

537. Terms of reference for the Grant Committee(s) i.e., Discretionary Grants and Mandatory Grants.
538. List of all the members of the Grant committees i.e., names and surnames, official contact details (phones and email addresses).
539. A listing of the total of all grant funding budget(s) types as may be applicable (inclusive of discretionary and mandatory grants), in respect of the period under review, in sufficient detail to reflect the following:
- Approved grant budget and any variation thereof;
 - Names of the paid entities;
 - Names of unpaid entities eligible for the respective grant;
 - Payment description: Listing and reports of incidence of change requests post any grant funding award; and
 - Guidelines regarding request changes post approval.
540. List of all special projects from 2018, awarded entities and subsequent contracts.
541. Details of the following information in respect of the three financial year end periods:
- Equivalent value of CETA portion of SDL i.e., 80%;
 - Equivalent value of CETA's 49.5% Discretionary Grants portion;
 - Equivalent value of CETA's 20% Mandatory Grants portion;
 - Equivalent value of CETA's 10.5% Administration portion; and
 - Opening balances, movements during the period and closing balances in respect of the above-mentioned values.
542. Submission History report containing the list of entities that have submitted WSP's since 2006/2007 to date i.e., 12 of March 2021.
543. Copies of the Discretionary Grants and Mandatory Grants, actual bank account(s) statement(s) in respect of the three financial periods under review i.e., 1 April to 31 March of each of the financial periods under review.
544. WITS and SAFCEC:
545. Schedule of all payments made to entities and related supporting documentation including list of learners and contact details.
546. Copies of application or proposals documentation, confirmation of evaluated and adjudicated applications in respect of the financial periods under review, in sufficient detail to amongst others, include the following grant funding areas:
- R91, 288, 667.00 – WITS eight areas of collaboration;
 - R150 million – Establishment of the Academy;
 - R100 million – SAFCEC funding, and

- Various other funding allocations – learning pathways e.g., Bursaries, Special projects, new leaders' development, future leaders, contemporary leaders' development and others as applicable.
547. Copies of project plans, project annexures, project close-out reports, project variations, reallocations of funds/monies between projects, areas of collaboration and learning pathways as may be applicable, including the following related and underlying information:
- Related supplier invoices;
 - CETA invoices, offer letter(s),
 - CETA payments - supporting documentation;
 - Reconciliations – approved funding, paid, outstanding, status thereof;
 - Expenditure report per project, area of collaboration or learning pathway;
 - Other: Master's programme, building transaction (Academy building), qualification development.
 - Copies of WITS separate project bank account(s) i.e., in respect of area(s) of collaboration, project or learning pathway.
548. A listing and copies of all agreements between CETA & SAFCEC and CETA & WITS (University, Commercial Enterprises (Pty) Ltd and its connected persons), in respect of the financial periods under review, in sufficient details to reflect the following amongst others, as may be applicable:
- Service Level Agreements (SLA's);
 - Memorandums of Understanding (MOU's);
 - Contracts as Service Providers, Skills Development Facilitators, Skills Development Providers (SDP's);
 - Tripartite agreement e.g., Services SETA, CETA and WITS;
 - Collaboration agreement (projects);
 - Agreements regarding the performance of any CETA SCM business functions and processes by an external party or parties, in particular any SCM procurement processes; and
 - Any other contracts e.g., offer to contract letters, discretionary grants agreements.
549. Any official documentation containing the challenge of the administration of CETA by any party/stakeholder of CETA and in particular, an official or representative(s) of SAFCEC e.g., record or notification of the challenge.
550. Copies of the change requests submitted/made by SAFCEC to CETA in respect of approved discretionary grant funding in the period under review.
551. Documentation regarding the establishment of the Academy project including, amongst others:
552. Approved budget, funding commitments and any variation thereof;

553. The Collaboration Agreement/Contract (with Projects) between CETA and The University of the Witwatersrand, JHB and WITS Commercial Enterprises (Pty) Ltd on CETA Academy concluded on 28 January 2019;
554. Approved project implementation plan and any variations thereof;
555. Expenditure report on the project;
556. Tecino's appointment letter for the procurement of a grade B building;
557. Procurement process followed in respect of the building involving Redefine Properties and Tecino;
558. Signed sale agreements regarding the above;
559. CETA payments made relating to all aspects of the transaction including relevant conveyancer;
560. Transfer documentation in respect of the building;
561. Documentation in respect of any recovery of payments as a result of Administrator action and relevant developments in this regard;
562. Details and documentation relating to any Master's programmes provided to CETA and Services SETA managers by WITS Enterprises and any of its connected persons, in sufficient detail to indicate the following:
 - Details of senior employees who attended and completed the programme;
 - Period of the programme, and
 - Expenditure report.
563. Confirmation of whether WITS University, WITS Commercial Enterprise (Pty) Ltd and SAFCEC, were at any stage recipients of Mandatory Grants and amounts and in which period as may be applicable.
564. The requests above were directed and mainly responded to by the Administrator appointed contact or liaison persons and not directly by the institutional source or responsible holders of the said information given the transition (under administration) taking place at CETA amongst others and for practical reasons. The varying quality, quantity and types of information received per the above-mentioned requests and responses thereof are dealt with in the discussion below that relates to a specific area of investigation, except to the extent covered under "Restrictions and Limitations" section above. The adequacy of the said information could not be readily verified with the relevant institutional source or responsible persons at the time of receipt.
565. Analysis and consideration of the following documentation, in respect of the three applicable financial periods being 2017/2018 to 2019/2020:
566. The SAFCEC files, related transactional information including supporting documentation i.e., tenders, contracts, payment documents.
567. The WITS files, related transactional information including supporting documentation i.e., tenders, contracts, payment documents.
568. The SAFCEC Candidacy contract.
569. Minutes of the meetings of the Accounting Authority.

570. Minutes of the meetings of the EXCO.
571. Minutes of the meetings of the Core Business Committee of the AA.
572. AG reports, AG management reports.
573. Portfolio Committee presentations made by the CETA and the former CEO.
574. Letter from Mr Mfebe, dated 15 January 2020 to the Deputy President, Mr David Mabuza and the Portfolio Committee on Higher Education and Training and related annexures.
575. The WITS University Project Proposal, titled "WITS University – CETA Engineering Partnership (2018 – 2020)", dated 19 March 2018.
576. CETA internal "Request for the Accounting Authority approval for the funding to the Witwatersrand University (WITS)", dated 26 March 2018.
577. The South African Forum of Civil Engineering Contractors (SAFCEC) Proposal, untitled, dated 29 January 2018.
578. CETA internal "Request for the Accounting Authority approval for the funding to the South African Forum of Civil Engineering Contractors (SAFCEC)", dated 20 March 2018.
579. The "Collaboration Agreement (With Projects)" between CETA and The University of the Witwatersrand, JHB and WITS Commercial Enterprises (Pty) Ltd, signed January 2019.
580. Government Gazette number: 35940, dated 3 December 2012, Department of Higher Education and Training, The Sector Education and Training (SETAs) Grant Regulations regarding monies received by a SETA and related matters.
581. Bid number 010 – 2017/2018 Provision of service provider to adjudicate discretionary grants proposals.
582. Bid number 011 – 2017/2018 Provision of service provider to evaluate discretionary grants proposals.
583. Service Level Agreement between CETA and Global Software & IT Specialists (registration number 2016/224577/07).
584. Service Level Agreement between CETA and Falahmetrix Solutions (Pty) Ltd (registration number 2013/096796/07).
585. Minutes of the CETA Bid Adjudication Committee meeting held at the CETA head office (CEO's Boardroom) on 30 November 2017.
586. Seven (7) Annual Performance Plans.
587. CETA Internal Audit Plan Three-Year Rolling and Annual Plan 2018/19 – 2020/21, dated May 2019.
588. Minutes of the Bid Specification Committee meeting held at the Gandaganda One Boardroom on 25 April 2019.
589. Minutes of the Bid Specification Committee meeting held at the CETA Head Office on 05 May 2019 in the CEO's Boardroom.

590. Written resolution of the Executive Committee of the CETA passed at Midrand on 28 November 2019.
591. Tecino Trading 22 (Pty) Ltd BID Document number: 001 – 2019/2020.
592. Skills Development Circular Number: 02/2020, Meeting of the Minister with sector education and training authorities (SETAs) – Chairpersons and Chief Executive Officers in February 2020, signed by the Deputy Director General: Skills Development Branch of DHET.
593. CETA presentation of Sector Skills Plan (SSP); Strategic Plan (SP), Annual Performance Plan (APP) and 2018/19 Annual Report.
594. The “Draft White Paper for CETA Academy”, by Dr Tim Hutton, Duncan Raftesath and Prof Samuel.
595. Email records of persons of interest, particularly CETA key employees or personnel in the Projects business unit.
596. Published CETA Annual Report – 2017/2018.
597. Published CETA Annual Report – 2018/2019.
598. Published CETA Annual Report – 2019/2020.
599. We interviewed and interacted with the following staff members and relevant stakeholders:
600. Ms Annamitah Motshwane Phuti, Manager: Qualifications Development, WITS Academy Project Lead.
601. Mr Thapelo Mataboge, Manager: Grant Accountant.
602. Ms Ndlovu, suspended CFO.
603. Mr Duncan Raftesath, Chief Executive Officer, WITS Commercial Enterprises (Pty) Ltd.
604. Dr Timothy Hutton, the then WITS Commercial Enterprises Project Lead.
605. Mr Andrew Hope-Jones, Chief Financial Officer, WITS Commercial Enterprises (Pty) Ltd.
606. Mr Mfebe, member of the AA, member of EXCO, CEO of SAFCEC and member & Chairperson of the Core Business Committee.
607. Mr Cele, member and Chairperson of the AA.
608. Mr Mnisi, member of the AA, Finance Committee and Core Business Committee.
609. Ms Nxumalo, member of the AA and EXCO.
610. Mr Matosa, member of the AA and EXCO.
611. Ms Molefe, member of AA and Chairperson of REMCO
612. We were not able to interview the following persons:
 - Mr Andrew M Crouch, the former Vice Principal of WITS University.
 - Mr Semanya, the former Acting CEO.
 - Mr Ngenzi, the former Senior Manager: Projects.

