African Federated Building Industry in 2017/18 was made without approval by the AA. [worth R5 054 200]	- SC does not address this issue directly.	- See "G" above.	- See "A" and "C" above in respect of principles applicable to condonation: - As there was no authority for the grant , AA to consider seeking condonation from National Treasury in the case on non-approval. - The AA can however condone where the	-

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					irregular expenditure arose from the exceeding of the budget. - Where the determination test has established a loss, the AA must take steps to recover loss.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

3. HUMAN RESOURCE MATTERS

General

DUJA FINDINGS

1. States that it was provided with conflicting versions of what transpired with regards to the pension matter, similarly with the medical aid contribution.
2. Holds that increase in salaries took place without authorisation.
3. Deems incentives paid in addition to performance bonuses as unnecessary and unfounded.
4. Overall, it supports the submission made that everyone was provided with conflicting versions of what transpired in respect of the pension matter.
5. Confirms the unsustainability of increment in salaries the impact this has on filling vacant positions.
6. Does not dispute that the expenditure made on incentives such as "clean audit" bonuses is irregular.
7. Overall, there could have been more conclusive findings and founded recommendations if attempts had been made to interview all relevant parties and attain the necessary authority to compel original letters to be submitted, and/or compel relevant parties who did not avail themselves to disclose all the information.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	- SPECIFIC ISSUESINVESTIGATED	- KEY FINDINGS OF DUJA FORENSIC INVESTIGATION REPORT	- SENIOR COUNSEL ("SC") OPINION	- TOKA MACHABAPHALA INC ANALYSIS	- RECOMMENDED IMPLEMENTATION ACTION	- RECOMMENDED TIMELINES
	- **A. Pension Fund Contributions**	- This matter concerns the increase of CETA contribution to the CETA staff's monthly pension contributions (from contributing half of the monthly contributions to contributing the whole monthly pension contributions). CETA formerly contributed 7.5% of each employee's pension contribution (being half). From April 2018 this increased to 15% contribution (being the whole contribution). - According to CETA Delegation Policy, the increase needed AA approval. There were conflicting versions on whether CETA in fact approved the increase or	- The SC Opinion holds that there are too many discrepancies and uncertainties on whether the 15% pension fund contribution was authorised by the AA or not. - Supports the submission that a comprehensive consultation process with staff did not take place when changes to the Pension Fund Rules were made nor did any voting take	- The SC Opinion is too general and fails to deal with issues with sufficient specificity. - The DUJA Reports of June 2021 and October 2021 both confirm that the pension fund increase was irregular in that it was not endorsed by the AA. - Of the individuals allegedly involved in the alleged impropriety, Mr Cele appears to be the one who did not face consequence management. - Refer to "A" above (under Special Projects) for an explanation condonation requirement. - Mr Cele is no longer with CETA in any capacity.	- See "G" and "N" above. - We recommend that the AA consider condonation of the irregular expenditure and undertake a loss determination test to establish whether loss was incurred or whether there was value for money.. - However, on the face of it, it appears CETA did suffer loss or that there was no value for money because CETA would have saved significant amount of money for core	- 6 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		even if members of the AA knew about the increase. - Ms Pilusa (former CEO) gave the version that some AA members, including the Chairperson, were informed about the proposal to increase pension contributions – and that this was discussed by and approved by the AA in the meeting of 08 March 2018. Two AA members deposed affidavits effectively agreeing with Ms Pilusa. Two other AA members interviewed by DUJA said that this was not the case. When interviewed, the former Chairperson simply referred DUJA to the minutes of the 08 March 2018 meeting. - DUJA found that the proposed increase was not on the Agenda of the 08 March 2018, nor was in in the	place on any of the proposed changes. - Supports the recommendation that CETA should either ratify the approval of the pension fund increase or proceed to recover the amounts paid without a formal approval from the Board. - Supports the recommendation that whatever decision is made, there must be a comprehensive consultation with staff. - Confirms the recommendation	- The impact of the inconclusiveness of the signature analysis needs to be evaluated more deeply – to see how it will hamper any consequence management against Mr Cele. - Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective institutions as a note to the annual financial statements. We note that neither of the 2017/2018 and 2018/2019 AG reports make reference to the irregular expenditure pertaining to the pension fund contributions. - The level of impropriety in this instance goes beyond just failure to allow the AA to	projects had the increase not been undertaken. - Effectively, the unauthorised increase (to 100% CETA contribution) persisted for a limited period (we are instructed it is 11 months) – until the AA reverted to 100% CETA contribution. - The second increase (to CETA 100% contribution) was made by the AA – and thus approved at the right level, hence no irregular expenditure incurred. - We note further that according to National Treasury Instruction No. 4 of 2022/2023	

