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Private and confidential

7 June 2021

Mr S Wasa  
The Administrator  
CETA  
No 52, 14th Road  
Noordwyk  
Midrand

## **DRAFT REPORT ON THE FORENSIC INVESTIGATION INTO ALLEGED IRREGULARITIES AT CETA**

Dear Mr Wasa

We attach our draft report for your attention.

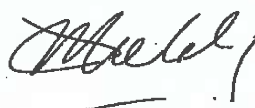
This draft report is intended solely for the information and use of the management of CETA. It is not intended and may not be used for any other purpose or by anyone other than CETA without our prior written consent. Dujá Consulting (Pty) Ltd therefore assumes no responsibility to any user of this report other than CETA. Any other persons who choose to rely on our report do so entirely at their own risk.

We reserve the right to supplement or amend this report upon the receipt of additional information. We note that, in view of the draft nature of this report, our findings may change as a result of further information becoming available.

We note, in particular, that we have not been able to interview all individuals implicated in order to afford them an opportunity to respond to the allegations or findings against them. It is our intention to do so before we finalise our report, insofar as is practically possible to do so.

Should you have any queries or require clarity on any part of this report, please do not hesitate to contact Thiru Mudaly on 0825579947 or Dawie Fouche on 0834430996.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Thiru Mudaly', with a horizontal line underneath.

**Directors:**

**John Henry de Jager, Thirunassen Mudaly, Madi du Toit**

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## Abbreviations

Throughout this document, unless otherwise stated, the abbreviations in the first column have the meanings stated opposite them in the second column. These descriptions and explanations, however, serve to clarify this report and are not intended to be authoritative.

Abbreviation	Description
AA	Accounting Authority
ACEO	Acting Chief Executive Officer
Adv Tleane	Adv Sipho Tleane, BEC Chairperson
CETA	Construction Education and Training Authority
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
BSC	Bid Specification Committee
CFO	Chief Financial Officer
CIPC	Companies and Intellectual Property Commission
CETA Constitution	The Constitution for the CETA as signed by the former Chairperson of the AA (adopted from the Standard Constitution of SETA regulations, notice number 35336, published in Government Gazette number: 369, dated 11 May 2012).
DG	Discretionary grant
DHET	Department of Higher Education and Training
EXCO	Executive Committee of the CETA
FSCA	The Financial Sector Conduct Authority
FINCOM	Financial Committee of the CETA
HR	Human Resources or Human Resources Department
LPQD	Learning Pathways and Qualification Development (Unit at CETA)
M&E	Monitoring and Evaluation Unit at CETA
Mr Cele	Mr Raymond Cele, former Chairperson of the CETA for the period under review.
Mr Dlamini	Mr Bongani Dlamini, member of the CETA Accounting Authority for the period April 2017 – March 2018
Mr Fortuin	Mr Brendan Fortuin, Client Services Consultant -

Abbreviation	Description
	Liberty Corporate
Mr Ganiso	Mr Malusi Ganiso, former member of the Accounting Authority.
Mr Greeff	Mr Jacobus Kotze Greeff, M&E Senior Manager at CETA
Mr Jiyane	Mr Jabulani Jiyane, Corporate Service Manager, BAC Member and former BEC Chairperson
Mr Koma	Mr Nkatane Koma, Administrator: Certification at CETA
Mr Mnisi	Mr Roy Mnisi, former member of the Accounting Authority of the CETA.
Mr Mpe	Mr Josias Mpe, former member of the Accounting Authority of the CETA.
Mr Kuzana	Mr Lungisile Kuzana, former SCM Specialist at CETA
Mr Semanya	Mr Robert Semanya, former CEO of CETA
Mr Kolia	Mr Ahmed Kolia, Fund Governance: Liberty
Mr Mapulane	Mr Mapulane, Chairperson of the Portfolio Committee on Higher Education, Science and Technology
Mr Mashaba	Mr Wisani Mashaba, member and Secretary General of the Staff Forum Executive at CETA
Mr Matosa	Mr Piet Matosa, former member of the Accounting Authority of the CETA.
Mr Mfebe	Mr Webster Mfebe, former member of the Accounting Authority of the CETA.
Mr Modibedi	Mr Bethuel Modibedi, Accreditation Officer at CETA
Mr Masombuka	Mr Sipho Masombuka, Manager: Certification at CETA
Mr Mogoane	Mr Tshepo Mogoane, SCM Official at CETA
Mr Nene	Mr Simphiwe Nene, Senior Finance Manager and BSC Chairperson
Mr Nethengwe	Mr Phumudzo Nethengwe, CETA company secretary
Mr Ngenzi	Mr. Innocent Ngenzi, former Projects Manager at CETA
Mr Ngcobo	Mr Bhekani Ngcobo, former member of the Accounting Authority of the CETA.
Mr Shabangu	Mr Sabello Masinga Shabangu, CETA employee
Mr Shai	Mr Lesiba Shai, member of the CETA Accounting



Abbreviation	Description
	Authority for the period April 2017 – March 2018
Mr Wessels	Mr Leon Wessels, Certified Financial Planner® and member of VALEM Financial Services CC an Authorised Financial Services Provider FSP no 34723
Mr Shezi	Mr Malusi Shezi, Advisor and Chief Financial Officer, CETA
Mr Sintu	Mr Masixole Sintu, employee at CETA
Mr Voyi	Mr Ndumiso Voyi, Advisor and Director – Ndumiso Voyi Incorporated
Ms Chetty	Ms Reandra Chetty, HR Officer at CETA
Ms Dube	Ms Nokwanda Dube, Manager: Projects Monitoring at CETA
Ms Edom	Ms Noluthando Edom, Specialist – Financial Accounting Unit: CETA
Ms Govender	Ms Michelle Govender, Board Secretary of the CETA for the period under review
Ms Mahlangu	Ms Amanda Mahlangu: Administrator: Certification at CETA
Ms Mahlapha	Ms Neo Mahlapha, Manager: LPQD at CETA
Ms Mashele	Ms Elsie Mashele, Administrator: Certification at CETA
Ms Mashigo	Ms Valentia Mashigo, Advisor: QA at the CETA
Ms Matsapula	Ms Constance Matsapula, SCM Official at CETA
Ms Mboni	Ms Danisa Mboni
Ms Mkhize	Ms Gabisile Mkhize, Administrator: Learner Contracting at CETA
Ms Molefe	Ms Sankie Molefe, former member of the Accounting Authority of the CETA.
Ms Mpandeli	Ms Khomotso Mpandeli, employee at CETA
Ms Mphuthi	Ms Tumiso Mphuthi, former SCM Senior Manager at CETA
Ms Mswepu	Ms Khayakazi Mswepu, SCM Intern at CETA
Ms Ndlovu	Ms Velile Ndlovu, former CFO and BAC Chairperson
Ms Nxumalo	Ms Sibongile Nxumalo, former member of the Accounting Authority of the CETA.
Ms Phuthi	Ms Annikie Phuti, CETA employee and BEC Member

Abbreviation	Description
Ms Pilusa	Ms Sonja Pilusa, former CEO of the CETA
Ms Sedumedi	Ms Martha Sedumedi, former member of the Accounting Authority of the CETA.
Ms Senkoto	Ms Nthabiseng Senkoto, SCM Official at CETA
Ms Tsipa	Ms Joyce Tsipa, employee at CETA
Ms Tsitsi	Ms Olebogeng Tsitsi, employee of the CETA
Ms Willies	Ms Benedie Willies. Receptionist CETA
Ms Zitha	Ms Nthathi Zitha, Administrator: Certification at CETA
NEHAWU	National Education Health and Allied Workers Union
NC	National Certificate
ND	National Diploma
NQF	National Qualifications Framework
PIVOTAL	An acronym which means professional, vocational, technical and academic learning programmes that result in qualifications or part qualifications on the National Qualifications Framework as contemplated in regulation 3(6) and (7) as read with regulation 6(11) to (15) of the DHET regulations
POPIA	Protection of Personal Information Act
Remco	The Remuneration Committee of the CETA
SCM	Supply Chain Management
SETA	Sector Education and Training Authority
SDP	Skills Development Provider
SIC	Standard Industrial Classification
SoR	Statement of results
SSP	The Sector Skills Plan as contemplated in section 10(1)(a) and (b) of the Act; - (the Skills Development Act, 1998 (Act No. 97 of 1998),
Tecino	Tecino Trading 22 (Pty) Ltd
WIL	Workplace Integrated Learning
WITS	The University of Witwatersrand
QCTO	Quality Council for Trades and Occupations

## **Exhibits**

Copies of documents referred to in this report have been collated as exhibits. The exhibits referred to in our report should be read in conjunction with the contents of this report.

## **Annexures**

The following annexures are attached to this report:

Annexure A – Summary of Accreditation files perused.

Annexure B1 – Items selected from Commitment Register for review of certification processes. (2017/18 and 2018/19).

Annexure B2 – Information in respect of Q1 to Q4 2018/19 External Moderation reports for certification.

The Annexures referred to in our report should be read in conjunction with this report.

## **Sharepoint site**

All the Annexures and Exhibits referred to in this report can be accessed on a dedicated Sharepoint site created for this purpose.

For access to the site, please contact Gideon van Niekerk at Duja Consulting on [gvanniekerk@duja.co.za](mailto:gvanniekerk@duja.co.za) or 082 059 8913.

# **1 Executive summary**

1. For ease of reference to the reader, we include an executive summary. This section must be excluded in criminal court, litigation support reports or reports that will be disclosed in disciplinary hearings.
2. This executive summary must be read in conjunction with, and is subject to, the restrictions and limitations included in the entirety of our report.
3. We note, in particular, the draft nature of this report and our findings to date. We have not yet been able to provide all individuals implicated with an opportunity to respond to the findings. It is our intention to do so, insofar as is practically possible.

## **1.1 Governance at the CETA**

4. According to the King IV Code on corporate governance, a governing body has a duty to oversee key functional areas and ensure they are headed by competent individuals and are adequately resourced.
5. In terms of the PFMA, the Accounting Authority has a fiduciary duty to the entity, which requires it, amongst others, to act in the best interests of the public entity in managing the financial affairs of the public entity.
6. To all intents and purposes, it appears that the CETA Accounting Authority, for the period covered by our investigation, has failed in its oversight duty.
7. As appears from our report, we investigated a number of functional areas and have found widespread non-compliance and /or inefficiency in all of those areas.
8. In this regard we refer, amongst others, to the following:
9. In the SCM function of the CETA we have found widespread and systemic non-compliance with basic SCM requirements, which, by its very nature, affects the financial affairs of the CETA.
10. In respect of HR matters investigated by us, we found, amongst others, that:
  - The Accounting Authority has been unable to effectively address the pension fund dispute, which has remained unresolved up to the point when the Accounting Authority was dissolved;
  - There appears to have been no effective oversight of the CETA's staffing matters insofar as a large number of vacancies have not been filled (including Executive positions);
  - There was a significant increase in the amounts of performance bonuses paid to staff during the period 2017 to 2019 with no apparent justification therefor;
  - The process followed by the AA to appoint a CEO was flawed and the Minister was not informed of the failure to conduct psychometric evaluations prior to the recommendations made by the AA to the Minister for the appointment of a CEO.



11. Irregularity and inefficiency in the core business activities of the CETA relating to Grant funding, Accreditation and Certification. This included:
  - Significant amounts of irregular expenditure in respect of the award of discretionary grant funding, which is one of the AA's primary responsibilities.
  - Poor document management and high levels of inefficiency in respect of the CETA's accreditation of Skills Development Providers; and
  - Significant delays in the issuing of certificates to learners.