613. Consideration of audio recordings of meetings of the AA, meetings of EXCO, interviewed staff members and stakeholders i.e., Board and EXCO members.

2.4 HR Matters workstream

614. In performing the investigation, we have conducted the procedures as set out below.

Ad alleged irregular pension fund increases.

615. We obtained and perused amongst others the following documents:

616. Agendas, minutes of the meetings of the following CETA bodies / structures and resolutions taken to determine whether it contained any reference to the topic at hand, e.g. Pension Fund, salary increase, etc.:

- Accounting Authority;
- Executive Committee;
- Audit and Risk Committee;
- Finance Committee; and
- Remuneration Committee.

617. Transcript of the 2018 audio recording made of the AA meeting held on 8 March;

618. Board pack presented to the AA members before the AA meeting held on 8 March 2018;

619. Affidavits deposed to by various individuals in various forums;

620. Records of disciplinary hearings.

621. Presentations made to the Portfolio Committee on Higher Education;

622. Submission by Mr Mfebe to the Deputy President of the RSA;

623. Documents received from Liberty Life;

624. Legal opinions obtained in the matter;

625. Written responses obtained from Mr Semenya;

626. Other relevant documents;

627. Documents relating to the criminal charge laid against Ms Pilusa;

628. We obtained and listened to the audio recording that was made of the AA meeting conducted on 8 March 2018 and compared the audio to the transcript made of the audio.

629. We conducted interviews with the following individuals:

- Ms Pilusa;
- Mr Cele;
- Mr Wessels;
- Mr Nethengwe;

- Ms Edom;
- Ms Ndlovu;
- Ms Chetty;
- Ms Swart;
- Mr Nene
- Ms Govender

630. We obtained and perused other relevant documents from the CETA and / or external parties as will appear more fully from the contents of the report.
Ad the allegation that the signature of the former Chairperson had been forged.
631. Samples of the known signature of Mr Cele were obtained as well as his electronic signature.
632. The electronic signature of Mr Cele together with additional specimen signatures were handed to a forensic document analysis expert who was requested to compare the disputed signatures on copies of two letters and to issue a report on his findings.
633. In addition, we perused other relevant documents including the four disputed letters as well as memoranda, etc.
Ad alleged irregular salary increases.
634. In addition to the same procedures that were followed for the alleged irregular pension fund increases as set out above, we also obtained the personnel files of the CETA staff and noted the salary increases that were awarded to them from time to time.
635. We also performed calculations on these figures to determine the increases in salaries, both as percentages as well as the respective Rand values.
Ad alleged irregular bonus payments.
636. We perused the personnel files of the CETA staff to determine the amounts of bonuses that were paid to them from time to time.
637. In addition, we also perused other CETA documents such as memoranda, APP's, financial statements, etc.
638. We calculated the amounts of bonuses paid from time to time.
Ad appraisals and moderations
639. We obtained and reviewed the notes and minutes of the performance appraisal panel/s that conducted the annual performance appraisals.
640. We obtained and perused the relevant Excel spread sheets that were compiled in respect of the annual performance appraisals;
641. We identified the number of appraisal adjustments and quantified the value of the adjustments made.
642. We obtained and reviewed the personnel files of CETA employees in as far as it relates to their performance appraisals.

643. We calculated the number of adjustments made as well as the values of such adjustments.
Ad alleged irregular appointments.
644. In this regard we, amongst others:
645. Obtained and perused the relevant CETA organograms in place from time to time and noted the vacancies on same;
646. Obtained a list of appointments made by the CETA from time to time;
647. Obtained other CETA documents, such as memoranda.
The appointment of the Acting CEO
648. In this regard, amongst other procedures, we conducted interviews with Ms Chetty and Mr Nethengwe.
649. We perused, amongst others, the following:
650. The relevant regulations pertaining to the appointment of the CEO of a SETA;
651. The relevant advertisement that was issued, advertising the position of the CEO of the CETA;
652. Documents relating to the shortlisting, interview and scoring of shortlisted candidates;
653. Correspondence between the CETA and the DHET and the Office of the Minister.
Vacancies in the CETA from time to time
654. In this regard we perused, amongst others:
655. The CETA organograms from time to time, noting the number of vacancies;
656. HR report compiled by Ms Chetty;
657. We conducted interviews with Ms Chetty.
Conditional appointments
658. In this regard we, amongst others:
659. Perused the HR report, compiled by Ms Chetty and addressed to Mr Wasa, the CETA Administrator.
660. Perused the personnel files of certain individuals to determine whether they have acquired the qualifications that formed part of their conditional appointments.
Acting appointments
661. In this regard we, amongst others:
662. Perused the CETA HR policy with regard to acting appointments.
663. Ascertained who acted in certain positions and the circumstances relating to such acting.
664. Perused the minutes of meetings of the AA and the Exco to determine whether such acting appointments were approved and / or ratified.

665. Perused other relevant documents.
Ad alleged unfair labour practices
666. To determine the number of CETA staff members whose employment has been terminated, the list of employee terminations provided to us were analysed.
667. From this list we identified the persons that were indicated as:
- "dismissed";
 - "terminated";
 - "resigned" during the period under review (1 January 2018 to 31 January 2020).
668. The annual reports of the CETA for the periods 1 January 2018 to 31 January 2020 were analysed to determine the number of staff whose services were terminated and these persons were also categorised under the categories:
- "dismissed";
 - "terminated";
 - "resigned"
669. The personnel files of the identified staff members were obtained and perused to ascertain whether there were any documents related to such dismissal, termination and / or resignation on file.
670. The documents relating to the dismissal, termination, and resignation from the personnel files were obtained and it was determined whether:
671. Reasons were provided for the dismissal, termination and resignation;
672. Due process was followed in the dismissal and termination.
673. Enquires were made as to matters that were referred to the CCMA involving the CETA and the outcome thereof noted.
674. Interviews were conducted with Mss Swart and Govender to determine the number of grievances during the period under review and the outcomes thereof.
675. Enquiries were made as to the reason/s for resignations and the relevant personnel files of these persons were perused.
676. We obtained and perused the relevant Hotline reports to ascertain whether any complaints have been registered with the Hotline in respect of victimization, bullying and intimidation.
677. We obtained the payroll data for the CETA and determined whether there were any terminations during the period under review as compared to the list provided.
678. Determined the process followed in disciplinary hearings – and whether there are any records thereof.
679. Determined whether there are records of disciplinary hearings and the outcomes, including any appeals.

2.4.1 Accreditation workstream

680. We requested, obtained and perused copies of the following policies:
- CETA Quality Assurance Policy, March 2018
 - Accreditation Applications Policy, June 2019.
 - Accreditation approval Policy, June 2019.
681. We requested, obtained and perused the following documentation:
- Specific accreditation files. (Various requests made on different dates).
 - Desktop evaluation reports (electronic).
 - Site visit reports (electronic).
 - Memoranda recommending accreditations addressed to the CEO.
 - Records of complaints logged on the CETA Stakeholder portal.
682. We perused a total of 88 files and summarised our observations of the accreditation process in respect of those files on a document attached hereto as Annexure A.
683. We requested, obtained and perused information contained on the CETA MIS (from Solugrowth and from CETA officials).
684. We conducted interviews with the following individuals:
- Ms Mashigo
 - Ms Mahlapha
 - Mr Modibedi
 - Ms Phuthi
 - Ms Mashigo
 - Mr Morrison
 - Ms Mboni
 - Ms Tsitsi

2.4.2 Certification workstream

685. We requested, obtained and perused the following documentation:
- Commitment register for 2017/18 and 2018/19.
 - Certification records of identified CETA funded learnerships for 2017/18 and 2018/19.
 - External moderation reports in respect of identified CETA funded learnerships for 2017/18 and 2018/19.
 - Q1 to Q4 reports submitted to Certification unit for printing of certificates and SoRs.

686. We conducted interviews with the following individuals:

- Mr Masombuka
- Mr Koma
- Ms Mashele
- Ms Zitha
- Ms Mkhize
- Ms Dube
- Mr Greeff
- Ms Mashigo

2.4.3 Lifestyle Audit

687. The procedures performed and methodology applied for the lifestyle audit are as set out in the 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.

2.5 Period covered

688. The period covered in this investigation was January 2018 to January 2020.

2.6 Restrictions and limitations (general)

689. We did not perform this engagement in the capacity as Registered Auditor. The procedures we performed do not constitute an audit or a review in accordance with International Standards on Auditing or International Standards on Review Engagements (or relevant national standards or practices). Consequently, we do not express any audit assurance.

690. The scope of our work was limited to an analysis of documentation and information made available to us and specific enquiries undertaken to pursue our mandate. We have not verified the authenticity or validity of the documentation made available to us.

691. All observations and recommendations made in this report are based on the assumption that the information provided to us is correct and accurate.

692. 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.

693. We were not in a position to test nor have we verified the completeness, validity, or authenticity of the documentation and information provided to us by third parties.