		minutes or any resolutions of the AA. However, it was reflected in two letters, one signed by Ms Pilusa instructing HR that the increase be effected, and another ostensibly signed by the former AA Chairperson (Mr Cele) in April 2018 confirming the letter of Ms Pilusa. - When interviewed, Mr Cele did not admit or deny writing the letter. - The Board secretary (Ms Govender) deposed to an affidavit to the effect that Mr Cele signed the said letter in her presence, which she handed over to HR. - When HR raised the issue of the AA resolution, Ms Pilusa instructed the Senior Manager HR to include the pension	that the ·expenditure incurred in this regard be recorded as irregular expenditure. - Disagrees with the DUJA recommendation to institute a criminal action against the former Chairperson (Mr Cele) in terms of the PFMA for failure to prevent irregular expenditure. Among the reasons for this are: (i) DUJA report was not that registered auditors; (ii) validity or authenticity of the documentation relied upon was not verified; (iii) report is based on the	approve. However, our view is that condonation under the circumstances may be a rational consideration given that no third party benefitted from the decisions made without approval, but that employees of the entity benefitted from this decision. The condonation does not cure the status of irregular expenditure. Further, condonation being grated depends on whether loss was suffered or not. - Neither one of the 2017/2018 nor 2018/2019 AG Reports have details pertaining to this irregular expenditure, and CETA received a clean audit in 2018/2019 despite these investigation findings and budget contraventions. CETA must consider take steps to report the former Board	which came into effect in January 2023, CETA AA can apply to the National Treasury for condonation of the irregular expenditure provided on the basis of the non-approval (but where there was loss, a loss recovery process must rather be pursued). - The DUJA recommendation that criminal charges be pursued against Mr Cele appears to us to be sound. - However, this must be considered in light of the fact that we enquired with the Midrand Police Station on the criminal case	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		fund contribution as a benefit that was approved by the AA. - DUJA did not have the original letter ostensibly signed by Mr Cele. They only had copies. However, a signature expert found that the signature on the copy was probably his signature but that this could not be conclusively confirmed beyond doubt. - The AA later resolved to revert to CETA making only half contributions. This was effected in October/November 2019. However, due to challenges from the staff full contributions were began again in December 2019. - A criminal matter of fraud was reported to the SAPS against Ms Pilusa (former CEO). - Disciplinary action in respect of pension increases was	assumption that the information provided is correct; (iv) report was still in draft form; (v) not all individuals implicated were provided with an opportunity to respond to the findings; and (vi) information obtained verbally was included in the report, which was not verified that such information obtained is credible or in fact truthful.	members who failed to report the irregular expenditure to the AG. - The National Treasury Instruction Note above in paragraph 5.6, 5.9 and 5.10 provide that if irregular expenditure contains alleged fraud elements, steps must be taken to open a case with the SAPS and confirmation of remedial action being taken by the AA to prevent the recurrence of irregular expenditure.	opened against Ms Pilusa in April 2018 was closed in December 2018. We have not yet been able to establish the reasons for the closure.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		taken against Ms Govender (Board Secretary), Ms Chetty (HR Officer), Ms Ndlovu (CFO) and Mr Nene (Senior Finance Manager). They all plead guilty. - The matter is being litigated. - Ultimately, the DUJA report did not find any conclusive evidence of existence of a board resolution in respect of an increase of pension fund contribution by CETA to its staff (from contributing half of the pension contribution to making the full contribution – i.e. from 7.5% CETA contribution to 15% CETA contribution). - DUJA recommended that CETA must either: (a) ratify the approval of the pension fund contributions that were paid; or (b) proceed to recover				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		such amounts without formal Board Approval. And that any action taken in this regard be consulted upon comprehensively with the staff. - Also recommends that the expenditure incurred in this regard be recorded as an irregular expenditure in accordance with the Treasury Instructions and the Irregular Expenditure Framework. - Furthermore, DUJA recommends that a criminal action be instituted against the former Chairperson of CETA (Mr Cele) for failure of preventing irregular expenditure – with the caveat that a legal opinion be sought on whether criminal charges may be laid against a single member of the AA individually.				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