## 1.2 SCM Matters

12. We were mandated to investigate SCM irregularities that occurred in the period under review.
13. National Treasury Regulation 16A 6.3 (a) and paragraph 9.4.2 of the CETA SCM Policy of 2018/19 requires adverts of bids to be placed, giving prospective bidders at least 21 days to respond.
14. In respect of some of the tenders investigated by us, we noted that the time given to bidders to respond was less than 21 days.
15. In respect of all of the tenders that we investigated, it was noted that the tenders were not opened in public as required by the National Treasury Guide of February 2004, paragraph 4.10.
16. The failure to open tender bids in public, as stated above, was as a result of the fact that the bid documents were kept in the office of the CFO, following an instruction conveyed by the CFO, Ms Velile Ndlovu, to the SCM officials. Ms Ndlovu claims that this was done as a result of an instruction from the former CEO, Ms Pilusa. Ms Pilusa denies that she gave such an instruction. Ms Mphuthi however stated that the matter was discussed with Ms Ndlovu in the office of Ms Pilusa and in the presence of Ms Pilusa and Mr Semanya.
17. When SCM officials open bids in public they give assurance of the transparency of the process to bidders. With that removed, there may be room to tamper with the bid documents.
18. The instruction to keep the bid documents in the CFO's office therefore impeded on the process of pre-evaluation and casts doubt that the documents may have been tampered with prior to evaluation.
19. The failure to open bids in public was contrary to the provisions of Sec 217 of the Constitution of the RSA and Treasury Regulation 16A, par 3.2, which requires procurement to be conducted in accordance with an SCM system which is, amongst others, fair and transparent.
20. In respect of some of the tenders investigated by us, we noted that the bid submission register was signed by one SCM official only. Such practice is in conflict with par. 9.5.4 of the CETA SCM Policy of 2018/19, which requires at least two officials to be present when the bid documents are opened and recorded in the bid submission register.
21. We noted that this occurred in respect of the following bids:

- Bid No17- 2017/18 (Procurement of a panel of legal advisors.)
  - Bid No 23 of 2017/18 (Provision of IP MPLS Service), where the bid register was signed by Mr Kuzana only.
  - Bid No 25 of 2017/18 (Provision of LAN and VOIP service).
22. In respect of some of the tenders investigated by us, it appears that the bid submission register was completed but not signed off by the official who completed the register. This leaves the register open to possible tampering. This occurred in respect of Bid No 15 of 2017/18 (Procurement of PPE for CETA learners).
23. We noted that in respect of some of the tenders investigated by us, names of bidders were added to the bid submission register after the original closing off of the register through the signature of an SCM official at the bottom of the list. Such subsequent addition of bidders to the register creates doubt as to whether the bids in question were received regularly. This occurred in respect of Bid No 17 of 2017/18 (Procurement of a panel of legal service providers), where four bidders were added subsequent to the signing off of the register by Mr Kuzana.
24. It was alleged by Ms Mphuthi that in respect of one tender the name of a bidder was added to the bid submission register by Ms Ndlovu after the completion of the register by the SCM officials. (\*\*To include reference to Bid)
25. Only bids of the bidders recorded in the bid submission register are supposed to be evaluated by the bid committees of the CETA. We however noticed that, in some of the instances investigated by us, bids of bidders who were not recorded in the register were evaluated by the BEC. This occurred in respect of:
- Bid No 17 of 2017/18 (Procurement of a panel of legal service providers); and
  - Bid No 33 of 2017/18 (Procurement of ICT hardware).
26. The CETA SCM Policy of 2017/18 requires, in paragraph 9.10.2 thereof that an SCM advisor should be present at meetings of bid committees to provide the committees with advisory and compliance services in respect of the evaluation and adjudication of bids. We noted that in respect of some of the tenders investigated by us, no such SCM advisor was present at the meetings of the BEC. This creates room for irregularities to occur and causes bid committees to operate without the advice of SCM practitioners.
27. We noted that SCM advisors were not present at the bid committee meetings in respect of the following bids:
- Bid No 10 of 2017/18 (Appointment of service provider to adjudicate DG applications). (Second BEC meeting).
  - Bid No 11 of 2017/18 (Appointment of service provider to evaluate DG applications). (Both BEC and BAC meetings).
  - Bid No 13 of 2017/18 (Procurement of biometric system for learner administration). (Meetings of BSC and BAC).



- Bid No 23 of 2017/18 (Provision of IP MPLS Service).
  - Bid No 25 of 2017/18 (Procurement of LAN and VOIP services).
  - Bid No 29 of 2017/18 (Procurement of promotional materials).
28. In respect of one of the tenders that we investigated, we were informed by Ms Mphuthi that she did not attend the meeting of the BEC as she was intentionally misdirected to a wrong venue. (We noted that Ms Matsapola attended this meeting as SCM scribe.) (Bid No 17 of 2017/18 - Procurement of panel of legal services providers).
29. In terms of the CETA SCM SOP and CETA SCM Policy, meetings of the bid committees are required to be recorded and minutes are required to be kept. We were informed that SCM officials are required to attend the meetings as scribes.
30. In respect of some of the tenders investigated by us, we noted that some of the meetings of bid committees were not attended by an SCM official as scribe and that consequently no minutes of such meetings were taken. This occurred in respect of the following bids:
- Bid No 4 of 2017/18 (Development of CETA accredited qualifications).
  - Bid No 6 (Procurement of MIS provider)
  - Bid No 10 of 2017/18 (Procurement of service provider to adjudicate DG applications).
  - Bid No 10 of 2018/19 (Procurement of Grade B building).
  - Bid No 23 of 2017/18 (Provision of IP MPLS service).
  - Bid No 25 (Procurement of LAN and VOIP service).
  - Bid No 33 (Procurement of ICT hardware).
31. In respect of Bid No 10 of 2018/19 (Procurement of a Grade B building), investigated by us, we were informed that the SCM scribe (Ms Matsapola) was instructed by the Chairperson of the BEC to delete from the minutes a reference to the fact that it was stated in the meeting that the procurement of this item was to be done "through WITS".
32. The CETA SCM SOP provides for segregation of the different bid committees.
33. We were informed that it is the practice that the Chairperson of the BEC should also initially attend the BAC meeting in order to present the report of the BEC and that he should then be excused from further participation.
34. We were however informed that in respect of a number of the tenders that we investigated, the Chairperson of the BEC would attend the meeting of the BAC but would then not be excused but instead remained in the meeting and, in some instances, even participated in deliberations of the BAC meeting. We noted that this occurred in respect of the BAC meetings relevant to various bids. The relevant BEC chairpersons were Mr Jiyane (various bids) and Mr Semanya.
35. The failure of chairpersons of the BEC to excuse themselves from BAC meetings, nullifies the intended segregation of the committees, and, given the

- seniority of such persons may have had the effect of intimidating BAC members or limiting frank and open discussion amongst BAC members.
36. In respect of tenders, it is often a requirement that prospective bidders should attend a compulsory briefing session prior to submission of their bids. An attendance register is kept at such meetings. In instances where bidders do not attend such compulsory briefing sessions, it is practice for such bidders to be disqualified at the initial compliance checking stage.
37. In respect of some of the tenders investigated by us, we noted that bidders did not attend the compulsory briefing sessions, but their bids were nonetheless considered and evaluated. This occurred in respect of the following bids:
- Bid No 3 of 2017/18 (Procurement of CETA accredited providers)
  - Bid No 23 of 2017/18 (Provision of IP MPLS service).
  - Bid No 25 (Procurement of LAN and VOIP service).
38. Where bidders who do not comply with compulsory bid requirements such as the above, and are not disqualified, it follows that the officials involved in considering such bids do not act in a fair manner as required of them by Treasury Regulation 16A, paragraph 8.1 (b). The proceedings where such bids are considered and not disqualified can also not be said to have taken place in accordance with a supply chain management system that is, amongst others, fair and equitable, as required by National Treasury Regulation 16A, paragraph 3.2.
39. In respect of some of the tenders investigated by us, we noted instances where some bidders did not attend the compulsory briefing sessions (or were not included in the attendance registers of the said briefing sessions), however the BEC stated in their report that all bidders attended the compulsory briefing sessions. This happened in the following instances:
- Bid No 3 of 2017/18 (Provision of CETA accredited providers).
  - Bid No 25 of 2017/18 (Provision of LAN and VOIP service).
40. The statements in the BEC reports that all bidders attended the compulsory briefing sessions, constitute misrepresentation by the BEC.
41. When tenders are issued, bidders are to comply with the bid requirements, which included the full and proper completion of all (SBD) bid documents. When bidders do not comply with this requirement, it is practice that they are disqualified at the compliance checking stage and that such bids are excluded from further consideration.
42. In a number of tenders that we have investigated, we noted that some bidders have not properly completed certain required (SBD) bid documents. However, the said bidders were not disqualified from further consideration for the bids. This happened in respect of the following bids:
- Bid No 3 of 2017/18 (Provision of CETA accredited providers).
  - Bid No 4 of 2017/18 (Development of CETA qualifications).
  - Bid No 6 of 2017/18 (Provision of MIS service).



43. Where non-compliant bidders are not disqualified, , it follows that the officials involved in considering such bids do not act in a fair manner as required of them by Treasury Regulation 16A, paragraph 8.1 (b).The proceedings where such bids are considered and not disqualified can also not be said to have taken place in accordance with a supply chain management system that is, amongst others, fair and equitable, as required by National Treasury Regulation 16A, paragraph 3.2.
44. In respect of some of the bids investigated by us, where some bidders did not properly complete the mandatory (SBD) bid documents, we noted that the BEC reports stated that all bidders have completed the required bid documents. This occurred in respect of the following bids:
- Bid No 3 of 2017/18 (Provision of CETA accredited providers);
  - Bid No 4 of 2017/18 (Development of CETA qualifications); and
  - Bid No 6 of 2017/18 (Provision of MIS service).
45. The statements in the BEC reports that all bidders completed the required bid documents, constitute misrepresentation by the BEC.
46. In respect of Bid No 17 of 2017/18 (Provision of a panel of legal service providers), we were informed by Ms Mphuthi that a re-scoring of the bids occurred which had the effect of excluding certain bidders who have previously been selected, based on the initial scoring. This further had the effect that some bidders were subsequently awarded the bids who were not initially successful (after the initial scoring).
47. In respect of Bid No 18 of 2017/18 (Provision of alarm and armed response), we noted that the price of the bid documents of the successful bidder, was scratched out and replaced with the subsequent awarded price for the bid. Such altering of bid documentation is highly irregular and should not have been allowed by the BAC.
48. In respect of Bid No 4 of 2017/18 (Development of CETA qualifications) we noted that there was no contract or letter of appointment on file in respect of the successful bidder. This is of concern, particularly given the high value of the awarded bid (R 47 million).
49. In respect of Bid No 12 of 2017/18 for the appointment of Internal Auditors, we noted that the CFO, Ms Ndlovu, was the requestor of the service. Despite the aforementioned she also participated in the adjudication of the bid.
50. In respect of Bid No 23 of 2017/1\* (provision of IP MPLS service), we were informed by Ms Matsapola that a re-scoring of the bids was performed which prejudiced EOH and advantaged Singatel t/a Net15, despite the fact that Singatel was not recorded in the bid submission register.
51. National Treasury Regulation 16A, paragraph 8, provides for role players in a supply management system to comply with the highest ethical standard and guard against the abuse of such system. To this end paragraph 8.5 provides that "An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or accounting authority, in writing."

52. We noted that in a number of instances role players in the CETA SCM system who became aware of breaches of the system did not report such breaches to the Accounting Authority. We note in particular that this was not complied with by Mr Kuzana and Ms Mphuthi in respect of various matters referred to above.
53. The appointment of OMT by way of RFQ was irregular in that SCM officials were instructed to appoint OMT contrary to normal procurement procedures.
54. The appointment of TNI Superior General Trading was effected irregularly through the backdating of a Purchase Order.

#### Recommendations

55. We recommend that the CETA gives consideration to the institution of appropriate disciplinary action in respect of the following:
- (a) SCM officials who issued bids without giving the bidders 21 days to respond as required by National Treasury Regulation 16A 6.3 (a) and paragraph 9.4.2 of the CETA SCM Policy.
  - (b) SCM officials who failed to open bids in public as required by par 4.10 of the National Treasury Guide of 2004.
  - (c) Mr Kuzana in respect of instances where he completed and signed the bid submission register on his own in the absence of another official as required by par. 9.5.4 of the CETA SCM Policy of 2018/19.
  - (d) Ms Ndlovu in respect of the bid where she added names of bidders to the register after completion of the register by SCM, as alleged by Ms Mphuthi.
  - (e) members of the BEC who evaluated bids of bidders whose names were not recorded in the bid submission register, as set out in our report.
  - (f) members of the BEC who proceeded with BEC meetings in the absence of an SCM advisor, as indicated in our report.
  - (g) members of the BEC who evaluated bids of bidders who ought to have been disqualified as a result of them not attending the compulsory briefing sessions, as indicated in our report.
  - (h) members of the BEC who approved reports to the BAC stating that all bidders attended the compulsory briefing sessions, whereas some of the bidders did not in fact attend the said compulsory briefing sessions (in the instances as indicated in our report).
  - (i) members of the BEC who evaluated bids of bidders who ought to have been disqualified as a result of them not having completed the prescribed (SBD) bid documents, as indicated in our report.
  - (j) members of the BEC who approved reports to the BAC stating that all bidders have completed the prescribed (SBD) bid documents whereas some of the bidders did not properly complete the prescribed (SBD) bid documents, as indicated in our report.
  - (k) SCM officials who were aware of breaches of the SCM processes and failed to report same to the Accounting Authority as required by par 8 of the National Treasury Regulations (Reg. 16 A 8).
  - (l) Ms Ndlovu and Ms Senkoto who acted in an unethical manner in procuring the services of OMT as discussed in our report.
  - (m) Ms Senkoto, who irregularly issued a purchase order for the appointment of TNI Superior General Trading, as indicated in our report.