694. We have not verified the completeness, validity, or authenticity of the information extracted from websites on the Internet. We further assume no

responsibility for the accuracy of the information obtained from online sources, nor do we guarantee that we have located all relevant information that might exist regarding a certain subject.

695. We were unable to interview a number of persons at this stage of the investigation. We therefore note that in respect of some of the findings made in this report, the persons implicated may not yet have been afforded the opportunity to respond to allegations against them or findings made that affect them. We intend to afford such opportunity to all relevant persons prior to the issue of our final report insofar as is practically possible to do.
696. Although we endeavour to be as comprehensive as possible in gathering information, we may not be in a position to test the accuracy or completeness of information obtained from outside sources. In addition, although the information gathered from public record sources is generally accepted to be accurate, we cannot guarantee its veracity; in particular, we cannot monitor the speed with which data providers update their records and thus such information is only correct as far as we are aware.
697. We have included information that we obtained verbally, in this report. Unless expressly indicated otherwise, we cannot verify that such information obtained is credible or truthful.
698. As we are not a legal practice, we refer you to your legal representatives to make any legal interpretations with respect to the results of our work and related recommendations.
699. The work **performed** incorporates our understanding of the law. We do not intend or **attempt to** express an opinion on the legal effect of the facts reported.
700. If additional or new documentation or information is brought to our attention subsequent to the date of this report, which would affect the results of our engagement detailed below, we reserve the right to amend and qualify our report accordingly.
701. We note that our findings may change as a result of further information becoming available.
702. Restrictions and limitations specific to particular workstreams are set out below in the discussion of the relevant workstream.
703. Our investigation does not represent an audit in terms of Generally Accepted Auditing Standards (GAAS), nor was it required by the CETA.

3 Regulatory Framework

704. The following legislation, policies and procedures are relevant to this investigation:

| No | Legislation / Policy | Excerpt |
|----|---|---|
| 1 | The Constitution of the Republic of South Africa, Act 108 of 1996 | Section 217 of the Constitution states that when government contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective |
| 2 | Skills Development Act, No 97 of 1998 | The Act as a whole |
| 3 | Public Finance Management Act, No 1 of 1999 | The Act regulates secure, sound and sustainable management of the financial affairs of National and Provincial Departments in government. The Act establishes treasury norms and standards for the procurement of goods and or services through a Supply Management System |
| 4 | Public Finance Management Act, No 1 of 1999, Section 1. | Section 1 defines a public entity as – (a) 'A board, commission, company, corporation, fund or other entity (other than a national business enterprise) which is- (i) established in terms of national legislation (ii) fully or substantially funded from either the National Revenue Fund or by way of tax, levy or other money imposed in terms of national legislation; and accountable to Parliament'. |

| No | Legislation / Policy | Excerpt |
|----|---|--|
| 5 | The PFMA, Chapter 6 Part 2, section 51: General responsibilities of accounting authorities. | <p>(1) An accounting authority for a public entity — (a) must ensure that that public entity has and maintains — (i) effective, efficient and transparent systems of financial and risk management and internal control; (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; (b) must take effective and appropriate steps to — (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity. (e) must take effective and appropriate disciplinary steps against any employee of the public entity who — (i) contravenes or fails to comply with a provision of this Act</p> |
| 6 | The PFMA, Chapter 6 part 3, section 56: Assignment of powers and duties by accounting authorities | <p>(1) The accounting authority for a public entity may –</p> <p>(a) in writing delegate any of the powers entrusted or delegated to the accounting authority in terms of this Act, to an official in that public entity; or</p> <p>(b) instruct an official in that public entity to perform any of the duties assigned to the accounting authority in terms of this Act.</p> <p>(2) A delegation or instruction to an official in terms of subsection (1) –</p> <p>(a) is subject to any limitations and conditions the accounting authority may impose;</p> <p>(b) may either be to a specific individual or to the holder of a</p> |

| No | Legislation / Policy | Excerpt |
|----|---|--|
| | | <p>specific post in the relevant public entity; and</p> <p>(c) does not divest the accounting authority of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.</p> <p>(3) The accounting authority may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of subsection (1) - subject to any rights that may have become vested as a consequence of the decision.</p> |
| 7 | <p>The PFMA, Chapter 6 part 3, section 57: Responsibilities of other officials.</p> | <p>An official in a public entity - (a) must ensure that the system of financial management and internal control established for that public entity is carried out within the area of responsibility of that official; (b) is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility; (c) must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due; (d) must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 56; and (e) is responsible for the management, including the safeguarding, of the assets and the management of the liabilities</p> |

| No | Legislation / Policy | Excerpt |
|----|---|---|
| | | within that official's area of responsibility. |
| 8 | The PFMA, Chapter 9: General treasury matters, section 76. Treasury regulations and instructions. | (2) The National Treasury may make regulations or issue instructions applicable to departments, concerning— (e) fruitless and wasteful, unauthorised and irregular expenditure; Section 38(1)(c)(ii) and section 51(1)(b)(ii) of the PFMA, requires an accounting officer or accounting authority to take effective and appropriate steps to, amongst others, prevent irregular expenditure. |
| 9 | The PFMA, Chapter 10: Financial misconduct Part 1: Disciplinary proceedings | In terms of section 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer or accounting authority shall commit an act of financial misconduct if that accounting officer or accounting authority makes or permits irregular expenditure. Similarly, section 81(2) and 83(3) of the PFMA provides that officials serving in the institutions referred to in paragraph 3 above shall commit an act of financial misconduct if he or she fails to take effective and appropriate steps to prevent irregular expenditure within that official's area of responsibility as required in terms of section 57(c) of the PFMA. In terms of sections 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer or accounting authority must take effective and appropriate disciplinary steps against any official in the service of their respective institutions who makes or permits irregular expenditure. |

| No | Legislation / Policy | Excerpt |
|----|--|---|
| 10 | Preferential Procurement Policy Framework Act, Act Number 5 of 2000 | <p>The Act gives effect to section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in section 217(2) of the Constitution; and to provide for matters connected therewith.</p> <p>The Act is applicable to the procurement of goods and services by all organs of State.</p> |
| 11 | Broad Based Black Economic Empowerment Act, Act 53 of 2003 | <p>This Act is administrated by the department of Trade and Industry. The Act establishes a legislative framework for the promotion of black economic empowerment.</p> |
| 12 | Prevention and Combatting of Corrupt Activities Act, Act no 12 of 2004 | <p>The Act provides for the strengthening of measures to prevent and combat corruption and corrupt activities.</p> |
| 13 | The Competition Law of South Africa, Act 89 of 1998 | <p>The Act defines illegal practices such as collusive bidding and/or multiple quotations from entities owned or controlled by the same individual.</p> |
| 14 | The Companies Act, 2008 as amended. | |
| 15 | Protection of Personal Information Act (POPIA) Act No 4 of 2013 (which took effect on 1 July 2020) | <p>Section 6 (1) states that 'This Act does not apply to the processing of personal information-</p> <p>(c) by or on behalf of a public body-</p> <p>(ii) the purpose of which is the prevention, detection, including assistance in the identification of the proceeds of unlawful activities and the combating of money laundering activities, investigation or; proof of offences, the prosecution of offenders or the execution of sentences or security measures.'</p> |
| 16 | Treasury Regulations, March 2005 – Reg 16A, par. 1, 2, 3 | <p>16A1 Definitions</p> <p>In this regulation, unless the context indicates otherwise, a word or</p> |

| No | Legislation / Policy | Excerpt |
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| | | <p>expression to which a meaning has been assigned in the Act, has the same meaning, and – “institution” means a department, constitutional institution or public entity listed in Schedule 3A and 3C of the Act; and “official” means a person in the employ of a department, constitutional institution or public entity listed in Schedule 3A and 3C of the Act.</p> <p>16A2 Application</p> <p>2.1 This framework applies to all – (a) departments; (b) constitutional institutions; and (c) public entities listed in Schedules 3A and 3C to the Act.</p> <p>16A3 Supply chain management system</p> <p>3.1 The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain management system in his or her institution for – (a) the acquisition of goods and services; and (b) the disposal and letting of state assets, including the disposal of goods no longer required.</p> <p>3.2 A supply chain management system referred to in paragraph 16A.3.1 must – (a) be fair, equitable, transparent, competitive and cost effective; (b) be consistent with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); (c) be consistent with the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)</p> |
| 17 | Treasury Regulations, March 2005 - Reg 16A, paragraph 6.3 (c)(d) | <p>6.3 The accounting officer or accounting authority must ensure that –</p> <p>(c) bids are advertised in at least the <i>Government Tender Bulletin</i> for a minimum period of 21 days</p> |

| No | Legislation / Policy | Excerpt |
|----|---|--|
| | | <p>before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine;</p> <p>(d) awards are published in the <i>Government Tender Bulletin</i> and other media by means of which the bids were advertised;</p> |
| 18 | National Treasury Regulation, Reg 16A, par. 8.1(a) and (b). | <p>8.1 All officials and other role players in a supply chain management system must comply with the highest ethical standards in order to promote –</p> <p>(a) mutual trust and respect; and</p> <p>(b) an environment where business can be conducted with integrity and in a fair and reasonable manner”.</p> |
| 19 | National Treasury Regulation, Reg 16A, par 8.5 | 8.5 An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or accounting authority, in writing. |
| 20 | National Treasury Practice Note 8 of 2007/2008 | <p>The Practice Note prescribes the thresholds to which officials in procurement of goods and services must conform.</p> <p>Supply chain management: threshold values for the procurement of goods, works and services by means of petty cash, verbal / written price quotations or competitive bids.</p> |
| 21 | National Treasury Instruction Note dated 31 May 2011 on enhancing compliance monitoring and improving transparency and accountability in supply chain management – note (3) (3.2) (3.2.1) | 3. Measures to enhance compliance monitoring and improve accountability and transparency: |