	- **C. Medical Aid Contributions**	- CETA used to contribute 70% of employee's medical aid contributions (based on a 2016) AA resolution. This was later changed to 100 % CETA contribution. The change is said to have been triggered by Mr Nene's concern that the previous arrangement negatively affected the lower income officials' tax deductions. The change was driven by the then CEO (Ms Pilusa) and allegedly endorsed the Mr Cele (AA Chair) when phoned by Ms Pilusa. Mr Cele denied having approved the change. - DUJA determined that the change was made without the required AA resolution. It was also not formally approved by EXCO.	- The SC Opinion agreed that there was no resolution by the AA or EXCO approving a change to medical aid contributions made by CETA. - The SC Opinion agrees with DUJA that CETA should either ratify the adjusting medical aid contributions or revert to the Board the approved contributions and proceed to recover such amounts as have been paid without formal Board approval. - Also holds that whatever decision	- There does not appear to be any recommendation in respect of disciplinary measures in respect of the Executive having increased the medical aid contributions by CETA without the required AA resolution? - Neither one of the 2017/2018 nor 2018/2019 have details pertaining to this irregular expenditure, and CETA received a clean audit in 2018/2019 despite these investigation findings and budget contraventions. CETA must consider take steps to report the former Board members who failed to report the irregular expenditure to the AG. -	- See "B" above. - We note further that according to National Treasury Instruction No. 4 of 2022/2023 which came into effect in January 2023, CETA AA can apply to the National Treasury for condonation of the irregular expenditure provided on the basis of the non-approval (but where there was loss, a loss recovery process must rather be pursued)	-

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- DUJA also determined that some CETA employees have adult dependents whose contributions are also paid for by CETA which then causes a spike in the amounts allocated to approved benefits and increased salaries. - DUJA recommended that CETA must either ratify the approval of the higher medical aid contributions that were already paid or revert to the Board approved contributions (i.e. 70% contribution) and proceed to recover such amounts as have been paid without formal Board approval. - DUJA also recommends that the expenditure incurred in this regard be recorded as irregular expenditure.	made in this regard must be comprehensively consulted with the staff. - The SC Opinion also supports that the expenditure be recorded as irregular expenditure.			

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- And lastly that CETA must consider whether it or employees who have adult dependents on their medical aid should pay the contributions for such dependents.				
	- **D. Salary Matters**	- DUJA found that that there has been a contravention of Regulations 7 and 8(1) of the Regulations for the Conditions of Service and Appointment of the CEO of a SETA, 2011, in that the salary of the CEO of CETA exceeded that of a Director-General in Public Service. - The investigation revealed that the significant high salary cost of the CETA is one of the main reasons why the CETA is unable to reach its projected targets in respect of the filling of vacancies.	- The SC Opinion supports the submission that salaries were significantly increased, and that the salary of the CEO exceeds that of the Director General in Public Service. - Holds that the high salary increases are not sustainable and further that the current levels of remuneration preclude the	- Both DUJA report and the SC Opinion do not recommend any disciplinary action. - Board approved the salary increase.	- We are instructed that currently, CETA is compliant in respect of the salary of the CEO.	- N/A.

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- Recommends that the salary of the CEO of CETA be brought in line with that of a Director-General in the Public Service as required by the above Regulations. - Recommends that CETA should perform a benchmarking exercise to assess the extent of salaries paid by it in relation to those paid by other SETAs to avoid irregular expenditure. - Recommends that CETA must take steps to ensure that employees are remunerated on the salary notches determined and relevant to the positions in which they are employed.	appointment of the full complement of staff as per the CETA organogram. For this reason, the SC Opinion recommends that steps must be taken to ensure that employees are remunerated in accordance to their positions.			
	- **E. Bonuses**	- DUJA found that despite the non-existence of a provision in the CETA HR Policies for the payment of "clean-audit"	- The SC Opinion supports DUJA's recommendation that CETA should	- No recommendations in respect to disciplinary action.	- No Follow Up Action is recommended for the following reasons:	- N/A