56. Where our above recommendations refer to categories of offences, we recommend that the details of individual offences be confirmed with our investigation team prior to the institution of charges against specific individuals.

### 1.3 Special Projects

57. We were mandated to investigate various aspects of CETA grant funding and in particular allocation of grant funding to WITS University, WITS Commercial Enterprises and SAFCEC, as part of Special Projects, over a period of three financial years, being 2017/2018, 2018/2019 and 2019/2020.
58. We executed the following procedures:
- Analysis and review of requested and provided information and documents;
  - Analysis and perusal of governance framework i.e., policies and legislation; and
  - Interview of CETA staff members and stakeholders, in particular former members of the Accounting Authority and EXCO.
59. We have observed and found that WITS (University and WITS Commercial Enterprises) and SAFCEC, as individual discretionary grant recipient entities and together, received a large portion/substantial portion of the Discretionary Grant funding allocation from CETA during 2017/18 and did not receive a large portion/substantial portion of the Discretionary Grant funding allocation from CETA during the 2018/2019 and 2019/2020 allocations.
60. We observed and found as follows:
61. That the applicable CETA legislation, policies and governance rules i.e:
- paragraph A, B and sub paragraph two and three of D7 and paragraph 2.2.3 of CETA Delegation of Authority and Approvals policy;
  - section 3 of the CETA Code of Conduct, on Conflict of Interest;
  - paragraph 3 of the CETA Constitution;
  - the provisions of section 10 (1) (b) (iii) of the Skills Development Act and section 13 (3) (b) of the Skills Development Act, 97 of 1998;
  - the provisions of section 56 (1) (a) of the PFMA;
  - the provisions of section 51 (1) (b) (ii) of the PFMA; and
  - the provisions of section 50 (1) (b) of the PFMA

were contravened by the Accounting Authority, and / or its EXCO and / or official(s) through the approvals of the entirety of the allocation of discretionary grants for 2017/2018, approval of SAFCEC grant funding, related SAFCEC grant funding variations and approval of WITS grant funding by EXCO and by official(s) making offers to WITS Enterprise and other



- special projects funding beneficiaries for discretionary grant funding in the financial period of 2017/2018 (around March 2018).
62. The approval of the following discretionary grant funding was accordingly irregular:
63. The entirety of the discretionary grants for 2017/2018 purportedly approved by the EXCO.
64. The purported approval of discretionary grant funding in respect of SAFCEC by the EXCO around March 2018 (R100 million).
65. The purported approval of discretionary grant funding in respect of WITS by the EXCO around March 2018 (R91 million).
66. The making of an offer to WITS Enterprise for discretionary funding in the financial period of 2017/2018 (around March 2018). (R150 million relating to the CETA Academy).
67. The purported approval of additional discretionary grant funding to Wits i.e., University and Commercial Enterprise in the financial period of 2017/2018 (around March 2018) (R24,8 million); and
68. The purported approval of discretionary grant funding for other special projects in the financial period of 2017/2018 (around March 2018) as set out below.
69. The above findings are summarised below in more detail.
- The DG Allocations
70. We have observed and found that Falahmetrix and Global processed and handled the evaluation and adjudication of the relevant Discretionary Grants applications relating to the 2017/2018, 2018/2019 and 2019/2020 annual DG allocation windows and made recommendations for the approval thereof by the Accounting Authority.
71. We observed that the final outcomes of the above-mentioned evaluation and adjudication activities, were executed by Falahmetrix and Global in their capacities as BEC and BAC respectively and such were effectively made as follows:
72. In 2017/2018 DG window: final recommendations were purportedly approved by the EXCO.
73. In 2018/2019 DG window: final recommendations were approved by the AA, and
74. In 2019/2020 DG window: final recommendations were approved by the AA.
75. On 29 March 2018 the EXCO made the following decision in round robin format:
76. Approved the entirety of the evaluated and adjudicated discretionary grants of 2017/2018 that were finally recommended by Falahmetrix (BEC) and Global (BAC), amounting to R589 915 000 in respect of 12 965 learners for the period 2017/2018.
77. The above approval was discussed, but not concluded and finalized during the normal proceedings of the EXCO during its 28th of March 2018 meeting.



The decision was to be taken by way of round robin, following finalisation of the BAC report.

78. We have established that the outcome of the said round robin decision was communicated to CETA on 29 March 2018.
79. We found that the above-mentioned final recommendation was decided upon and approved by the EXCO in round robin format and not by the Accounting Authority.
80. We found no evidence of the specific delegated authority and/ or ratification regarding the abovementioned approval of relevant discretionary grant funding allocation prior to the making of the decision and / or post the said decision in question.
81. Apart from the above-mentioned DG allocations approved during the relevant annual DG window approvals, the following Special Projects DG allocation approvals were decided upon in the respective financial periods:  
2017/2018 - The SAFCEC funding
82. The 28 March 2018 EXCO meeting approved the allocation of funding to SAFCEC for discretionary grant funding for R100 million (broken down into R50 million for the financial year 2018/2019 and R50 million for the 2019/2020 financial year
83. The approval of the funding proposal of SAFCEC for R100 million was not a decision of the Accounting Authority.
84. The above was an approval decision of the EXCO, a committee of the Accounting Authority without evidence of it having delegated authority to take such a decision or evidence of the ratification of the said decision by the AA.
85. The approval of the allocation of R900 000 for Short Skills Programme, 60 learners, at a cost of R15 000 per learner by the former CEO, Ms Pilusa, in the form of a signed offer letter dated 28 March 2018 and accepted by Mr Mfebe, CEO SAFCEC on 29 March 2018 in this regard, constituted an additional allocation.
86. The approval of the extra funding allocation by the then CEO of R900 000 for Short Skills Programme, 60 learners, at a cost of R15, 000 per learner was not a decision of the Accounting Authority.
87. The above was an approval decision of the then CEO, an official of CETA, without evidence of the Accounting Authority's delegated authority to take such a decision and / or evidence of the ratification of the said decision by the AA.  
Funding for WITS and the establishment of the CETA Academy
88. The 28 March 2018 EXCO approved discretionary grant funding to WITS University for R91 million (over a period of two years).
89. The approval of the WITS University funding proposal was not an approval of the Accounting Authority of CETA.
90. The above was an approval decision of the EXCO, a committee of the Accounting Authority without evidence of it having the delegated authority to

take such a decision and / or evidence of the ratification of the said decision by the AA.

91. Additionally, on 28 March 2018, the then CEO, Ms Pilusa, made the following discretionary funding allocation decisions in the format of offers to contract to WITS University and WITS Commercial Enterprise, totalling R174 891 100.
92. The above-mentioned additional funding allocations totalling R174 891 100, were approval decisions of the former CEO, Ms Pilusa without evidence of the delegated authority to take such a decision and / or evidence of the ratification of the said decisions by Accounting Authority. Details of the said offer letters are as follows:
93. An offer letter dated the 28th of March 2018 in respect of R150 million discretionary grant allocation to WITS Enterprise for the establishment of the CETA Academy.
94. A contract in respect of Special Projects involving bursaries for senior managers from CETA and Services SETA, also known as the Master's' programme, being R7 200 000, discretionary grant allocation for 24 Learners, at a unit cost of R300 000.
95. An offer letter dated the 28th of March 2018 for bursaries for the amount of R13 200 000, discretionary grant allocation for 165 Learners, at a unit cost of R80 000.
96. An offer letter dated the 28th of March 2018 in respect of New Leaders Development for the amount of R2 029 500, discretionary grant allocation for 165 Learners, at a unit cost of R12 300.
97. An offer letter dated the 28th of March 2018 for Future Leaders for the amount of R1 881 600, discretionary grant allocation for 224 Learners, at unit cost of R8 400.
98. An offer letter dated the 28th of March 2018 for Contemporary Leaders Development for the amount of R580 000, discretionary grant allocation for 33 Learners, at unit cost of R17 600.

#### 2017/2018 – Other Special Projects

99. Additional discretionary funding allocation decisions were made during the year 2017/18. These decisions were not made by the Accounting Authority and also without evidence of the delegated authority from the AA and / or evidence of ratification thereof by the Accounting Authority. The details of the said decisions are as follows:
100. Allocation to Umfolozi TVET College in respect of a skills development centre, for the amount of R 150 million.
101. Allocation to the University of Cape Town in respect of Associate lecturer positions (Transport planning/GIS/CAD for planning), for the amount of R46 million.
102. Allocation to Joint Projects (JPMT) amounting to R7 million.
103. A "self" allocation (i.e. for the benefit of CETA) in respect of 24 MacBook laptops relating to the Master's programme (included on the additional

- funding allocation to WITS). This was invoiced on three occasions, totalling R938 444.98, prior to the offer to contract and the signing thereof with WITS.
104. Additional discretionary funding allocations approvals were made during the year, 2019/20. These decisions were not made by the Accounting Authority and also without evidence of the delegated authority from the AA and / or evidence of the ratification thereof by the Accounting Authority. The details of these decisions are as follows:
105. Allocation to Cooperative Empowerment Training in respect of Organisational hands On, amounting to R1.4 million.
106. Allocation to Operational Kit Cooperative in respect of Organisational hands on, amounting to R250 000.
107. Allocation to School renovation in respect of Organisational hands on, amounting to R3 million.
108. Allocation to National African Federated Building Industry in respect of mentorship, amounting to R5 054 200.
109. The above allocations were approved in violation of in violation of paragraph A, B and sub paragraph two and three of D7 and paragraph 2.2.3 of CETA Delegation of Authority and Approvals policy, the provisions of section 10 (1) (b) (iii) of the Skills Development Act and section 13 (3) (b) of the Skills Development Act, 97 of 1998, and the provisions of section 56 (1) (a) of the PFMA.
110. We noted and found that payments as accounted for on the Commitment Schedule/Register, supporting documentation, relevant discretionary grant documentation and normal corporate bank statements, in respect of the period under review and as a consequence of the above-mentioned discretionary grant funding allocation approvals and to the exclusion of any duplication therein (e.g., Master's programme, SAFCEC, WITS bursaries) **amounting** to a total of R141, 083,451. 20 were made as follows:
- 2017/2018
111. R938 444,98 related to the Master's Programme, part of the additional allocations by the then CEO and in respect of the MacBook Laptops for 24 participants.
112. R2 296 092,54 related to the Joint Projects (JMPT), effected during the year. Details of the beneficiaries are unclear beyond such being joint SETA efforts e.g., either between CETA, Services SETA and possibly CATHSSETA.
113. Payments in respect of the EXCO DG approval of 29 March 2018, amounting to R589 915 000 were not quantified.
- 2018/2019
114. The total payments effected in this financial period amounts to R25 187 009.19, inclusive of all payments to SAFCEC and WITS, as a consequence of the relevant Special Projects approved allocations and to the extent that such includes any other part of the 2017/2018 normal DG allocations not duplicated on either SAFCEC or WITS payments as already quantified.
- 2019/2020

115. The total payments effected in this financial period amounts to R68 911 904.49, inclusive of all SAFCEC and WITS allocations, as a consequence of the relevant Special Projects approved allocations and to the extent that such includes any other part of the 2017/2018 normal DG allocations not duplicated on either SAFCEC or WITS payments as already quantified.
116. Additionally, we noted and found that the payment of R 43 750 000 made in respect of the purchase of a grade building B, was later refunded in the amount of R 44 847 061.11 (interest included).
117. The total payments effected in this financial period amounts to R112 661 904.49.