| No | Legislation / Policy | Excerpt |
|----|---|---|
| | | <p>3.2 Publication of names of bidders in respect of advertised competitive bids [above the threshold value of R500 000 (all applicable taxes included)]</p> <p>3.2.1 Within ten (10) working days after the closure of any advertised competitive bid, institutions must publish on its website the names of all bidders that submitted bids in relation to that particular advertisement. Where practical, institutions must also publish the total price and the preferences claimed by the respective bidders. The information should remain on the website for at least thirty (30) days.</p> |
| 22 | <p>National Treasury Guide dated February 2004: A Guide to Supply Chain Management A guide for accounting officers / Authorities; Chapter 4</p> | <p>The time for the bid opening should be the same as for the deadline for receipt of bids or promptly thereafter and should be announced, together with the place for bid opening, in the invitation to bid. The institution should open all bids at the stipulated time and place. Bids should be opened in public, that is, bidders or their representatives should be allowed to be present. If requested by any bidder, the name of the bidders and if practical the total amount of each bid and of any alternative bids, should be read aloud. The names of the bidders and their individual total prices should be recorded when bids are opened.</p> |
| 23 | <p>CETA Constitution</p> | <p>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</p> |

| No | Legislation / Policy | Excerpt |
|----|--|--|
| | | Gazette number: 369, dated 11 May 2012). |
| 24 | CETA Accreditation Application Policy (1 June 2019) | The Policy as a whole |
| 25 | CETA Accreditation Approval Policy (1 June 2019) | The Policy as a whole |
| 26 | CETA Quality Assurance Policy (28 March 2018) | The Policy as a whole |
| 27 | CETA Monitoring and Evaluation Policy (1 June 2019) | The Policy as a whole |
| 28 | CETA Monitoring and Evaluation Standard Operating Procedure (1 June 2019) | The SOP as a whole |
| 29 | Supply Chain Management Policy of the CETA | The SCM Policy regulates the procurement of goods and/or services within the CETA. The 2018/19 and 2019/20 policies were reviewed. |
| 30 | <p>CETA SCM Policies: 2017/2018 and 2018/2019</p> <p>9.4 Bid Process</p> | <p>9.4.1 All bids for transaction of above R500 000 must be advertised in the Government Tender Bulletin, the e-tender publication portal, the CETA website and were applicable other media relevant to the targeted audience.</p> <p>9.4.2 Bids must be advertised for at least 21 days before closing time, except in urgent cases when bids maybe advertised for such shorter period as the Accounting Authority or delegate may determine.</p> <p>9.4.3 Bids must be valid for at least 120 days from the closing date of the bid. A longer period may be set if problems with the evaluation is envisioned, but</p> |

| No | Legislation / Policy | Excerpt |
|----|---|---|
| | | preferably not longer than 120 days. The extension must be requested in writing from all bidders before expiration date. |
| 31 | <p>CETA SCM Policies: 2017/2018 and 2018/2019</p> <p>9.5 Receiving and opening of bids.</p> | <p>1. Bids must be lodged in a designated tender box by the closing date and time.</p> <p>2. Bids received after the closing time shall be treated as late bids and must ordinarily not be considered for evaluation.</p> <p>3. Bids received before the closing date and time must be safely stored in a lockable facility on receipt and removed by delegated officials for evaluation and adjudication purposes after the closing date and time.</p> <p>4. At least two officials must be present during opening of bids on the closing date and after the closing time specified for the bid in question.</p> <p>5. After opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with process, until the successful bidder is notified of the award.</p> <p>6. The Supply Chain Management must:</p> <ul style="list-style-type: none"> • Record in a register all bids received in time. • Make the register available for public inspection. <p>Publish the entries in the register and the bid results on the website</p> |
| 32 | <p>CETA SCM Policies: 2017/2018 and 2018/2019</p> | <p>8. within ten (10) working days after the closure of any advertised competitive bid, the names of all bidders that submitted bids in relation to that</p> |

| No | Legislation / Policy | Excerpt |
|----|---|--|
| | 9.11 Access to Bid Information (9.11.8) and (9.11.9) (a)(e) | <p>particular advertisement must be published on the CETA website. Where practical (as determined by the Accounting Authority or delegate), the total price and the preferences claimed by the respective bidders must be published.</p> <p>9. The following information on successful bids must be submitted to the relevant treasury's eTender publication administration within 7 working days of awarding bid: (a) Contract description and bid number; (b) Name of the successful bidder (s) and preference points claimed; (c) Contract period; (d) names of directors; and (e) Date of completion/award</p> |
| 33 | CETA HR Policy | Various as more fully set out in report |
| 34 | The Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters, notice number N.R.990, published in Government Gazette number: 35940, dated 3 December 2012. | |
| 35 | CETA GRANTS POLICY version 3, 2018/2019, Revision date 2018-03-27, issue date 2017-06-04. | Paragraph A, D.7. |
| 36 | CETA Delegation of Authority and Approvals (DOA) for the period 2017/2018 2018/2019 and 2019/2020. | |
| 37 | The King IV Code on Corporate Governance | |

4 Governance at the CETA

705. 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.
706. 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.
707. 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.
708. 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.
709. In this regard we refer, amongst others, to the following:
710. 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.
711. 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.
712. 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.

5 Detailed Findings: Supply Chain Management

5.1 Scope of work and approach

713. The CETA solicited proposals from suitable service providers to conduct a forensic investigation in respect of the procurement of goods and services by the CETA during the period January 2018 to January 2020.
714. The scope of the assignment was impacted as a result of a whistle-blower that provided information to the CETA.
715. We were requested to perform the investigation into supply chain irregularities with specific reference to the **following**:
716. Transactions in respect of procurement process through requests for quotations, tenders and cancelled tenders for the period January 2018 to January 2020;
717. Transactions in respect of the procurement of the following, including but not limited to:
- Legal services;
 - IT services;
 - Security services;
 - Constructions of laboratory building;
 - Acquisition of building for the CETA Academy; and
 - Assurance services.
718. In addition to the above, we were required to:
719. Identify high risk transactions that may require further investigations;
720. Identify possible fraudulent and/or corrupt practises;
721. Confirm ownership or other details of the identified entities to identify possible conflicts of interest and possible links;
722. Confirm any possible links between service providers and officials at CETA; and
723. Provide relevant evidence in respect of irregularities identified to enable CETA to make recommendations in respect of possible legal action, i.e., disciplinary action or referral to the South African Police Services.

5.2 Interviews with officials

5.2.1 Interview with Ms Tumiso Mphuthi

724. On the 10th November 2020, we conducted an interview with Ms. Tumiso Annah Mphuthi who requested her labour relations representative, Ms Noluthando Priscilla Edom, to be present in the interview.
725. Ms Mphuthi raised concerns with regard to the forensic investigation as it relates to the terms of reference of the investigation;
726. She also raised the issue of reporting lines of the forensic investigation as she deemed them to be biased and could be employed to dismiss her from her position;
727. She expressed that there could be threats of victimisation that could result from her meeting with the investigation team as she has been victimised before due to her cooperation in investigations by the CETA management;
728. Ms Mphuthi reported that she was removed from her position because of her honest disclosure of some matters during the investigation regarding the previous CFO;
729. She indicated that she has been in CETA SCM since 2012 and promoted to SCM manager in 2014 and as SCM senior manager in 2018. She reported to the CFO, Ms Velile Ndlovu, with the following officials reporting to her:
- Nokwanda Dlamini;
 - Lungile Kuzana;
 - Constance Matsapola;
 - Nthabiseng Senkoto;
 - Tshepo Mogoane;
 - Khayakazi Mswephu;
730. Her responsibilities included: oversight of the SCM unit, ensuring the three bid committees recommended by the CEO and approved by the Chairman were constituted, review the quotation process before the purchase orders are issued and she served as an SCM advisor in the BAC.
731. In her capacity as BAC advisor, she provided guidance to the committee in terms of the policies and regulations and ensured that the process was fair, transparent and did not prejudice any bidder. She did not have voting and signing authority and only provided the committee with advice relating to procurement regulations as and when required.
732. The appointments to committees are for a twelve-month period and she served on the BAC for two terms as advisor.
733. The SCM officials participated in the following committees as advisors as indicated below:

| Bid Committee | SCM official | Role |
|-----------------------------|--------------------------------------|---------|
| Bid Specification Committee | Lungile Kuzana | Advisor |
| Bid Specification Committee | Tshepo Mogoane / Constance Matsapola | Scribe |
| Bid Evaluation Committee | Nokwanda Dlamini | Advisor |
| Bid Evaluation Committee | Tshepo Mogoane / Constance Matsapola | Scribe |
| Bid Adjudication Committee | Tumelo Mphuthi | Advisor |
| Bid Adjudication Committee | Tshepo Mogoane / Constance Matsapola | Scribe |

734. She informed us that the scribes are not appointed to any specific committee and do not participate in discussions except to take minutes. Based on their availability, they are required to act as scribe for any committee as determined by Ms Mphuthi.
735. She informed us that the scribes would take minutes of a particular committee meeting and would circulate the minutes to all committee members for comments, then refine same and send to the committee chairman for signature.
736. Ms Mphuthi informed us that Ms Ndlovu came to her office and relayed an instruction that from then onwards, all the current bid responses of the recent active tenders were to be immediately moved to her office and that no public opening should be conducted. (Ms Ndlovu denied that she gave an instruction that no public opening should be conducted).