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		bonuses in addition to performance bonuses, the "clean-audit" bonuses were paid to employees regardless. - Recommends that CETA should include a specific provision that will speak to the payment of bonuses in its annual budget. And that the bonuses in question should be considered with reference to work performance but within the confines of the budget. - Suggests that CETA should refrain from paying "clean audit" bonuses in addition to performance bonuses.	include a specific provision for the payment of bonuses in its annual budget, and that this should be done in accordance to work performance but within the confines of the budgeted amounts.	- We are instructed that this has already been dealt with in an updated Policy.	- The current Remuneration Policy (2021) provides that a performance incentive bonus scheme shall be determined by the AA and shall be subject to affordability by the CETA. - It further provides that all employees for their contribution to the 80% achievement of the CETA strategic objectives. For purposes of this aspect, the policy prescribes that Payment of performance incentive bonuses will be based on the assessment of employee work performance during the performance cycle.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					Performance reviews will be conducted as set out in the Performance Management policy. - Bonuses will be paid out after year-end results have been audited and final approval has been provided by the Accounting Authority.	
- Accreditations	- **A. Accreditation information**	- DUJA discovered that the information in respect of the accreditation process appears to be fragmented as it is not contained in a single file or organised in a central place. - The investigation found that the CETA website does not provide a clear, concise and relevant information for training providers leading to	- The SC Opinion confirms the finding in the DUJA investigation that information regarding the accreditation process appears to be fragmented and not organised in a central place.	- The recommendations are mostly policy based. - According to the Ntumba Internal Audit report for the period 1 April 2019 – 31 October 2019, certain entities found by DUJA to not be properly verified, received discretionary grants in 2019, and these entities and their projects had also not been	- **Policy issue.** - Proper monitoring, evaluation and management of the accreditation system must be implemented as this affects who receives discretionary grants, projects and learners in the long run.	- 1 October 2023

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		provider applications not being readily compliant. - Found that the accreditation application forms do not distinguish between accreditation, secondary accreditation, extension of accreditation and re-accreditation which creates confusion. - The investigation discovered that the most common complaint is the length of time it takes for a Skills Development Provider to be accredited. This is followed closely by complaints about the inaccessibility of staff in the Learning Pathways and Qualification Development (Unit at CETA) either telephonically or by email. - DUJA recommends that attention should be given to		sufficiently monitored and evaluated.	- From a financial implications' perspective, CETA must implement controls to circumvent irregular expenditure and losses, and risks failure to comply with its own mandate and targets in respect of discretionary grants and projects. This is a serious weakness.	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		introduce a centralised record keeping system to enable access to information relevant to a specific application for accreditation. - Recommends that the CETA website should be updated to provide Skills Development Providers with adequate information of the requirements for accreditation and the relevant supporting documents required. - Recommends that a clear distinction should be made between accreditation, re-accreditation, secondary accreditation, and extension of accreditation. - With regards to accreditation delays, DUJA recommends that a process of monitoring of time delays with applications				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		for accreditation should be introduced.				
	- **B. Appointment of Senior Manager**	- Linked the absence of an experienced senior manager to the condition of units being inadequately and unsatisfactorily staffed. (put name of senior managers) - Recommends that CETA should appoint an experienced senior manager with the necessary quality assurance expertise as soon as possible who will ensure that the unit is appropriately and adequately staffed.	- Also confirms that an experienced senior manager should be appointed by CETA to assure that the suitable unit is satisfactorily staffed,		- No Follow Up Action is recommended for the following reasons: - The CETA Recruitment and Selection Policy (2021) has been updated to the effect that relevant competency assessments are conducted for specialist positions and for senior management positions subject to the relevant legislation. - The Policy further provides that it shall only be in exceptional circumstance of a critical and/or scare	- N/A