Conclusions and recommendations

118. In respect of the above, we conclude and recommend as follows:
119. The above decisions were not in accordance with applicable legislation, policy and governance rules as set out above.
120. All expenditure incurred as a consequence of the above approval decisions are to be classified and accounted for as irregular expenditure.
121. The members of the AA, and specifically those AA members who attended the Exco meetings where the above decisions were taken, caused irregular expenditure or failed to prevent irregular expenditure, alternatively failed to act in the best interests of the CETA. Consequently, we recommend that in respect of such members of the AA consideration be given by the CETA to institute criminal action in respect of the said members of the AA, as envisaged in section 86 (2) of the PFMA read with section 51 (1) (b) (ii) of the PFMA, alternatively section 50 (1) (b) of the PFMA and in general read with the provisions of section 50 (2) of the PFMA and the provisions relating to fiduciary duties of the AA as set out in the PFMA. We make this recommendation subject to the CETA obtaining legal advice on the question whether section 86 (2) permits the institution of criminal action against an individual member of the AA in the circumstances envisaged above.
122. We recommend that consideration be given to appropriate corrective measures in mitigating the above grant funding decisions and payments effected as a consequence thereof and such may include any internal, civil or criminal action against implicated staff members and relevant stakeholders i.e., former members of the Accounting Authority and EXCO.
123. We further recommend that consideration be given to the implementation of corrective measures in this regard, such as cancellation of unutilised discretionary grant funding to the extent that such is in the best interests of CETA and is not unjustly prejudicial to the affected learners where such implementation is already underway.



## 1.4 HR Matters

### The pension dispute

124. During the middle of 2018, certain disputes arose between Ms Pilusa, the former CEO of the CETA, and certain Board members of the CETA. The following are of relevance:
125. Whether the 15% pension fund contribution that had been awarded to staff effective from 1 April 2018 was in fact authorised by the AA or not. Certain CETA Board members claim that there was no authorisation for the 15% pension fund contribution whilst Ms Pilusa claims that such approval had been granted.
126. Whether the CETA Chairperson, and by implication, the CETA Board knew of the increase in the pension fund contributions. Ms Pilusa claims that the Chairperson signed a letter, confirming her pension fund contribution increase and as such the Chairperson and, by implication the CETA Board, had knowledge of, and approved the 100% pension fund contribution. The Chairperson denied having signed the said letter. Claims were made that the signature on the letter on which Ms Pilusa relies as proof that the CETA Board had knowledge of the matter, was forged.
127. Both the CETA and Ms Pilusa make reference to a "15% salary increase" (whether authorised or not). The findings reflect that the CETA staff did in fact receive a 15% increase in their salaries as a result of a change "...from a cost to company structure to a basic and benefits structure ..." as it appears on the Personnel Action Records issued to the CETA staff during April 2018. In addition to the 15% increase, the CETA staff received their annual increases, ranging between 8-10% on the "new" salaries, i.e. after the 15% salary increase. Furthermore, the CETA, as from 1 April 2018 would pay the full pension fund contribution of all staff members. The CETA staff in effect therefore received three "increases", being the 15% plus the annual increase plus the CETA now paying the full pension fund contribution.
128. We were provided with conflicting versions of what transpired in respect of the pension matter.
129. No conclusive evidence could be found that the AA approved a 15% salary increase, or an increase in the pension fund contributions. The minutes of the AA contain no reference to such discussion or resolution of the matter at the meeting of the AA held in Durban on 8 March 2018.
130. It is also relevant to note that there was no reference to a demand for, and discussion of, an increase in pension fund contributions during the wage negotiations process preceding the above AA meeting, which dealt with salary increases and related benefits.
131. Two former AA members (Mr Shai and Mr Dlamini) deposed to affidavits claiming that the pension fund increase was on the agenda, discussed and approved at the said meeting. The said affidavits are however cursory and incorrect insofar as it creates the impression that the pension matter was listed as an agenda item.

132. Mr Shai and Mr Dlamini did not avail themselves for interviews with us to clarify their affidavits and their versions are contradicted by other Board members (specifically Mr Cele and Mr Mfebe).
133. At its meeting held on 8 March 2018, the AA approved a multiyear (two year) agreement in respect of salary increases and this agreement does not reflect an increase in pension fund contributions.
134. At a staff meeting on 26 March 2018, Ms Pilusa announced the benefits that were approved by the AA at its 8 March 2018 meeting.
135. She also announced that the AA had approved that the CETA pay the full 100% pension fund contributions.
136. During early April 2016 the staff requested that the benefits approved by the AA be put in writing.
137. When the HR Department prepared the letter for Ms Pilusa's signature, she informed them that the pension fund contribution aspect was not contained on the letter. Both the Board Secretary and the Senior HR Manager informed Ms Pilusa that the pension fund contributions were not part of the AA approved benefits.
138. Ms Pilusa instructed them to re-check the minutes of the 08 March 2018 AA meeting, which they did and they could still not find that the pension fund contributions had been approved and they informed Ms Pilusa accordingly.
139. Ms Pilusa instructed the Senior Manager HR to include the pension fund contribution as a benefit that was approved by the AA, on the letter that was provided to staff on 12 April 2018.
140. Ms Pilusa also instructed the Finance Department to include the changes to the pension fund contributions in the April 2018 payroll run.
141. Our perusal of the minutes meetings of the following bodies revealed no evidence of any proposal or resolution to increase the pension fund contributions:
- The Accounting Authority
  - The Exco
  - The Audit and Risk committee
  - The Fincom
  - The Remco
142. The audio recording of the AA meeting of 8 March 2018 was paused for a closed discussion during which Management was excused from the meeting. However, when the full meeting resumed, the Chairperson noted the resolutions that were passed during the closed session, and no mention was made of an increase in pension fund contributions. The word pension was mentioned in passing but only very briefly and not in the context of an amendment to the pension fund contributions.
143. We perused the Board pack prepared for the above meeting and found no evidence of a reference to the increase in pension fund contributions.

144. As a change in the pension fund contributions necessitated a change to the rules of the Pension Fund, Liberty Life, the CETA Pension Fund Administrator, was requested during April 2018 to effect the necessary changes, which changes were accordingly approved by the FSCA with effect from 1 June 2018.
145. A second pension fund rule change took effect on 11 February 2019 after reverting back to the regime where CETA and the employees would be paying 7.5% each.
146. According to the minutes of the AA meeting held on 26 July 2018, the matter of the pension fund contributions was brought to the attention of Chairperson of the AA during May 2018 / June 2018 during the budget process.
147. It is not clear why the Chairman did not bring this to the attention of the Board at earlier meetings of the Board held in June and July of 2018.
148. According to Ms Pilusa, several employees of the CETA in the past complained about the manner in which their pension fund contributions were calculated. They claimed that the contributions were all made by the employees with no contribution from the CETA. The Finance Manager however dismissed these claims and held the view that the calculations were correct.
149. According to her, re-calculations of the pension fund contributions however revealed that the contributions were made to the detriment of employees, and this had to be corrected. She stated that instead of reimbursing employees for past contributions it would be corrected by the CETA making the full pension contributions in future.
150. According to Ms Pilusa, she advised the Chair of the AA and all members of the Remco and Exco telephonically of this a day or two prior to the AA meeting of 8 March 2018. She claims that Mr R Mnisi objected to her taking this course of action as he viewed it as inappropriate. (In an interview with us, Mr Mnisi could however not recall this).
151. Ms Pilusa claims that the matter was to be decided at the AA meeting of 8 March 2018. According to her, the matter was discussed at a management meeting a few days before the scheduled AA meeting. It was then decided that the matter should be referred to the AA and Mr Cele and certain other Board members were called telephonically to advise them that the matter would be raised at the meeting of the AA. According to her, the Chairman of the AA was informed about the matter and agreed that it had to be corrected.
152. Ms Pilusa further claims that a presentation was made on this matter to the AA by the CFO, following the meeting of the management. According to her the AA in fact approved it at the said meeting.
153. We were informed by the CFO (Ms Ndlovu) that the pension matter was discussed by Ms Pilusa at a management meeting a few days prior to the meeting of the AA. Ms Pilusa insisted that the pension matter should be included in a memorandum prepared for submission to the AA.
154. According to Ms Ndlovu she was opposed to the pension adjustment as she was of the view that it was not sustainable in the long term, given the financial impact of such a change.



155. Ms Ndlovu stated that she prepared the memorandum but did not include the pension matter and did not present the pension matter at the AA meeting. According to her it was also not discussed in her presence at the AA meeting. She stated that she was surprised when, during the summary of approved benefits at the AA meeting, Ms Pilusa referred to pension. According to her it was mentioned by Ms Pilusa and briefly referred to by some other Board members but was not discussed in her presence or recorded in the minutes as part of the approved benefits.
156. We conducted a consultation with Mr Cele. He referred us to the minutes of the AA and stated that if it was not recorded in the minutes there was no resolution taken.
157. Mr Mfebe adopted a similar view in our consultation with him.
158. The first time that the matter of the alleged irregular pension contributions was raised by the AA was at the AA meeting held on 26 July 2018.
159. We were informed by former Board member, Ms Nxumalo that this matter was brought to the attention of the Board by the ACEO, Mr Semanya.
160. According to the minutes of the AA meeting held on 26 July 2018, the matter of the pension fund contributions was brought to the attention of the Chairperson of the AA during May 2018 / June 2018 during the budget process. (This is confirmed in the presentation made by the CETA to the Portfolio Committee and by an affidavit made by Ms Govender).
161. As indicated above, is not clear why the Chairperson did not raise this important matter with the Board earlier.
162. We note that there were various meetings of the Board during June and July of 2018, as follows:
- Special AA meeting held on 11 June 2018;
  - Special AA meeting held on 14 June 2018; and
  - Meeting of the AA held on 18 July 2018.
163. The issue regarding the alleged irregular pension payments were not raised by the Chairperson of the Board at any of the above meetings.
164. Various legal opinions were obtained in the course of the matter, all of which supported the CETA's contention that the pension fund contribution was unauthorised and that the CETA was entitled to recover the monies from the staff members. This included an opinion obtained by the CETA Staff. The purpose of these opinions was however not to determine the factual events but rather to pronounce on the legal implications of a decision that was assumed to have been unauthorised.
165. During September 2018 the CETA Board resolved to:
- 1) Stop the 15% payments going forward as a matter of urgency - by end of September 2018. This aspect was only implemented and effected by 25 November 2018, resulting in a reduction in the salaries of all employees. Mss Chetty and Swart confirmed, and also provided proof in the form of payslips, that the CETA stopped paying the full 100% pension fund contributions during October 2018 with the last such payment being made during October 2018.

From November 2018 the CETA and the staff each contributed 50% of the pension fund. During December 2019, the CETA however once again started paying the full 100% pension fund contributions.

2) Lay criminal charges against the former CEO.

(The CETA, through its Chairperson did lay a criminal charge of fraud against Ms Pilusa at the Midrand SAPS during September 2018).

3) Send a letter to staff informing them of what has happened and the AA to seek legal opinion and revert back to staff in the form of a letter from the Chairperson.

(Various meetings were held with Staff)

4) Investigate a process of instituting disciplinary action against all those involved in the implementation of the process for the pension increases.

Disciplinary action was taken against four senior officials during May 2019. All four pleaded guilty to the charges. The said officials were:

- Ms Govender
- Ms Chetty
- Ms Ndlovu
- Mr Nene

The fact that the individuals all pleaded guilty to the charge confirm their acceptance of the alleged irregular expenditure committed by the erstwhile CEO of the CETA, Ms Pilusa, by increasing the CETAs contribution to pension without a formal Board resolution.

5) Report to be sent to National Treasury.

(In the minutes of the AA meeting held on 29 November 2018) it was reported that this was done)

6) Report to be sent to the AG

(In the minutes of the AA meeting held on 29 November 2018 it was reported that this was done)

7) Meeting with the Minister in relation to this matter has been requested and awaiting confirmation thereof.

(Unclear as to whether this meeting took place)

8) The AA further resolved to have a meeting with both internal and external auditors to inform them about what transpired, as part of the AA's fiduciary duties.

166. Some aspects of the 06 September 2018 resolutions were postponed on more than one occasion to allow for further discussions and negotiations between the CETA and its staff.
167. During July 2019 "an alternative approach" to resolve the pension fund matter was first mentioned. This "alternative approach" was presented in detail by Mr Semanya during the AA meeting held on 2 October 2019 and in essence entailed the appointment of an independent mediator as opposed to the legal



route through the courts. We were informed by Mr Semanya that his proposal was declined by the Board.