737. She described the process of the tender closing time, and the opening of the tender box as follows:
738. Tender box will be opened in public on the first floor of their offices;
739. The tenders/ bids will be counted and registered on the bid register book;
740. Two SCM officials will sign that they oversaw the process;
741. The tender documents will be moved to the SCM unit for storage;
742. SCM officials would prepare the submission for the website publication within 10 days; and
743. The SCM officials would prepare the pre-evaluation documents to assist the Bid Adjudication Committee.
744. She further informed us that since the documents were now housed in the CFO's office, Ms Ndlovu would select anyone to come and draft the register of the bids a few days after the closing of the tender. In some instances, Ms Ndlovu would be unavailable to grant access to her office and the SCM officials would not be able to prepare the website publications of the submitted bidders.
745. Ms Mphuthi informed us that at a time that she was preparing for the AGSA audit, she picked files of Net15 and Data Proof, and as she reviewed them, she discovered that there were irregularities. She said that she established that both Net15 and Data Proof did not attend a compulsory briefing session, and that should have resulted in their disqualification. She went to Ms Ndlovu and relayed her concerns, of which she responded to Ms Mphuthi that she does not want to get involved. Ms Mphuthi said she then escalated the matter to the Acting CEO Mr Semanya, where she indicated that Net15 and Data Proof did not attend the briefing session and they are already appointed to provide services to CETA. Mr Semanya is said to have asked Ms Mphuthi what the implications were of the matter she is raising, Ms Mphuthi explained that it will attract a finding of irregular expenditure against the CETA.
746. She told the investigation team that Mr Semanya instructed her to contact the said service provider, being NET15 and request them to come to CETA to sign the register in order to depict that they have attended the compulsory briefing session, even though we are informed, and there is evidence, that they did not attend. (In his written responses provided to us, Mr Semanya indicated that he became aware of the fact that NET15 did not attend the compulsory briefing session only after the audit of the Auditor General. He denied that he had any knowledge that the bidder was subsequently requested to sign the attendance register for the compulsory briefing session.)
747. Ms Mphuthi continued to say that she went to her office and in turn relayed Mr Semanya's instruction to Mr Mogoane that he should call NET15 to request them to come and sign the attendance register ex post facto.

5.2.2 Interview with Ms Velile Ndlovu

748. We conducted interviews with Ms Velile Ndlovu, appointed as the CFO since 2015. She stated that she has been the chairperson of the Bid Adjudication Committee since 2015 and reported to the CEO.
749. Her responsibilities as the chairperson of the BAC were to ensure process compliance with the SCM policy and administrative tasks.
750. Her role as CFO was to authorize purchase orders (PO) with values that were within her financial delegation. Ms Ndlovu stated that her delegated threshold was from R50 000 to R100 000 whereas purchase orders of values that exceed R100 000 were authorized by the CEO.
751. She stated that sometimes she signed as the first reviewer for POs above her delegation (R100 000) and the CEO would sign as final approver. The POs below R50 000 were not authorized by her as they would be approved by the SCM senior manager.
752. To summarise the approval of the RFQ: she stated that there would be a requisition form from the requester. The requester and the unit manager would sign the RFQ where after the CEO would approve. The SCM official would then source from the Central Supplier Database system and perform the compliance check and create a report. The PO is generated using the Pastel Evolution system.
753. Ms Ndlovu mentioned that she only performs a high-level review of bids by inspecting the supporting documents or by verbal confirmation from the SCM officials i.e., asking questions assuming that the SCM manager has done most of the work regarding compliance. She also checks the highest scored bidder of the three and makes sure the amount of the award is correct.
754. We asked Ms Ndlovu about the BEC composition as it relates to the SCM officials and how is it meant to function and she stated that she heard that some SCM officials were scoring, however she said that the scoring could have happened when she was not there. The SCM officials are always available, according to her it was never asked if it was compulsory for them to be attending. She said that the BAC receives the report from the BEC. The BEC chairperson presents the report to the BAC.
755. On the allegation of the files being moved and stored in her office, she said that she never gave such an instruction. The former CEO, Ms Pilusa, instructed that the files be kept in the CFO's office due to a constraint of office space in SCM, she was just conveying the message to the SCM officials.
756. She said the files were taken from her office (whether she was present or not) by SCM officials either on the day of the BEC meeting or before to perform the mandatory compliance requirements. She said that she did not look at the bids but there is a time that she assisted Mr Kuzana in arranging the bids in order.
757. She furthermore stated the following:
758. She said she never involved herself in the opening of tenders on the closing date;

759. She never wrote the names of bidders in the bid register book;
760. She never instructed the members and the Chairperson of the BEC to re-score bids;
761. She never viewed the BEC report and minutes before the meeting;
762. She does not sit in Exco meetings except when she went to present the Finance report;
763. She is unaware of any details relating to the sourcing of the legal panel and never requested for the additional legal firms to be included in the panel of legal firms, except for an instruction letter received from the CEO. She was sent a letter by the secretary of the CEO, written by the CEO to forward it to National Treasury. The letter was to request to perform a competitive bidding outside the approved panel of attorneys.
764. We asked Ms Ndlovu about the Gobodo Forensic report relating to her involvement in the appointment of TNI Superior General Trading that was alleged to have irregularities. The Gobodo report raised the following:
- "We were supplied with a Purchase Order ("PO") with number PO24522 in the amount of R300 000 issued to the entity TNI Superior General Trading. The date on the PO is reflected as 17 July 2018. It was prepared and authorised on the same day. It appears to have been authorised by Ndlovu. We were informed that the PO was manipulated as the PO does not reflect a date on the bottom right of the PO. In this regard we attach a PO with number PO24407 to the report as illustration of the date on the bottom right.
 - We were also informed that the PO was only printed on 24 August 2018 and not on the date as indicated on the purchase order being 17 July 2018. It appears that the delay in time was necessary to acquire the second quotation. We were also informed that there were other lower quotations received by SCM, but that the compiler of the quotations, Kuzana, did not consider them whilst compiling the SCM report on the quotations received. We received copies of other suppliers who responded but whose quotations were not considered."
765. Ms Ndlovu acknowledged that she signed to approve the Purchase Order relating to the appointment of TNI Superior General Trading.
766. She stated that she reviews the quarterly report and reconciliations for unusual transactions and does not perform any other oversight measures. She explained that her duties are only to oversee the SCM and Finance units and not to take accountability for the responsibilities of managers. She expressed the view that if her managers are not able to identify errors and/ or fraud, then there is no point of having direct reports. According to her, the fact that CETA received clean audits is testament that her department is functioning well, and good controls are in place.
767. In response to awarded entities, NET15 and Data Proof, that did not attend the compulsory briefing and Ms Ndlovu is alleged to have added the names of the entities onto the register, she said she did not write the names of the said entities on the attendance register, however, she added the names (as

she was assisting Mr Kuzana) on the Bid Submission register for late submissions.

768. We were supplied with the bid register book where it appears to be only Mr Kuzana that signs the book with no other officials signing as witness contrary to the SCM SOP. Mr Kuzana, Mr Mogoane and Ms Mphuthi allege that Ms Ndlovu would choose any official to come to perform the bid registration in her office a few days after the tender was closed. Ms Ndlovu denies their statement and adds that any SCM official had access to her office to the point that they did not even consult with her when they required access. On occasions that she was in meetings elsewhere, they would come and fetch her office key and gain access with no restriction.

5.2.3 Interview with Mr Jabulani Jiyane

769. We conducted interviews with Mr Jabulani Jiyane as he was the chairperson of the BEC and served as a BAC member during our period of review.
770. He was appointed as the Corporate Services Manager of CETA in 2015 and reported to Ms Pilusa until her resignation, then to the ACEO, Mr Robert Semanya. Mr Jiyane was the Chairperson of the BEC in 2018 to 2019 and a BAC member until his current suspension.
771. He informed us that his roles and duties as a BEC chairperson included to:
- Set the date of the meeting and chair the meeting; and
 - Evaluate the bids documents as per the BSC stipulated criteria;
772. Mr Jiyane stated that he would get an invitation to the BEC meeting from the SCM official who performed the scribe duties. The SCM unit provided an SCM advisor and a scribe for performing the secretarial function of the meetings. Mr Kuzana was an advisor and Ms Matsapola was a scribe.
773. He confirmed that the SCM officials were not participating in the scoring during his tenure, nor were they permitted to do so.
774. He stated that the BSC was responsible for the design of the score cards and the BEC would utilise the score cards to evaluate and score the bid responses according to a points system. The completed score cards from the BEC members are collated by the SCM scribe and compiled into a report for presentation to the BAC. The BEC report is compiled by the SCM scribe with the assistance from the officials from the SCM unit.
775. Mr Jiyane indicated that the report would be tabled in the next BEC meeting and after all the comments from the BEC members, he as the chairperson, would sign the report. He confirmed that the BEC would meet twice over the same tender, the first being the evaluation and the subsequent meeting being the tabling of the report.
776. He further stated that he would be invited to present the report to the BAC meeting at a later date. He was not excused from the meeting after he concluded his presentation to allow the BAC to deliberate in his absence. He further stated that it was the norm and it was not unusual for the BEC chair to be present during the entire meeting of the BAC.