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

					skill that positions shall be advertised simultaneously both within and outside the organisation supported by motivation from the relevant senior manager and approval of the exception by the CEO. - Minimum requirements were reviewed and persons appointed proper positions in accordance with updated policy requirements.	
	- **C. Offer to bribe**	- In a WhatsApp conversation (a copy of which was provided to DUJA), a former employee made an offer to a CETA employee to pay an amount of R30 000 for "speeding up" the accreditation in respect of two	- The SC Opinion does not recommend the institution of criminal proceedings against a former employee who made	- What preventative measures does the investigation propose/recommend to the CETA to ensure that CETA employees are not susceptible to accept	- That DUJA be requested to obtain affidavit of the employee so that appropriate consequence	- 1 week

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		qualifications. DUJA found that the offer by the former employee prima facie constitutes the offence of Corruption as set out in Section 3 (b) of the Prevention and Combatting of Corrupt Activities Act. - DUJA recommends that a complaint be laid with the SAPS in terms of Section 3 (b) of the Prevention and Combatting of Corrupt Activities Act in regard to the above offer of payment to an employee.	an offer to speed up the accreditation.	monetary offers or incentives to speed up accreditation?	management efforts be undertaken.	
- Certificates	- **Delays in issuing certificates**	- The DUJA investigation found that CETA experiences extensive delays in issuing certificates to learners due to the likes of external moderations taking place long after completion of training.	- The SC Opinion found no proper justification behind the unreasonable delay in printing certificates. - Agrees that reasonable targets	- As the risk of certifying learners who are not competent is a serious issue that affects the ethical conduct and functioning of CETA, what recommendation(s) does the investigation and the legal opinion put forward to ensure	- Policy issue. - It is crucial that CETA set reasonable targets to ensure that certificates are issued to those that have been found to be reasonably confident	- 3 months

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- During the investigation period, a finding was made that 3166 learners who completed their learnerships during the 2017/18 and 2018/19 period are still awaiting certification. And the backlog in issuing certificates and statements for the year 2018/19 alone stands at a minimum of 6911. - Most importantly, CETA staff do not seem to accept their responsibility of addressing certification delay issues timeously such as maintaining the printer used to print certificates, attending to training providers' complaints timeously, etc. Instead, they tend to shift the blame to the Service Development Providers, provincial offices, and Covid-19 lockdown.	should be set to ensure that certificates are issued timeously and that this should be properly monitored.	that the risk does not become a reality? - What way forward does the investigation put forward to ensure that the backlog is cleared while certification for the current or most recent completions is still being rolled out?	in terms of its own thresholds and levels of achievement, to have these issued timeously and that this should be properly monitored. -	

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		- The investigation also identified a risk of certifying learners who are not competent as evidence is lacking due to long delays and pressure owing to volumes. - The investigation also noted system inefficiencies such as the requirement for Statement of Results to be issued by the CETA instead of allowing the Skills Development Providers to print Statement of Results from the system. - The investigation then proceeded to recommend that there should be an improved and regular maintenance of printing facilities. - The investigation further recommends that all complaints received by the CETA with regards to late issuing of certificates should				

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		be kept in record, and there should be a monitoring and consideration of the resolution thereof in performance appraisal processes. - Furthermore, the investigation makes a recommendation that there should be set realistic performance targets to ensure that certificates are issued timeously. - It is finally recommended that inefficiencies must be addressed and recommends that external moderation reports should be uploaded on the system to enable Skills Development Providers to print Statement of Results upon completion of external moderations.				
	- **Fragmentation in CETA processes.**	- The DUJA investigation found that there appears to be fragmentation in CETA		- The investigation does not set a deadline with regards to by when and how should the	- Policy/systems should be updated by CETA.	30 October 2023

Gauteng: No.14 Angelier Street, Bardene
Boksburg, 1459
Tel: (011) 894 1535
Cell: +27 (74) 772 1268
Free State: No.9B Stanley Street
Koffiefontein, 9986
Tel: (053) 205 0038
Cell: +27 (64) 551 5079
office@machabaphala.co.za

		processes due to inadequate liaison between the different units and with provincial offices – hence there isn't a smooth workflow for the issuing of certificates. - The investigation recommends that the fragmentation between different units in the CETA should be addressed and liaison between the different units should be streamlined.		identified fragmentation be addressed as well as the improvement in liaison between the different units and provincial offices.		

T.K

TOKA MACHABAPHALA INC.