#### Relevant Court cases

168. Ms Pilusa took the CETA to the CCMA for constructive dismissal. The case was first heard on 12 June 2018.
169. Following the implementation of the stopping of the 15% pension fund contribution by the CETA during November 2018, the CETA staff applied for an interdict in the Labour Court during November 2018 to prevent the CETA from implementing their resolutions.
170. Staff members of the CETA also approached the CCMA during January 2019 in an attempt to stop the CETA from continuing with the stopping of the 15% and the recovery of the portion of the pension fund contributions paid by the CETA.
171. Despite the CFO reporting to Exco during February 2019 that "... the instruction was given to the legal experts to initiate the declaratory order as they indicated that there is no risk involved..." and the Acting CEO reporting to Exco on 1 April 2019 that "the process for initiating a declaratory order is underway ....." by October 2019 as per the AA minutes, no application had been made for a declaratory order.
172. Only on 2 October 2019 did the AA resolve that "... the court process in terms of the declaratory order must go ahead to address the recovery process".
173. It is not clear whether an application was made to Court, and, if so, what the outcome was.
174. Although Ms Chetty indicated that, during the period April 2018 to January 2019, the pension fund contributions were made as indicated below, the second pension fund rule change only became effective on 11 February 2019. Mss Chetty and Swart confirmed, and also provided proof in the form of payslips, that the CETA stopped paying the full 100% pension fund contributions during October 2018 with the last such payment being made during October 2018. From November 2018 the CETA and the staff each contributed 50% of the pension fund.
175. During December 2019, the CETA once again started paying the full 100% pension fund contributions, following a decision to this effect by the AA.
176. We were informed that the following changes were made:
  - 1) Prior to April 2018 -Salary package included the 7.5% employee and 7.5% employer contribution.
  - 2) April – October 2018- 15% pension contribution over and above salary package paid as "employer" contribution.
  - 3) November 2018 - 7,5% employer contribution over and above the salary package, 7.5% employee contribution as a deduction.
  - 4) December 2019 – Total pension contribution paid by the CETA.
177. The pension matter took months to be resolved and in fact is still unresolved.



178. The change from the 7.5% to 15% contribution required a rule change to the Pension Fund Rules that had to be approved by Liberty as well as the FCSEA. The relevant rule changes were effected during 1 June 2018 and then again on 11 February 2019.
179. The Pension Fund rules can be changed at any time. However, a comprehensive consultation process with staff is required to do so. This consultation process will then be followed by voting to accept the proposed changes.
180. It does not appear that a "comprehensive consultation process with staff" took place when the changes to the Pension Fund rules were made, nor did any voting take place on any proposed changes.
181. The Chairperson (Mr Cele) denies that he had signed the letter confirming Ms Pilusa's change in pension fund contribution.
182. Claims were made that the Chairperson's signature had been forged.
183. A sworn affidavit was deposed to by the then Board Secretary (Ms Govender) stating that the letter was signed by Mr Cele.
184. According to information provided by Ms Govender the letter was signed by Mr Cele in her presence. She indicated that two letters, addressed to Ms Pilusa, were prepared by HR and given to her to provide to Mr Cele for his signature. One of the letters dealt with the salary increase of Ms Pilusa and the other dealt with the change in pension benefits. According to her, Mr Cele signed the letter regarding Ms Pilusa's salary increase. When presented with the letter setting out the change in pension benefits of Ms Pilusa, Mr Cele asked whether it had been implemented already. She stated that it was and he then signed the pension letter in her presence. At our interview with him Mr Cele preferred not to respond to this allegation but referred us to the minutes of the meetings of the AA.
185. Ms Govender was interviewed again and specifically requested to confirm the events that took place with regards to the signing of the letters. She once again confirmed that she received the letters from HR, took it to Cape Town where both letters were signed by Mr Cele in her presence. This was towards the middle of May 2018. Ms Govender confirmed that Mr Cele asked her whether the implementation had been effected and she confirmed that it had been as she took the letters down to Cape Town during May 2018 and by that time the CETA Staff had already received their new salaries for April 2018, which included the new pension fund contributions. Ms Govender however denies that Mr Cele asked her for the minutes of the meeting where the discussion in respect of the pension fund was taken. She stated that the Minutes of the Meeting of the 8th of March 2018 was made available to all CETA Board members at the next CETA AA meeting that was held on 3 May 2018.
186. Ms Govender returned from Cape Town with the signed letters and gave it to the HR Department.
187. We were further informed that the signed letters were returned to HR and placed on file. The letters were allegedly presented to the Board when this

matter was discussed by the Board. The original letters are no longer available on file. Copies were however found on file.

188. We were informed by Mr Semanya that the original letters are still in his possession (as at June 2021) and could be collected from his attorneys.

189. We understand Mr Cele's responses to our questions to be a denial that he had signed the letter and claims were made (in meetings) that the Chairperson's signature had been forged.

190. When asked whether he denies signing the letter issued to Ms Pilusa, Mr Cele would not respond other than stating that his view of the matter is as is reflected in the minutes of the AA where the issue of "four letters" were recorded. We noted from this section of the minutes that the letters were referred to Werksmans Attorneys to investigate the authenticity of the letters, thereby implying that the signature of Mr Cele was disputed.

191. We were not provided with the outcome of Werksmans' investigation into this aspect.

192. The disputed signatures of Mr. Cele on the copies of the two letters issued to Ms. Pilusa were subjected to handwriting analysis by us. The signature on the disputed letters was compared with specimen signatures on other documentation signed by Mr Cele in the course of his duties as Chairperson of the AA and also the electronic signature of Mr Cele that was provided to us. The handwriting expert concluded as follows:

**"Conclusions:**

The disputed signatures on the documents "A" and "B" were in all probability signed by the person who signed the specimen signatures. Due to the slight differences which occur, however, a definite conclusion cannot be reached beyond doubt."

193. Based on the information provided to us, it is clear that a formal Board resolution was not passed regarding the increase in pension contributions at the meeting of the Board held in Durban on 8 March 2018.

194. Given the contradictory versions presented to us, and the unavailability/unwillingness of certain Board members to be interviewed by us, we are however unable to conclude whether Board members were made aware of the proposed change in pension benefits at the said meeting and allowed the implementation thereof to proceed (initially).

**Medical aid contributions**

195. During 2016 the AA made a resolution to have the medical aid contributions for officials based on a 70/30 split, with CETA paying the 70%. This related to the Classic Comprehensive cover in the Discovery Health medical scheme. When Mr Nene was adjusting the payroll to be in line with 70/30 board approval, he noticed the change in medical aid benefit would negatively affect the lower income officials' tax deductions. He informed us that he then entered a meeting where Ms Pilusa, Ms Ndlovu and other executives were in attendance.

196. He approached Ms Pilusa and informed her of the consequences of the AA resolutions in respect of the medical aid matter. He then suggested a change

in the AA resolutions which prompted Ms Pilusa to call the Chairman who allegedly approved the proposed amendment telephonically.

- 197. The medical aid contribution was changed to 100% employer funded; however, there is no AA or Exco resolution that indicates such a change.
- 198. In his interview with us, Mr Cele denied that he ever discussed Board decisions with Ms Pilusa outside of a formal Board meeting.

#### CETA salary matters

- 199. The salary of the CEO of the CETA.
- 200. The salary of the CEO of the CETA at all relevant times in our period under review, exceeded that of a Director General in the Public Service and was thus in contravention of Regulations 7 and 8 (1) of the Regulations for the conditions of service and appointment of the CEO of a SETA published in Government Notice R902 in Government Gazette 34720, dated 4 November 2011 referred to above.

#### Sustainability of salary increases

- 201. We noted a significant increase in the salary cost of CETA during the financial periods 2017/18 and 2018/19.
- 202. Salary costs increased from R48 million to R69 million in 2017/18 and from R69 million to R 126 million in 2018/19.
- 203. The sharp increase in rising employment costs during the period under review is of grave concern to the CETA and is not sustainable.
- 204. The average salary costs of CETA employees exceeded R1.1 million during the 2018/19 financial year.

#### Vacant positions

- 205. The CETA has a high number of vacant positions.
- 206. The 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.
- 207. Employees earning more than the maximum notch of their respective salary bands.
- 208. A large number of employees are earning substantially more than the maximum notch of their respective salary bands.

#### Adult dependants on medical aid

- 209. We have also identified various instances where employees had adult dependants on their medical aid plans that are paid for in full by the CETA, thus contributing to the high employment costs.

#### Bonus payments

- 210. The CETA Board has the final authority to approve the payment of performance bonuses to staff.
- 211. The Board has however delegated its authority to the Exco to review and approve performance bonuses.



212. Funding of bonuses appear to be determined by whatever funding is available at year end rather than by a process of budgeting for performance bonuses.
213. As an example, the bonus allocation for 2018 was an amount of R 18.5 million. This recommendation was met with resistance from Fincom. Bonuses of R16.3 million were subsequently approved.
214. In addition so-called "clean audit" bonuses were paid to CETA employees over a number of years. It appears that there is no provision in the CETAs HR Policies for the payment of such incentives in addition to performance bonuses.
215. We note that there was a significant increase in bonuses paid to staff during the period 2017 to 2019.
- Performance Appraisals and Moderation
216. CETA performance appraisals are conducted based on key performance areas. The said key performance areas are however very generic and do not distinguish adequately between various levels of staff.
217. Moderation of the staff scoring also appears to be generic and based on perception rather than on specific work related evidence. It is noted that the weights and activities of the KPA's for Reporting and Accountability and Cultural Issues are the same for all management levels, including Executive Management.
218. We further noted that 45% of the KPA's of all CETA staff members are identical for all staff, regardless of level. This means that 45% of the performance criteria of all CETA members, from the CEO of the CETA to the lowest ranked employee, are the same.
219. Decisions to amend scores were taken based on what appears to be subjective criteria and / or no reasons were provided for the amendment of the scores.
220. The moderation of scores resulted in additional bonuses of R1 466 279 and R546 396 being paid during 2017/8 and 2018/9 respectively.
- Appointments and Promotions
- Appointment of the CEO
221. Ms. Sonja Pilusa resigned on 12 June 2018 as CEO from CETA.
222. During an AA meeting held on 14 June 2018, it was concluded that Mr. Robert Semanya will be the Acting CEO and that the position of CEO will be advertised in three newspapers.
223. As it appears from the Regulations issued in terms of the Skills Development Act, the Minister is responsible to appoint a CEO for the respective SETA, based on the names recommended by the Accounting Authority in accordance with its constitution.
224. The position was advertised 150 applications were received, for the position of CEO.
225. The applicants were screened, and 11 potential candidates were identified.

226. Ten of the eleven candidates were interviewed, with the exception of the late Mr Thapelo Madibeng who was hospitalised at the time.
227. The interviews were conducted on 30 July 2018 and were done by the AA selection committee, consisting of the following AA Members:
- Mr Raymond Cele;
  - Ms Thembi Ndlovu;
  - Mr Webster Mfebe;
  - Mr Piet Matosa; and
  - Ms Sibongile Nxumalo
228. The following 3 (three) candidates were selected, shortlisted and names sent on 31 July 2018, to the Minister:
- Robert Semanya;
  - Lehloma Ramojoe; and
  - Petrus Matji.
229. The above recommendations were made to the Minister prior to the performing of psychometric evaluations. When the psychometric evaluation report was subsequently received, the AA did not inform the Minister that the adverse findings in the report were not considered by them before the submission of their recommendation.
- The appointment of OMT
230. The apparent irregular conduct of SCM **officials** dealing with matters related to the appointment of OMT to provide services relevant to the appointment of the CEO is dealt with in our discussion of SCM matters.
- Appointment of the Acting CEO**
231. The AA sat on 14 June 2018 to consider and pass a resolution to appoint Mr Robert Semanya as the acting CEO reporting to the AA. When Mr Semanya was appointed, he was a senior manager, notwithstanding that there were other executives namely Ms. Ndlovu (CFO) and Mr Madibeng (Core Business Executive) at the time that could have been considered. Ms. Ndlovu was offered the acting CEO position but declined mentioning that the CETA was in the middle of the AGSA audit process; therefore, she could be in conflict as the AGSA findings related to financial management will require to be reported to her as the acting CEO. We were informed that Mr Madibeng also declined the position.
232. We established that the AA did not consult with the Minister prior to affirming the Acting CEO appointment.
- Other executive appointments
233. It was noted that, save for Ms Velile Ndlovu, who (permanently) occupied the position of CFO, and Mr Madibeng, there were no other permanent Executive appointments.
234. Executive positions at the CETA were filled from time to time by persons acting in such Executive positions.