777. He mentioned that the BEC members, including himself as the chairperson, would have sight of the consolidated scoring report only at the time that the scribe and the advisor presented the report in the BEC meeting. They do not get to view the scoring of any other members during the evaluation meeting and this process is monitored by the advisor.
778. He mentioned that should a misalignment (a material difference in the points awarded by individual members) in scoring on a particular item occur, the BAC would return the bid evaluation report to the BEC for rescoring. However, should the BAC be satisfied with the BEC evaluation report they would draft and sign their report to confirm compliance to the policy and approve the award to the recommended bidder.
779. He stated that they encountered difficulty when scoring because the score grading or specifications were not itemised with a weighting in line with the stipulations of the PFMA, however he did not state which section of the PFMA he was referring to.
780. Mr Jiyane said after the initial scoring is concluded, the BAC may recommend re-scoring due to the reported scores being misaligned. The BAC will send back the documents for re-scoring to the BEC. The BEC would receive new score cards to perform this function where both the old and new score cards were attached.
781. He continued to say that the SCM advisors influenced the decision making as he noted that the advisor would advise members to align their scoring.
782. Mr Jiyane mentioned that Mr Kuzana requested him to re-score a bid due to his score being below that of other members. This bid was later cancelled owing to lack of budgeted funds to undertake the project. He stated that Mr Kuzana was acting on instruction of the CFO, Ms Ndlovu, citing that Mr Jiyane should re-score the bid.
783. Mr Jiyane told us he was not furnished with any minutes of meetings and the audio recordings of BEC meetings. He requested Ms Matsapola (SCM scribe) to provide such meeting records, but she failed to do so. He stated that there was no policy, at that time, that prescribed that meetings be minuted or recorded.
784. He stated that members recuse themselves from the meeting when there is a conflict of interest in any of the tenders.
785. Mr Jiyane mentioned that he informally learned that the bid documents were not kept in the SCM offices but were stored in the office of the CFO, Ms Ndlovu. He indicated that that was a wrong practice.
786. He also mentioned that he was aware that there were bids awarded to entities, NET15 and Data Proof, that did not attend the compulsory briefing and Ms Ndlovu is alleged to have added the names of the entities onto the register.
787. Mr Jiyane said that the manager of the IT unit, Mr Bongani Sibanyoni, was instructed by Mr Semanya to sign all submissions on the entity styled Data Proof Communication during the RFQ procurement process, whilst Mr Jiyane was the head of the division. Mr Sibanyoni alerted him of this fact.

788. Mr Jiyane said he never requested the meetings not to be recorded. He in fact raised the concern with Ms Matsapola that the minutes are not up to standard and at times minutes were not available at all.

5.2.4 Interview with Mr Simphiwe Nene

789. We conducted interviews with Mr Simphiwe Nene in his capacity as the BSC chairperson as well as the Finance Manager during our period of review.
790. He was appointed as the senior manager in Finance of CETA in 2015, a former BAC member and currently serves as a BSC member since 2018. He reported to both the former CEO Ms Sonja Pilusa and to the acting CEO Mr Robert Semenya respectively.
791. Mr Nene's responsibilities in the BSC were to:
792. Assist the requester with the specifications;
793. Evaluate the specifications with the requester to determine if they are clearly detailed; and
794. Determine the mandatory compliance guidelines i.e., Tax clearance, reference letters and BEE certificate.
795. He stated that CETA Finance unit have a register where irregular expenditure is recorded, however, to his recollection there is no entry.
796. He also said that there were some advance payments afforded to employees that are intended to cover flights, boarding and lodging. The CETA would at times note that officials would miss flights or get traffic infringement fines. Such costs would be recovered from employees and as a result of the fact that CETA recovered the funds, Mr Nene would not record the expense as fruitless and wasteful expenditure.
797. He mentioned that changes in specifications usually occur when the suppliers fail to submit all the required documents or when all the suppliers' quotations are above the required tender limit. It will then be investigated as to why all the suppliers don't meet the requirements and that is when there can be a change in specification.

5.2.5 Interview with Ms Sonja Pilusa

798. Ms Sonja Pilusa joined CETA in 2011 as part of the then administration team where she was tasked to assist CETA with HR matters. As part of her duties, she performed the following:
- introduced graded salary scales, job profiles and benchmarking.
 - created a travel unit within CETA to unlock cost savings; and
 - ensured that bonuses were paid to staff based on targets and a performance framework.
799. She highlighted that the organisation received successive clean audits during her tenure as the CEO.

800. Ms Pilusa highlighted that Mr Cele had a private meeting with her where he attempted to convince her to influence a number of bids including the biometrics, toolkits and MIS tenders. She informed us that following Mr Cele's request, she reached out to the DG of the Department of Higher Education, Mr Gwebinkundla (Gwebs) Qonde about the request of Mr Cele. The DG did not action the grievance, but nevertheless agreed with Ms Pilusa that declining the request of Mr Cele was correct. He however advised that they should await Mr Cele's next step, at which stage action would be taken.
801. Ms Pilusa then reached out to Mr Piet Matosa and Mr Webster Mfebe, in their capacity as fellow board members of Mr Cele, regarding the request by Mr Cele for their noting and advice.
802. She stated that her relationship with the board chairperson deteriorated thereafter.
803. Ms Pilusa resigned on 12 June 2018 and took CETA to CCMA for constructive dismissal.
804. Advocate Harriot from Werksmanns attorneys was the CETA's appointed legal representative, who requested that the grievance letter authored by Ms Pilusa to the DG be withdrawn and that the CETA would then abandon the pension fund matter against her.
805. Ms Pilusa signed a settlement with a confidentiality clause in or around March/April 2019 to settle the constructive dismissal matter with CETA.
- SCM
806. Ms Pilusa stated that she saw BAC members meeting in the office of Ms Ndlovu on at least three (3) occasions.
807. She mentioned that she instructed Ms Ndlovu that BAC meetings cannot be held in the office of the CFO.
808. Ms Pilusa noted that Ms Mphuthi compiled all attendance registers.
809. Ms Pilusa stated that she and Ms Mphuthi did not get along on a personal level but that she held Ms Mphuthi in high regard as an SCM professional.
810. A security contract for the Skills Centre in Bethal was awarded to a company that did not meet the functionality criteria.
811. Adams and Adams were appointed by the CEO to conduct procurement training and to check SCM processes and procedures.
812. Recommendations were made to the AA. These should have been implemented in April 2018.
813. Ms Pilusa stated that POs should not have been raised on Sage by departments during her tenure as CEO. Each department had a purchase requisition book and POs were only created by SCM.
814. POs relating to HR and Projects had to be approved by the Board irrespective of the amount and could not be approved by the CEO.
- Internal Audit
815. According to Ms Pilusa's knowledge the following matters were raised by internal audit and were addressed:

- 816. SCM not having appropriate training.
- 817. SCM managers attending BEC and BAC meetings.
- 818. Last minute cancellations of tenders.
Irregular expenditure
- 819. Ms Pilusa noted that there was no irregular expenditure because all general expenses that were incurred by CETA which would be categorized as wasteful, being of expenses relating to traffic infringements, missed plane tickets and such, those funds were recouped from staff members and therefore not accounted for as irregular or fruitless and wasteful.

5.3 Instruction to move and keep the closing bid responses in the CFO's office as well as not to conduct public openings.

The instruction

- 820. We were informed by Ms Mphuthi, Mr Mogoane, Mr Kuzana and Ms Matsapola that the practice of the tender closing time and the opening of the tender box was as follows:
 - 821. Tender box will be opened in public on the first floor of their offices;
 - 822. The tenders/ bids will be counted and registered in the bid register book;
 - 823. Two SCM officials will sign that they oversaw the process;
 - 824. The tender documents will be moved to the SCM unit for storage;
 - 825. SCM officials would prepare the submission for the website publication within 10 days; and
 - 826. The SCM officials would prepare the pre-evaluation documents to assist the Bid Adjudication Committee.
- 827. This practice was in accordance with the SCM policy 2017/2018 paragraph 9.5. relating to receiving and opening of bids, which provides as follows:
 - "Bids must be lodged in a designated tender box by the closing date and time;
 - Bids received after the closing time shall be treated as late bids and must ordinarily not be considered for evaluation;
 - Bids received before the closing date and time must be safely stored in a lockable facility on receipt and removed by delegated officials for evaluation and adjudication purposes after the closing date and time;
 - At least two officials must be present during opening of bids on the closing date and after the closing time specified for the bid in question."; and
 - "After opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award".
- 828. The Supply Chain Management must:

829. Record in a register all bids received in time;
830. Make the register available for public inspection; and
831. Publish the entries in the register and the bid results on the website.
832. We were informed by SCM officials that on or around 22 January 2018, Ms Ndlovu (CFO) stood by the office door of Ms Mphuthi (SCM Manager) and issued a verbal instruction that all the bid responses of the current tenders were to be immediately moved to her office and that no public opening should be carried out henceforth. (In her consultations with us Ms Ndlovu denied that she instructed that no public opening should be carried out).
833. Ms Mphuthi informed us that the CFO only delivered this instruction and left without engaging on the matter. Upon reflecting on the instruction, Ms Mphuthi was uncomfortable with executing the instruction as it is in violation of the National Treasury Guide dated February 2004: A Guide to Supply Chain Management: A guide for Accounting Officers / Authorities. Chapter 4, dealing with receiving responses and opening of bids, which states as follows:
"The time for the bid opening should be the same as for the deadline for receipt of bids or promptly thereafter and should be announced, together with the place for bid opening, in the invitation to bid. The institution should open all bids at the stipulated time and place. Bids should be opened in public, that is, bidders or their representatives should be allowed to be present. If requested by any bidder, the name of the bidders and if practical the total amount of each bid and of any alternative bids, should be read aloud. The names of the bidders and their individual total prices should be recorded when bids are opened."
834. Ms Mphuthi subsequently looked for the CFO to further clarify and discuss the matter, and found her in the office of the CEO, Ms Pilusa, together with Mr Semenya.
835. Ms Mphuthi said she raised her concerns with regards to the instruction to the individuals present in the CEO's office. Ms Pilusa, after hearing her concern, proceeded to contact a counterpart at Services SETA and asked them where they keep the bid response documents, to which the contacted person responded that Services SETA also stores the documents in the CFO's office. Ms Pilusa completed the call and then addressed Ms Mphuthi affirming the CFO's instruction by saying, "You see? What we are asking you is also done in other SETAs". Ms Mphuthi described to us that she felt defeated and opted to assure management that she will ensure the instruction is carried out, where after she conveyed the instruction to all the officials in the SCM unit.
836. The SCM officials told us that the tenders that closed subsequent to the above instruction (on or around 30 January 2018) were not opened in public, contrary to the SCM policy relating to the opening of bids in public, referred to above. The SCM officials were not attaching their signatures in the bid register book as they usually did during the opening of the bid box when conducting the bid closing procedure as guided by their SCM policy, to validate the number of submitted bids and publicly state the bid prices for openness and transparency.

837. We were supplied with the bid register book where it appears to be only Mr Kuzana that signs the book with no other officials signing as witness contrary to the SCM SOP.
838. Ms Ndlovu does not agree with the version of the SCM officials and states that they all had unrestricted access to her office, and they would know which bids to work on (as opposed to her).
839. We were informed by Ms Mphuthi and Ms Matsapola that the instruction relayed by Ms Ndlovu impedes on the SCM process and gave rise to SCM officials deviating from the SCM Standard Operations Procedure and the National Treasury Guide dated February 2004: A Guide to Supply Chain Management: A guide for Accounting Officers / Authorities;
840. Chapter 4 paragraph 4.10 of the above Guide refers to the public opening of the bid documents and prescribes that bids should be opened in public.
841. When an SCM official opens bids in public, they are in compliance with the abovementioned provision and further provide assurance of the transparency of the process to the bidders. The instruction, conveyed by the CFO, served to remove the assurance and created an opportunity to tamper with the bid documents away from any witnesses prior to the commencement of the evaluation process.
842. We were not informed of any complaints from the bidders with regards to the late publishing or non-publishing of the bid submission register on the website.
843. Mr Kuzana indicated that he saw no problem with the above practice. We note that, by doing so, he participated in an activity that seems to indicate that he failed in his obligations to safeguard controls as specified in PFMA Chapter 6 part 3, section 57 (a) which states that,
'an official must ensure that ... internal controls established for that public entity is carried out within the area of responsibility of that official'.
844. Ms Ndlovu denies that she limited access to her office for the SCM officials to perform their duties, although none of the SCM officials agree with her statement. She also denied issuing the instruction to the SCM officials but attributes the instruction to be from the CEO Ms Pilusa.
845. It follows that Ms Mphuthi, as the SCM senior manager, failed in her obligations to safeguard controls as specified in PFMA Chapter 6 part 3, section 57 (a) as stated above. She confirmed that she did not escalate the matter to the AA.
846. We determined that in respect of bid 017-2017/2018 the register reflected 57 bidders and was signed by Mr Kuzana next to the last name of the bidder to indicate that this was the last entry. However, we found that six (6) bidders were added afterwards and subsequently evaluated.

5.3.1 10 Day bid response publishing on the CETA website

847. The officials are supposed to prepare and publish the received bids on the CETA and the National Treasury websites no later than 10 days after the closing date, in line with the 2018/2019 SOP in conjunction with the National Treasury prescripts. Our observation was that the officials do not to comply with this requirement in that the bid documents were stored in the CFO's office and were not accessible to the SCM officials in the desired frequency in order to perform their duties in this regard.
848. National Treasury Instruction Note dated 31 May 2011 on enhancing compliance monitoring and improving transparency and accountability in supply chain management – paragraph 3.2.1- states as follows:
"3.2.1. Within ten (10) working days after the closure of any advertised competitive bid, institutions must publish on its website the names of all bidders that submitted bids in relation to that particular advertisement. Where practical, institutions must also publish the total price and the preferences claimed by the respective bidders. The information should remain on the website for at least thirty (30) days".
849. Paragraph 9.11 of the CETA SCM Policies: 2017/2018 & 2018/2019 requires that –
"9.11.8 within ten (10) working days after the closure of any advertised competitive bid, the names of all bidders that submitted bids in relation to that particular advertisement must be published on the CETA website. Where practical (as determined by the Accounting Authority or delegate), the total price and the preferences claimed by the respective bidders must be published."
850. We determined that the following bids were not published on the CETA website within ten (10) working days after the closing date of the bids:
851. Bid No: 035 -2017/2018 - Appointment of a service provider to monitor and evaluate CETA-Funded projects;
852. Bid No:027-2017/2018 - Appointment of a project management company that will manage the construction of skills development centre and workshop;
853. Bid No:033-2017/2018 - Appointment of a service provider for the provision of IT hardware and software for laptops, maintenance and other related IT equipment;
854. Bid No: 020-2017/2018 - Re-Advert - Appointment of a service provider to develop CETA occupational qualifications;
855. Bid No: 034-2017/2018 - Application for registration on the CETA panel of accredited training providers': Apprenticeship;
856. Bid No: 034-2017/2018 - Application for registration on the CETA panel of accredited training providers': Learnership;
857. Bid No: 034-2017/2018 - Application for registration on the CETA panel of accredited training providers': RPL; and

858. Bid No: 034-2017/2018 - Application for registration on the CETA panel of accredited training providers': Short Skills.

5.3.2 The tender validity period

859. The National Treasury guidance read together with the CETA SCM policy 2017/2018 (Paragraph 9.4.3) stipulates that in relation to the validity period of the bids:
- "bids must be valid for at least 120 days from the closing date of the bid. A longer period may be set if problems with the evaluation is envisioned, but preferably not longer than 120 days. The extension must be requested in writing from all bidders before expiration date."
860. The instruction relayed by Ms Ndlovu further impeded on the evaluation process of several tenders in that the office of the CFO was not readily accessible for the SCM officials to perform their duties, because their access was dependent on the availability of the CFO to open and grant access to the files. We determined that the officials struggled with access owing to the CFO being unavailable in her office to a point that there were delays in evaluation of the bids.
861. Ms Ndlovu denies that she limited access to her office for the SCM officials to perform their duties, although none of the SCM officials agree with her statement. She also denied issuing the instruction to the SCM officials but attributes the instruction to be from the CEO Ms Pilusa.
862. Ms Pilusa did not corroborate Ms Ndlovu's statement and stated that she, on a number of occasions, went to Ms Ndlovu's office and found a lot of bid files all over the floor. She urged Ms Ndlovu to deal with them by moving the files back to the SCM unit or swap her office with that of the SCM manager.
863. Ms Mphuthi wrote in her affidavit that carrying out this instruction had a tremendous ripple effect in the bid evaluation process resulting in bid number 014-2017/2018 and 026-2017/2018 being cancelled, and that she was told to add the reasons for cancellation as "due to change in specifications" by Ms Ndlovu.
864. Ms Mphuthi stated during the interview with us that the tenders were in fact cancelled due to the expiry of the validity period of 120 days as published in the CETA SCM policy.
865. Records indicate that the tender validity period of 10 bids did not exceed 120 days before they were considered for evaluation and subsequently cancelled. We established that the following 10 bids were cancelled from as early as the first day after the closing date up to 60 days from the closing date and were not subjected to any standard procurement evaluation procedures, however, a reason of "due to change of specification" was included in all the notification letters signed by the CEO, Ms Pilusa:

| Bid Number | Short description | Cancellation - Days after closing date |
|---------------|---|--|
| 009-2017/2018 | Supply and implementation of in-house finance system; | 12 |
| 013-2017/2017 | Biometric system and register for learners | 1 |
| 014-2017/2018 | Toolkit for learners | 1 |
| 015-2017/2018 | Personal protective equipment for learners | 1 |
| 016-2017/2018 | Insurance underwriter | 1 |
| 018-2017/2018 | Security guards | 2 |
| 019-2017/2018 | Construction of Technology laboratory building | 1 |
| 020-2017/2018 | Develop CETA occupational qualification system | 12 |

| Bid Number | Short description | Cancellation - Days after closing date |
|---------------|----------------------------------|--|
| 021-2017/2018 | Design of MIS | 55 |
| 022-2017/2018 | Procurement of land and building | 1 |

5.3.3 Conclusion on the matter of the instruction relayed by Ms Ndlovu

866. Based on the statements of all SCM officials, including that of Mr Jiyane and Ms Pilusa, relating to the execution of the said instruction, it appears that the instruction was initially conveyed to SCM staff by Ms Ndlovu. We note that in this regard Ms Ndlovu stated that she never gave such an instruction but that she kept the bid documents solely for storage as she herself was following an instruction of the former CEO, Ms Pilusa, that the bid documents are to be kept in her office until the bid evaluation committee requires them.
867. Based on the statement of Ms Mphuthi and the subsequent execution of the said instruction, it however appears that Ms Pilusa was aware of the bids being kept in the CFO's office.
868. The instruction created an opportunity for the bid submission register to be tampered with.
869. The instruction coincided with the termination of the public opening of the bids on the closing date.
870. The instruction relayed by Ms Ndlovu appears to have hindered the general SCM workflow and have caused the 10-day website publication to fail due to limited access to her office.
871. There is no evidence that supports the statement that the bids exceeded the bid validity period before being cancelled. Ms Mphuthi's account was contrary to what we discovered, as stated above.
872. There is no evidence that supports the argument that SCM officials did not have access to bids whilst they were in the CFO's office. It appears that Mr Kuzana had access to them as evidenced by his signature in the bid register book and his verbal evidence.
873. There is no evidence that supports the notion that the bids were cancelled because they were kept in Ms Ndlovu's office nor that the reasons for the CEO, Ms Pilusa, to cancel the bids were motivated by the bids being moved and stored in the CFO's office.