Appointment of Ms Khomotso Mpandeli

235. Although Ms Mpandeli's acting appointment as Acting Core Business Executive was terminated on 4 February 2019, she continued to attend AA and Exco meetings until at least 2 October 2019.

Other appointments

236. We perused relevant documentation to determine whether persons that were appointed to advertised positions met the minimum criteria for the advertised position and whether the person that scored the highest points during the selection process as per the panel, were in fact appointed.

237. Save for one instance, it appears that the person that was ultimately appointed met the minimum criteria of the advertised position and was in fact the person that scored the highest.

238. Some of the instances listed as appointments in fact appeared to be transfers and re-instatements.

Acting appointments

239. For the period 1 April 2019 to 31 January 2020 various acted in the respective positions for longer than the maximum period of six months.

240. The practice of allowing extended acting appointments had substantial financial implications for the CETA.

241. It appears that in some instances such extended acting periods were approved by Exco and not by the AA as prescribed.

Approved organogram

242. There is a concern over the large number of vacant positions. Many of the vacant positions were senior leadership roles, amongst others, Executives and Senior Managers.

243. According to a report by Ms. Chetty there were 65 vacancies, which clearly must have an effect on service delivery.

The so-called "priority" appointments

244. The minutes of the AA meeting held on 29 January 2019 states that "...in terms of recruitment and selection, the Management team has approached the AA with seven (7) prioritised positions to be advertised and the individuals expected to start in the new financial year (April).

245. The above included executive positions.

246. It however appears that very few, if any, of these positions were filled as anticipated.

Conditional appointments

247. At least nine persons have been appointed conditionally and have not met the conditions of their appointment.

Other matters relating to appointments.

248. Qualifications are only vetted after appointments have been made.



249. One staff member was appointed even although it was known that she had submitted a false matric certificate.
250. At least one other staff member also claimed that she is in possession of a matric certificate, knowing it to be false in that she does not have a matric certificate, but merely passed some, but not all required, matric subjects.
251. At least three persons have been appointed to positions where they do not meet the minimum criteria set for such positions.
252. We identified instances where appointments were made on notches other than the entry level.

#### Recommendations

253. Based on the above findings, we recommend as follows:

#### Pension matter

254. Although we have been presented with conflicting versions of what occurred in respect of the approval of the pension fund contributions, it is clear that there is not a formal resolution of the AA that authorised the payment thereof. In the absence of such a resolution, we recommend that the CETA either:
- Ratifies the approval of the pension fund contributions that were paid; or
  - Proceed to recover such amounts as have been paid without formal Board approval.
255. We recommend that any action that is taken by the CETA in this regard, be done in consultation with the staff of CETA.
256. Irrespective of the option followed by the CETA, we recommend that the expenditure incurred in this regard, be recorded as irregular expenditure in accordance with Treasury Instruction No 2 of 2019/20 and the Irregular Expenditure Framework.
257. The Chairperson failed to prevent irregular expenditure, alternatively failed to act in the best interests of the CETA at the time when he became aware of the matter. Consequently, we recommend that consideration be given by the CETA to institute criminal action against him in this regard, as envisaged in section 86 (2) of the PFMA read with section 51 (1) (b) (ii) of the PFMA, alternatively section 50 (1) (b) of the PFMA and in general read with the provisions of section 50 (2) of the PFMA and the provisions relating to fiduciary duties of the AA as set out in the PFMA. We make this recommendation subject to the CETA obtaining legal advice on the question whether section 86 (2) permits the institution of criminal action against an individual member of the AA in the circumstances envisaged above.
258. We also recommend that the criminal steps instituted by the Board against Ms Pilusa be pursued further.

#### Medical fund

259. In respect of the adjustment of medical fund contributions to be paid at 100% by the CETA in the absence of a formal Board resolution, we recommend that the CETA either:

- Ratifies the approval of the higher medical aid contributions that were paid; or
- Revert to the Board approved contributions and proceed to recover such amounts as have been paid without formal Board approval.

260. We recommend that any action that is taken by the CETA in this regard, be done in consultation with the staff of CETA.
261. Irrespective of the option followed by the CETA, we recommend that the expenditure incurred in this regard, be recorded as irregular expenditure in accordance with Treasury Instruction No 2 of 2019/20 and the Irregular Expenditure Framework.

#### Salary matters

262. We recommend that the CETA performs a benchmarking exercise to assess the extent of salaries paid by it in relation to those paid by other SETAs.
263. In particular, we recommend that, following such benchmarking, the CETA gives consideration to address the following matters:
264. To bring the salary of the CEO of the CETA in line with that of a Director-General in the Public Service as required by the Regulations of November 2011, referred to in our report.
265. To give consideration to the sustainability of salaries in view of the significant salary increases that occurred in 2017/18 and 2018/19.
266. To take steps to ensure that employees are remunerated on the salary notches determined for the respective salary bands relevant to the positions in which they are employed. Should these be inadequate, consideration should be given to seek approval for the adjustment of the prescribed salary bands and notches.
267. Where CETA employees have adult dependants on their medical aid, the CETA should consider whether the CETA or the relevant employee should pay the medical aid contributions of such dependants.

#### Bonus payments

268. We recommend that the CETA should include a specific provision for the payment of bonuses in its annual budget.
269. We further recommend that when bonuses are considered, it should be done with reference to work performance but within the confines of the budgeted amounts.
270. The CETA should refrain from paying incentives such as a "clean audit" bonus to staff in addition to performance bonuses. If a particular employee has contributed to the achievement of a clean audit, such contribution should be recognised in assessing the individual's performance bonus.

#### Performance appraisals and moderation processes

271. We recommend that the CETA should give consideration to refining key performance areas and associated key performance indicators relevant to each specific employment category.

272. We further recommend that performance appraisals should be based on individual goals which are specific, measurable, attainable, relevant and time-based (so-called SMART objectives).
273. The above objectives should be substantiated by factual incidentation and generalisation and subjective opinions should be avoided in the assessment of an individual's performance.
274. We recommend that the CETA HR policy be updated to ensure that all processes and other aspects relevant to performance bonuses are clearly dealt with.

Appointments and promotions

275. The CETA should give urgent attention to implement its approved organogram by filling vacant positions as the high number of vacant positions impacts on the CETAs service delivery.
276. The CETA should, in particular, give urgent attention to the filling of essential positions such as the posts of Executives and other priority positions.
277. When recruitment actions are undertaken by the Board, the Board should do so based on advice from the HR Senior Manager of the CETA (for guidance in terms of process and requirements).

Acting appointments

278. The practice to appoint persons in acting positions for long periods should be avoided.
279. Permission to extend the periods of acting positions should remain the prerogative of the Board and this function should not be delegated to committees of the Board.
280. Consideration should be given to paying persons in acting positions a **standard acting allowance** (based as a percentage of current salary) instead of remunerating such persons on the salary scale of the position in which they act.

Vetting of qualifications

281. Vetting procedures should be finalised prior to the making of appointments.

Conditional appointments

282. In instances where conditional appointments are made, compliance with the conditions should be monitored and enforced.
283. We recommend that such action be taken in respect of the matters identified by us as set out in our report.

Misrepresentation of qualifications

284. We recommend that consideration be given to the institution of disciplinary and criminal action in respect of officials who have misrepresented their qualifications. (Ms Sekgobela and Ms Willies).

Appointments without qualifications



285. We recommend that consideration be given to implementing disciplinary action in respect of the instances identified in our report of data capturers that were appointed without the requisite matric qualification.

## **1.5 Accreditation**

286. We perused a total of 88 accreditation files and summarised our observations of the accreditation process in respect of those files on a document attached hereto as Annexure A.
287. Based on our perusal of the said accreditation files, we made the following observations of a general nature:
288. The information in respect of the accreditation process appears to be fragmented. All relevant information is not available on file or in a central place. This makes it difficult to exercise control over the process and creates uncertainty and even confusion.
289. The CETA website does not provide clear, concise and relevant information for training providers. It is likely that provider applications would be more readily compliant should providers know exactly what is required of their applications.
290. The application forms for accreditation do not make a clear distinction between accreditation, secondary accreditation, extension of accreditation and re-accreditation. It appears that not all providers understand the differences between the types of accreditation.
291. CETA LPQD processes are excessively paper-intensive. Much can be done to address this by re-designing forms and streamlining processes. An example is the requirement for providers to submit separate submissions for each qualification.
292. Accreditation files are frequently unstructured and incomplete. If there are multiple files relating to a single provider, documents frequently do not follow any chronological order within a single file.
293. There does not appear to be a standard process for the submission and subsequent filing of outstanding accreditation documents in provider accreditation files.
294. The following specific observations were made in respect of some the files perused by us:
295. In some cases, there is no desktop evaluation on file (or available electronically).
296. In some cases, there is no site visit report on file (or available electronically).
297. In some instances, the dates on file are inconsistent, for example desktop evaluation is conducted prior to the date of application.
298. There appears to be inconsistent application of accreditation criteria in some cases.

299. Long time delays occur as a general rule in respect of the finalisation of applications for accreditation. (These are in many cases as a result of minor issues identified).
300. In some instances, the information as reflected on the schedule of accredited training providers (as provided to us) appears to be inconsistent with the information contained in the accreditation files.
301. The periodic scheduling of site visits delays the process of accreditation.
302. In some cases, accreditation is recommended despite non-compliance with requirements.
303. In some cases, accreditation is recommended on condition that outstanding matters be addressed, however there is no evidence on file that the outstanding matters were addressed prior to the award of accreditation.
304. Some files contain contradictory information with no explanation as to how the contradictions were addressed.
305. In October 2018, the CETA engaged Mosebo Networks to carry out the monitoring and evaluation of all CETA-accredited providers.
306. The monitoring exercise revealed that LPQD processes were not as robust as they should have been. Many CETA-accredited SDPs were untraceable, and of those monitored 40% were non-compliant while only 60% were fully compliant with accreditation requirements.
307. While the findings provided valuable information had the recommendations made by Mosebo Networks been implemented, the Core Business reports do not reflect that committee members discussed or followed up on the findings.
308. Interviews were held with three members of the LPQD unit who had been responsible for presenting memoranda recommending accreditation to the Core Business manager (or equivalent), to give them the opportunity to present evidence that had not been available previously. It also allowed them to explain some of the apparent contradictions observed.
309. On the whole, the interviews confirmed that data management is haphazard, and anomalies identified in provider files could generally be explained by disorderly filing of critical information.
310. Interviews were conducted with members of staff from two of the nine provincial offices because the provincial offices play a prominent quality assurance role. They support new providers, conduct site visits and carry out external moderation.
311. Provincial staff expressed their frustration with factors such as discovering that specific providers had been accredited despite the site visit report not having recommended accreditation.
312. We considered complaints from the QA Administrator, Ms Mashigo, and those submitted via the CETA Stakeholder Portal for the period under review.
313. By far the most common complaint is the length of time it takes for a SDP to be accredited. This is followed closely by complaints about the inaccessibility of staff in LPQD either telephonically or by email.

- 314. The lack of responses to queries and complaints by the LPQD unit, is indicative of their lack of understanding of the impact of their work on training providers as businesses.
- 315. The Core Business reports for 2018 and 2019 present numbers from LPQD about accreditation and do not raise or address substantive issues connected to accreditation.
- 316. The accreditation of providers is a core CETA function, yet the Core Business reports for 2018 and 2019 also appear to indicate that the members of the Core Business Committee do not engage with or interrogate the LPQD reports.
- 317. In order to determine whether there were possible conflicts of interest between employees of CETA and Accredited Training Providers of CETA, we performed data analysis by comparing the names of registered directors of training provider companies against the list of employees.
- 318. There was no link between the above data sets.
- 319. In a WhatsApp conversation (a copy of which was provided to us), 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 qualifications.
- 320. 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.

#### Recommendations

- 321. We recommend 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.
- 322. Based on our findings above, we further recommend the following:
- 323. The CETA should appoint an experienced senior manager with the necessary quality assurance expertise as soon as possible and should ensure that the unit is appropriately and adequately staffed.
- 324. The quality assurance role of the CETA should be reviewed and the unit should be restructured to include the full range of quality assurance functions (including external moderation and certification).
- 325. The quality assurance role of the provinces should be examined and restructured so that the provinces do not operate in isolation and so that every attempt is made to ensure the provincial understanding of all aspects of quality assurance.
- 326. A process of monitoring of time delays with applications for accreditation should be introduced.
- 327. Issues preventing the granting of accreditation should be followed up pro-actively and addressed in order to ensure that applications for accreditation are finalised within a reasonable period of time.
- 328. The CETA website should be updated to provide SDPs with adequate information of the requirements for accreditation and the relevant supporting documents required.



- 329. Attention should be given to introduce a centralised record keeping system to enable access to information relevant to a specific application for accreditation.
- 330. A clear distinction should be made between accreditation, re-accreditation, secondary accreditation and extension of accreditation with a view to streamlining processes.

## 1.6 Certification

- 331. Extensive delays are experienced at CETA with the issuing of certificates to learners.
- 332. One of the reasons for the delays is the fact that external moderations take place long after the completion of the training. Whilst SDPs are sometimes to blame for such delays, it seems that in many cases the delays are as a result of quarterly scheduling by the CETA and the apparent lack of assistance to providers who are not ready for external moderation.
- 333. Long delays are also experienced from date of completion of the external moderation report to date of certification.
- 334. Based on the information provided to us at the time of our investigation, in respect of learnerships for the period 2017/18 and 2018/19, a total of 3 166 learners have completed their learnerships but are still awaiting certification.
- 335. Based on the procedures performed by us, the backlog in issuing certificates and statements of results for the year 2018/19 alone was determined to be a minimum of 6 911.
- 336. In some instances, the quantity of certificates printed vary from that recommended in the external moderation report.
- 337. In some instances, it appears that certification took place prior to external moderation.
- 338. In following up on the progress with the printing of certificates for the above projects, we encountered great difficulty in obtaining explanations for late printing of certificates or for cases where no certificates had been printed despite the fact that the external moderation had been completed. The CETA processes appear to be fragmented and there is inadequate liaison between the different units and with provincial offices in order to ensure a smooth workflow for the issuing of certificates.
- 339. CETA staff tend to blame the SDPs, the provincial offices and the Covid-19 lockdown for delays and do not seem to accept responsibility for addressing these issues timeously.
- 340. We were informed that, at the commencement of the Administration, the backlog with printing of certificates was as far back as 2013.
- 341. Various practical issues have also contributed to the backlog, such as failure to maintain the printer used to print certificates.
- 342. Training providers' complaints are not attended to timeously (whether by telephone or email).

- 343. A number of complaints were also received on the CETA's stakeholder portal regarding the delay with the issuing of certificates.
- 344. The above environment creates the opportunity for irregularities to occur.
- 345. There is a risk of certifying learners who are not competent (evidence is lacking due to long delays and there is pressure owing to volumes).
- 346. There are inefficiencies in the system such as the requirement for SoRs to be issued by the CETA instead of allowing the SDPs to print SoRs from the system.

#### Recommendations

- 347. It is recommended that SDPs be allowed to print SoRs upon completion of external moderations. External moderation reports should be uploaded on the system to enable this.
- 348. Printing facilities should be improved and regularly maintained.
- 349. The fragmentation between different units in the CETA should be addressed and liaison between the different units should be streamlined.
- 350. A record should be kept of all complaints received by the CETA regarding the late issuing of certificates and the resolution thereof should be monitored and considered in performance appraisal processes.
- 351. Realistic performance targets should be set for the timeous issuing of certificates and these should be monitored. The targets should measure the efficiency of CETA processes from the date of completion of training to actual certification.

## 1.7 Lifestyle Audit

- 352. The CETA requested Duja Consulting ("Duja") to conduct a comprehensive lifestyle audit for 165 active staff members, terminated staff members and members of the accounting authority of CETA from January 2018 to January 2020.
- 353. The procedures performed and methodology applied for the lifestyle audit are as set out in our draft lifestyle audit report, which has been issued separate from this main investigation report, in view of the personal and confidential nature of information contained in the said report.

## 2 Background

354. On 3 February 2020, the Minister of Higher Education, Science and Technology, Dr BE Nzimande, MP (‘the Minister’) placed the CETA under administration on terms of section 14 of the Skills Development Act. The organisation was placed under administration due to inter alia admitted gross financial mismanagement and serious lapses in good governance.
355. Terms of Reference were issued for a Forensic Investigation to be conducted at the CETA.
356. On 26 August 2020 Duja Consulting (Pty) Ltd (‘Duja’) submitted a proposal in response to the Terms of Reference to the appointed Administrator.
357. Duja was subsequently appointed to investigate the matters as referred to in the said proposal. A letter of appointment was issued to Duja on 14 September 2020.
358. A formal Service Level Agreement was entered into between the appointed Administrator and Duja on 4 November 2020.

### 2.1 Scope of Work

359. The Scope of Work was set out in the above Service Level Agreement by reference to the abovementioned proposal.
360. The Scope of Work can be summarised as follows:  
Focus Area 1: Supply Chain Management
361. A full forensic investigation into the CETA supply chain management function of the CETA to identify irregularities in the process. The investigation will be tailored to include an investigation into allegations that Board members may have received financial benefits for doing business with the CETA.
362. This investigation will include a full lifestyle audit on persons in the employ of the CETA.
- Focus Area 2: Core Business – Accreditation and Certification
363. A full investigation of the accreditation process in respect of training providers for the qualifications or part-qualifications listed in the schedule in terms of criteria determined by the QCTO.
364. We were required to include in this investigation any undisclosed or unauthorised interest or benefits that any officials, employees or personnel of the CETA may have received with regard to:
- skills development providers or skills development practitioners or any other service providers who applied for accreditation or did business with the CETA and/or
  - certification of learners by the CETA.
365. This investigation will include a full lifestyle audit on persons in the employ of the CETA to identify any undisclosed or unauthorised interest or benefits that



certain members of the former Accounting Authority or personnel of the CETA may have had with regard to:

- contractors, suppliers or service providers who bid for work or did business with the CETA; or
- contracts awarded by or on behalf of the CETA.

#### Focus Area 3: The GFIA and NSA Reports

366. Prior to the CETA being placed under administration, there were investigations that were conducted by the National Skills Authority ('the NSA') and Gobodo Forensic & Investigative Accounting (Pty) Ltd ('GFIA').
367. The reports issued by the NSA and Gobodo Forensic made serious findings on irregularities and also recommended further investigation on certain matters identified during the investigations. After the CETA was placed under administration, other matters warranting urgent forensic investigation were identified.
368. This focus area required a full investigation into the matters identified in these reports for further investigation.

#### Focus Area 4: Improper/corrupt/irregular relationships with stakeholders.

369. There appeared to be indications that unlawful, irregular, corrupt or otherwise improper conduct may have existed on the part of the CETA, its officials or employees in relation to business transactions or arrangements between the CETA and the following entities:
- SAFCEC; and
  - Wits Enterprise
370. We were required to investigate all transactions between the CETA and these entities to establish if payments or benefits were received by officials or employees, any other party to the transactions or arrangements or any person connected therewith as well as any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the CETA.

#### Focus Area 5: Human Resource Malpractices

371. A full investigation into human resource malpractices, including, but not limited to:
- alleged irregular pension funds pay-out and salary increases;
  - executive managers being appointed without meeting the job requirements;
  - unfair labour practices such as dismissal of employees who refuse to cooperate with irregular practices and bullying, victimization and intimidation of staff members; and
  - the CETA performance appraisals and moderation processes. (Including to verify whether CETA policies are in compliance with standard state organ policies and procedures).

#### Focus Area 6: General

372. In conducting the investigations as detailed above we were required to identify and report on maladministration in the affairs of the CETA and any losses or prejudice suffered by the CETA as a result of such maladministration in relation to:

- the mismanagement of the finances, rights, assets or liabilities of the CETA;
- the purchase and/or acquisition of assets or rights by the CETA for and on behalf of third parties which was not to the advantage of the CETA;
- business transactions that were concluded by or on behalf of the CETA and which were not viable or to the advantage of the CETA;
- the irregular appointment and promotion of staff; or
- the payment of salaries, increases, bonuses and other forms of remuneration or benefits that were not due, owing or payable or were made in a manner that was contrary to applicable —
  - legislation; or
  - manuals, policies, procedures, directives, instructions or practices of or applicable to the CETA,

including the causes of such maladministration and any related unauthorised, irregular or fruitless and wasteful expenditure suffered by the CETA.

## **2.2 Procedures performed and sources of information**

373. In performing the investigation, we have conducted the procedures as set out below and have relied on the sources of information as set out below.

374. The procedures, as set out below, were performed by different workstreams, dealing with different topics covered by the investigation.

### **2.2.1 SCM Matters workstream**

#### **2.2.1.1 Documentation requested**

375. We requested documentation relating to identified transactions, which included the following:

376. Documentation in respect of the procurement process relating to the provision and maintenance of IT services and the subsequent appointment and payment of the service providers;

377. Documentation in respect of the procurement process relating to the provision and maintenance of Legal services and the subsequent appointment and payment of the service providers;

378. Documentation in respect of the procurement process relating to the provision and maintenance of Security services and the subsequent appointment and payment of the service provider;

- 379. Documentation in respect of the procurement process relating to the provision and maintenance of Internal audit and the subsequent appointment and payment of the service provider;
- 380. Documentation in respect of the procurement process relating to the provision and maintenance of construction of the laboratory building and the subsequent appointment and payment of the service provider;
- 381. Payment documentation relating to transactions in respect of the procurement of goods and services on a RFQ basis;
- 382. We obtained and analysed expenditure on Pastel Evolution reports in respect of the expenditure incurred by the CETA relating to suppliers for goods and services for the period 2018/19 to 2019/2020 with a view to identify the following:
  - 383. Unusual numbers of transactions in respect of a specific supplier;
  - 384. Unusual types of transactions relating to a supplier;
  - 385. The continual request to certain suppliers to provide quotations;
  - 386. Anomalous payment patterns indicating possible preference to a supplier;
  - 387. Payments split to remain within the relevant official's delegation with a view to circumventing SCM processes;
  - 388. Possible fraudulent and/or corrupt transactions and/or possible misrepresentations; and
  - 389. Possible irregularities relating to the procurement process with particular reference to the identified matters in respect of the officials involved and suppliers they contracted with.
- 390. The following documentation was requested but only partially received to date:
  - 391. Tender register for 2018;
  - 392. Tender register for 2019;
  - 393. Tender register for 2020;
  - 394. Internal audit report for period between January 2018 to March 2019;
  - 395. Internal audit report for period between January 2020 to date;

#### **2.2.1.2 Approach adopted**

- 396. The following approach was adopted:
- 397. The policies, procedures and legislative prescripts applicable were determined;
- 398. We perused documentation in respect of the procurement, appointment and subsequent payment of service providers for the provision of goods and services for three financial periods;
- 399. We investigated transactions identified in contravention of relevant legislation and/or SCM policy and/or other directives;



- 400. We captured and analysed the information contained in the documentation provided to us and examined other relevant information from publicly available sources;
- 401. Investigated the existence and legitimacy of suppliers utilised by the CETA and analysed transactions in respect of identified suppliers to identify possible links with officials in the CETA;
- 402. Considered the veracity of allegations of possible fraudulent activity and culpability therein by employees of the CETA;
- 403. Interviewed officials of the CETA for the purpose of eliciting evidence and clarifying aspects arising from the investigation; and
- 404. Prepared a report with our observations, conclusions and recommendations to date.
- 405. Our report is based on the facts established from the documentation provided and/or information obtained during the course of the investigation.

### **2.2.1.3 Sources of Information**

- 406. We relied on electronic and physical documentation made available to us by the CETA and/or sourced from publicly available information which included, but was not limited, to the following:
- 407. Expenditure reports in respect of expenditure incurred by the CETA with regard to:
- 408. Creditor's Ledger for the period 2017/18;
- 409. Creditor's Ledger for the period 2018/19;
- 410. Creditor's Ledger for the period 2019/2020;
- 411. Creditor's Age analysis from 2018 to 2020;
- 412. Purchase Order extract for period 2017/2018;
- 413. Purchase Order extract for period 2018/2019;
- 414. Purchase Order extract for period 2019/2020;
- 415. Invoice and Purchase order report from 2018 to 2019;
- 416. Copies of Wits Commercial Enterprise payment batches;
- 417. Extracts in respect of the company searches performed on publicly available information systems;
- 418. Email correspondence between officials of the CETA and external parties extracted from the computers utilised by officials;
- 419. Documentation relating to the procurement processes for goods and services, and contracts between the CETA and various service providers;
- 420. Acquisition invoice book, with no dates or description, containing a list of RFQ supplier names with purchase order and invoice numbers starting from April 2020;

- 421. Various data expenditure reports in respect of contract register and projects expenses;
- 422. Interviews were conducted with SCM and other officials of the CETA; and
- 423. We have not conducted interviews with suppliers and/or service providers to the CETA.

#### **2.2.1.4 Email messages received**

- 424. Email from Constance Matsapola dated 15 June 2018, BAC meeting request sent to members;
- 425. Email from Constance Matsapola dated 16 May 2018, BAC meeting request sent to members;
- 426. Email from Constance Matsapola dated 02 July 2018, BAC meeting request sent to members;
- 427. Email from Constance Matsapola dated 12 September 2018, BAC meeting request sent to members;
- 428. Email from Constance Matsapola dated 10 April 2018, BAC meeting request sent to members;
- 429. Email from Constance Matsapola dated 16 May 2018, BAC meeting request sent to BAC Members;
- 430. Email from Constance Matsapola dated 01 March 2018, BAC meeting request sent to BAC members;
- 431. Email from Constance Matsapola dated 04 April 201, BAC meeting request sent to BAC members;
- 432. Email from Constance Matsapola dated 02 May 2018, BEC meeting requests sent to BEC members;
- 433. Email from Constance Matsapola dated 12 July 2018, BEC meeting requests sent to BEC members;
- 434. Email from Constance Matsapola dated 16 May 2018, BEC meeting requests sent to BEC members;
- 435. Email from Constance Matsapola dated 11 June 2018, BEC meeting requests sent to BEC members;
- 436. Email from Constance Matsapola dated 07 September 2018, BEC meeting requests sent to BEC members;
- 437. Email from Constance Matsapola dated 22 January 2018, BEC meeting requests sent to BEC members;
- 438. Email from Constance Matsapola dated 26 April 2018, BEC meeting requests sent to BEC members;
- 439. Email from Constance Matsapola dated 11 May 2018, BEC meeting requests sent to BEC members;
- 440. Email from Constance Matsapola dated 03 July 2018, BEC meeting requests sent to BEC members;

- 441. Email from Constance Matsapola dated 16 August 2018, BEC meeting requests sent to BEC members;
- 442. Email from Constance Matsapola dated 19 June 2018, BEC meeting requests sent to BEC members;
- 443. Email from Constance Matsapola dated 27 February 2018, BEC meeting requests sent to BEC members;
- 444. Email from Constance Matsapola dated 23 April 2018, BEC meeting requests sent to BEC members;
- 445. Email from Lungisile dated 02 July 2018 to Tumiso and Connie, Initial reports for Toolkits and Tablets tenders with recommendation before the re-scoring;
- 446. Email from Constance Matsapola dated 27 February 2018 to Nokwanda Dlamini, Initial reports for legal services and MPLS services with recommendation before the re-scoring;
- 447. Email from Constance Matsapola dated 14 May 2018 to Lungisile Kuzana, Initial report for MPLS Services with recommendation before the re-scoring.
- 448. Email from Constance Matsapola dated 13 April 2018 to Limakatso Pholo, Bid submission register to be uploaded on website.
- 449. Email records of the following officials were received:
  - Mr Semenya;
  - Ms Ndlovu;
  - Ms Mpandeli;
  - Ms Mphuthi; and
  - Ms Govender

#### **2.2.1.5 WhatsApp Messages received**

- 450. WhatsApp message received from Nthabiseng Senkoto on the 11 December 2020 relating to the chat between CETA CFO Velle Ndlovu and Nthabiseng regarding OMT tender;
- 451. WhatsApp message received from Tumiso Mphuthi on the 18 December 2020 relating to the chat between CETA CFO Velle Ndlovu and Tumiso regarding submission of tender on the CETA website and e-tender; and
- 452. WhatsApp message containing Image of 'Oath' by Nthabiseng Senkoto dated 30 August 2019;

#### **2.2.1.6 Bid documents received**

- 453. We requested and received the bid documents for the following bids:
- 454. 001- 2018/2019 - Provision of vehicles;
- 455. 002-2018/2019 - Provision of a backup solution for ICT;
- 456. 003- 2018/2019 - Provision of monitoring and evaluation of CETA accredited providers;



- 457. 004-2018/2019 - Provision of development of CETA;
- 458. 006-2018/2019 - Appointment of a software development service provider for the leasing of the integrated management information system (MIS) to the CETA;
- 459. 007-2018/2019 - Construction of an ICT data centre room;
- 460. 009-2017/2018 - Appointment of a service provider for the supply and implementation of an in-house finance system;
- 461. 010-2017/2018 - Provision of service provider to adjudicate discretionary grants proposals;
- 462. 010-2018/2019 - Procurement of a Grade B Building for the CETA Academy;
- 463. 011-2017/2018 - Provision of service provider to evaluate discretionary grants proposals;
- 464. 012-2017/2018 - Appointment of a service provider to offer internal audit services for 24 months;
- 465. 013-2017/2018 - Procurement of Biometric attendance system and registers for learners on CETA funded projects;
- 466. 014-2017/2018 - Procurement of toolkits for learners on CETA funded projects;
- 467. 015-2017/2018 - Procurement of personal protective equipment (PPE) for learners of CETA funded projects;
- 468. 015-2017/2018 - Procurement of personal protective equipment (PPE) for learners of CETA funded projects (Re-advertised);
- 469. 016 -2017/2018 - Appointment of a provision of comprehensive insurance (Re-advertised);
- 470. **016-2017/2018** - Provision of insurance services by an insurance underwriter;
- 471. 017-2017/2018 - Appointment of a panel of legal firms for 24 months;
- 472. 018-2017/2018 - Provision of alarm with armed response services and security guards at the CETA Head Office in Midrand;
- 473. 018-2017/2018 - Provision of alarm with armed response services and security guards at the CETA Head Office in Midrand (Re-advertised);
- 474. 019-2017/2018 - Appointment of CIDB Registered constructor for the construction of technology laboratory building at University of Venda;
- 475. 019-2017/2018 - Appointment of CIDB Registered constructor for the construction of technology laboratory building at University of Venda (Re-advertised);
- 476. 020-2017/2018 - Appointment of a service provider to develop CETA occupational qualifications;
- 477. 021-2017/2018 - Appointment of a software development service provider to review, design, develop and maintain the integrated management information system (MIS) for the CETA;

- 478. 022-2017/2018 - Appointment of project manager for the procurement of land and/or a building, design plan and construction and/or renovations of the CETA Head Office;
- 479. 023-2017/2018 - Provision of IP MPLS network services for CETA;
- 480. 025-2017/2018 - Appointment of an entity for LAN and VOIP infrastructure maintenance and support services;
- 481. 026-2017/2018 - Procurement of tablets for learners to be used inclusive of learning material;
- 482. 029-2017/2018 - Appointment of an entity to provide promotional materials for the CETA;
- 483. 030-2017/2018 - Provision of media monitoring, brand management and stakeholder relationship management for the CETA;
- 484. 031-2017/2018 - Procurement of an exhibition panel truck;
- 485. 032-2017/2018 - Appointment of a service provider to provide work readiness services for the CETA;
- 486. 033-2017/2018 - Appointment of a service provider for the provision of ICT hardware and software for laptops, desktops and other related ICT equipment; and
- 487. 035-2017/2018 - Provision of services for the monitoring of projects.

#### **2.2.1.7 Policies, Procedures and Procurement plans**

- 488. CETA Supply Chain Policy 2017/2018;
- 489. CETA Supply Chain Policy 2018/2019;
- 490. CETA Supply Chain Policy 2019/2020;
- 491. CETA SCM Standard Operating Procedure – RFQ;
- 492. CETA SCM Standard Operating Procedure – RFP;
- 493. Amended Draft Annual Procurement plan reporting format 2019/2020;
- 494. Annual Procurement Plan reporting format (Amended Procurement plan 8), 11 January 2018;
- 495. Annual Procurement Plan reporting format (Amended Procurement Plan 5) 10 October 2018;
- 496. Annual Procurement Plan reporting format (Amended Procurement plan 6) 12 December 2018;
- 497. Annual Procurement Plan reporting format (Amended Procurement Plan 7) 13 February 2019;
- 498. Annual Procurement Plan reporting format 03 June 2020;
- 499. Annual Procurement Plan reporting format 28 March 2018;
- 500. Draft Annual Procurement Plan reporting format 02 May 2019; and
- 501. Draft Annual Procurement Plan reporting format 12 February 2020.

**2.2.1.8 Interviews**

502. Interviews were held with the individuals listed below:

Name	Designation	Date
Tshepo Mogoane	SCM Official	06 November 2020
Nthabiseng Senkoto	SCM Official	09 November 2020
Constance Matsapola	SCM Official	09 November 2020
Khayakazi Mswepu	SCM Intern	09 November 2020
Lungisile Kuzana	Former SCM Specialist	03 December 2020
Tumiso Mphuthi	SCM Senior Manager	10 November 2020
Velile Ndlovu	CFO and BAC Chairperson	23 November 2020
Adv Siphon Tleane	BEC Chairperson	19 November 2020
Anniekie Phuti	BEC Member	19 November 2020
Simphiwe Nene	Senior Finance Manager and BSC Chairperson	20 November 2020
Jabulani Jiyane	Corporate service manager, BAC Member and former BEC Chairperson	20 November 2020



Name	Designation	Date
Sonja Pilusa	Former CEO	14 December 2020
Webster Mfebe	Former AA Member	
Raymond Cele	Former AA Chairperson	
Roy Mnisi	Former AA member	
Malusi Ganiso	Former AA member	
Sibongile Nxumalo	Former AA member	
Piet Matosa	Former AA member	

#### 2.2.1.9 Other documentation received through RFI

503. Gobodo Forensic and Investigation - Final Investigation report dated 17 May 2019;
504. Gobodo Forensic and Investigation - CEO Allegations report;
505. NSA Investigation report dated September 2019;
506. Minutes of the Portfolio Committee on Higher Education, Science and Technology, dated 26 November 2019;
507. Presentation to the Portfolio Committee on Higher Education and Training, Science and Technology dated 26 November 2019;
508. Letter from Minister Dr BE Nzimande to chairperson (Raymond Cele) dated 14 December 2019;
509. King IV report on corporate governance for South African 2016;
510. Public Finance Management Act, No. 1 of 1999;
511. Skills Development Act, No. 97 of 1998;
512. Document by SCM Senior Manager Tumiso Mphuthi dated 22 August 2019;
513. List of awarded tenders from 2018/2019;
514. List of cancelled tenders for 2017/2018;
515. Bid committees' terms of reference;

- 516. List of Bid committees appointed members from 2016 – 2018;
- 517. Minutes of the tenth (10) Executive committee meeting of the CETA held on Tuesday, 01 April 2019 at the CETA Head Office;
- 518. Acquisition Invoice book for invoice submissions from SCM to Finance from 21 April 2017 to 13 October 2020;
- 519. Internal Requisition form from ICT Unit from 06 September 2018 to 27 February 2019;
- 520. SCM Quotation register from 14 June 2019 to 03 November 2020;
- 521. Bid Submission register 2016/2017, 2017/2018 and 2018/2019;
- 522. Gobodo report (Supporting documents exhibit 01 – 44);
- 523. Deviation register from January 2020;
- 524. Commitment schedule or 2017/2018 and 2018/2019;
- 525. List of Purchase orders (2019/2020) received from Mr Malusi Shezi via USB memory stick from the Sage accounting system on the 12 December 2020;
- 526. Sage Supplier reports received from Finance containing accounts payable age analysis;
- 527. List of cancelled tenders that the BEC said, they will be done through WITS; and
- 528. Minutes of the Bid Adjudication Committee meeting held at the CETA Head Office (CEO's boardroom) on the 26 July 2018.

## **2.3 Special Projects workstream**

- 529. In performing the investigation, we have conducted the procedures as set out below:
  - 530. Analysis and perusal of requested and provided information;
  - 531. Analysis and consideration of available documentation;
  - 532. Analysis and consideration of governance framework i.e., policies and legislation;
  - 533. Interview of staff members and relevant stakeholders e.g., former members of the Accounting Authority and EXCO.
  - 534. Consideration of audio recordings of specific meetings of the AA, specific meetings of EXCO, and of interviews with staff members and stakeholders i.e., former Board and EXCO members.
- Analysis and perusal of requested and provided information in respect of the three applicable financial periods, being 2017/2018 to 2019/2020:
- 535. List of all accredited skills development providers (SDPs), claim history and performance history, contact details since 2017/2018 financial period.
  - 536. Grant funding policies, processes and procedures, in respect of the financial periods under review.