5.3.4 Audio recordings and minute taking of the committee meetings

874. The National Treasury Practice note 4 of 2003 – Code of Conduct for SCM Practitioners (Paragraph 6.3) prescribes the following:

'Bid evaluation/adjudication teams should be familiar with and adhere to the prescribed legislation, directive and procedures in respect of the supply chain management in order to perform effectively and efficiently.'

875. The CETA SCM SOP stipulates that the BEC and the BAC meetings should be recorded as well as minuted and minutes should be signed by the Chairperson of the respective committee.

876. The SCM secretaries (scribes) are responsible for the audio recording and minute taking during the BEC and BAC meetings. For the period 2017/18 and 2018/19, Ms Matsapola and Mr Mogoane were the BEC and BAC secretaries interchangeably.

877. The National Treasury Circular on Code of Conduct for Bid Adjudication Committees, issued on 30 March 2006 states:

"4.3 The Secretary shall

in conjunction with the chairperson/ vice chairperson compile an agenda and determine dates of meetings;

give notice of proposed meetings to committee members;

process and distribute all submissions/reports together with the agenda to committee members at least three working days before the actual meeting takes place;

minute all decisions taken at meetings;

adhere strictly to the stipulations of the National Archives of South Africa Act, No. 43 of 1996 and accompanying directives;

ensure that the proceedings at meetings are recorded mechanically;

give written feedback of all decisions taken by the committee; and be responsible for all the administrative tasks of the Committee."

...

"5.3 Minutes

5.3.1 The minutes will be the written record reflecting in a brief, clear and impartial manner the decisions of the Committee. The signed minutes will serve as proof of the decisions of the Committee.

5.3.2 Should a member wish to have a specific matter other than a decision recorded, it must be specifically requested. A member's reasons for a dissenting voice must also be recorded.

5.3.3 Proceedings are also recorded mechanically to enable the secretary to prepare verbatim reports when required by a court of law."

878. In perusing the bid documents, we noted that there were no minutes of the BEC and BAC meetings on some of the bid files evaluated. Upon consulting with Ms Matsapola and Mr Mogoane to get their reasons for the apparent lack of consistent minute taking for record keeping, their response was that they were told by the chairpersons Mr Semenya and Mr Jiyane not to record the audio of the meetings. They both admit that the chairpersons did not specifically state they should not take minutes.
879. Mr Jiyane agrees that he maintained the decision of no mechanical recording, but he did not initiate the decision as it was issued during Mr Semenya's tenure. He confirms that he was always guided by the SCM advisor who was present in his meetings, and the advisor did not raise this as a concern or a violation of rules.
880. In his written responses to us, Mr Semenya confirmed that he objected to voice recordings of BEC meetings as, according to him, this practice was not informed by any policy.
881. Ms Mphuthi confirms that the scribes were only asked not to record in the BEC meetings and not specifically those of the BAC, although they as SCM officials stopped recording the BAC meetings out of their own volition.
882. The secretaries further informed us that usually the committees' minutes do not record exactly what transpired during the meeting. They continued to explain that after drafting the minutes they are sent to the chairperson for approval as stipulated in the SOP. For the BAC they usually print a copy and provide to Ms Ndlovu where she made amendments in handwriting or verbally. They would then make the changes on the same electronic document. That is why, they say, they do not have an original copy that depicts the items that would have been removed by the chairperson.
883. Ms Matsapola further informed us that they were instructed to stop the audio recordings by Mr Semenya in the BEC. They took it upon themselves to imply that the BAC meetings should also not be recorded. She stated that there is a time she wanted to record audio of the BEC meeting, however, she was told not to record by the chairperson Mr Jiyane in an intimidating way.
884. The SCM secretaries conveyed that the SCM advisors Mr Kuzana, Ms Dlamini and Ms Mphuthi did not object nor raise this concern with the AA in writing as per the provisions of Notional Treasury Regulation 16A 8.5.
885. Ms Mphuthi also confirmed that she did not put this matter of minute taking and recording in writing to the CEO, Ms Pilusa, and/or the AA. She indicated that she has written a number of emails regarding other matters of concern to the National Treasury.
886. Ms Matsapola provided us with what she deemed to be a number of the original unaltered BAC minutes to compare with copies on file. These were the minutes of the meeting dated 26 July 2018 for BAC. However, we noted that there was no difference between the compared copies.

5.3.5 Meetings of the Bid Evaluation Committee (BEC)

887. The BEC is appointed and composed in accordance with the requirements of the SCM policy. It must be composed of a minimum four (4) members including one SCM official in an advisory capacity. The committee is open to inviting the subject matter expert to be part of the panel of a specific tender where it is deemed necessary.
888. The BEC meeting should be recorded as well as minuted and minutes signed by the Chairperson, as guided by the CETA SCM SOP 2018/19 read together with the Treasury Circular referenced above.
889. We determined that the BEC members for the period 2017/18 and 2018/19 were as indicated in the tables below:
890. 31 March 2016 - 31 March 2018

| Name | BEC Position |
|-----------------------|--------------|
| Mr. Robert Semenya | Chairperson |
| Mr. Innocent Ngenzi | Member |
| Ms. Nokwanda Dlamini | SCM advisor |
| Mr. Jabulani Jiyane | Member |
| Mr. Innocent Ngenzi | Member |
| Ms. Joyce Tsipa | Member |
| Ms. Khomotso Mpandeli | Member |

891. 27 June 2018 - 31 March 2018

| Name | BEC Position |
|---------------------|--------------|
| Mr. Jabulani Jiyane | Chairperson |
| Mr. Innocent Ngenzi | Member |
| Mr. Vincent Namane | Member |
| Mr. Siphon Maluleke | Member |
| Mr. Innocent Ngenzi | Member |
| Ms. Annamitah Phuti | Member |

| Name | BEC Position |
|----------------------|--------------|
| Mr. Lungisile Kuzana | SCM advisor |

892. 1 June 2019 - 31 March 2020

| Name | BEC Position |
|------------------------|--------------|
| Mr. Siphon Tleane | Chairperson |
| Mr. Siphon Masombuka | Member |
| Mr. Sibusiso Nkabinde | Member |
| Mr. Sabelo Shabangu | Member |
| Mr. Bongani Sibanyoni | Member |
| Ms Joyce Phuti Tsipa | Member |
| Ms Constance Matsapola | SCM advisor |

893. We were informed by both Ms Matsapola and Mr Mogoane that they interchangeably acted in the role of secretary during the BEC meetings within the period 2017/18 and 2018/19.
894. We were informed by Ms Mphuthi and Mr Kuzana that Ms Dlamini and Mr Kuzana interchangeably acted in the role of advisors during the BEC meetings during the period 2017/18 and 2018/19.
895. We established that the BEC secretary did not consistently take minutes of the BEC meetings, as some of the bid documents we received did not include the minutes.
896. We consulted with the BEC secretaries with regard to why there were no minutes in some of the bid documents. They responded that they were not present in those meetings. They further indicated that there are two meetings, the first being the BEC members to evaluate the bids, and the second meeting being the presentation of the scores. The secretaries stated that they did not attend the first meetings, only the SCM advisor attended such meetings and collated the scores afterwards.
897. The secretaries informed us that the SCM advisors attend both meetings and would take the score sheets from the BEC first meeting and collate the scores of each member and draft a report in the SCM office. In some instances, the SCM advisors would call the secretaries to assist in the drafting of the report.

898. Mr Kuzana said he would request the other SCM officials in the office to assist him in compiling the committee reports and he always sends a finalized copy to Ms Mphuthi as his supervisor for review.
899. The secretaries informed us that they attend only the second BEC meeting where the report is presented to the BEC members. This is the stage where they take the minutes. The drafted minutes are later sent to the chairperson for approval.
900. The secretaries mentioned that pursuant to the sending of the draft minutes, they were requested by Mr Semenya in BEC and/or Ms Ndlovu in BAC, to amend the minutes to a point that the final approved copy does not reflect everything that transpired during the meeting.
901. We directed certain written questions in this regard to Mr Semenya. In his written responses to us he acknowledged that he objected to voice recordings. He stated that this is because the said practice was not informed by any policy. He directed the SCM manager to take the matter to management if she wished this practice to become a policy. To his recollection the SCM manager duly took the matter to management, but the proposed practice was rejected by the former CEO.
902. Mr Semenya denied that he instructed the secretaries to amend any minutes of BEC meetings. He stated that SCM had to follow their own standard operating procedures and the templates that they were using.
903. Ms Ndlovu said Ms Mphuthi, as the SCM advisor, was always present in meetings and would know what transpired, should the minutes not be a true reflection of what transpired, Ms Mphuthi was very vocal and would raise such. Ms Ndlovu does not agree that they changed the minutes deliberately to conceal any wrongdoing, however, she agrees that minutes in their nature would only reflect salient points of the discussions.
904. Ms Mphuthi responded to the above stating that the scribes would do a "cut and paste" on the previous document (minutes) and amend the relevant sections.

5.3.6 Conclusion on the BEC meetings

905. Based on the SCM officials' statements and the fact that there were no mechanical recordings, it appears that all the BEC chairpersons failed to perform their duties in that they did not ensure accurate record keeping of the meetings.
906. We conclude that the BEC members erred in not permitting the secretaries to attend the first meetings in that it resulted in the meetings not being recorded both in minutes and mechanically as required by the Treasury Circular. The secretaries were prevented by the BEC chairpersons from performing their duties in this regard.
907. We conclude that the SCM advisors failed in their duty to report (in accordance with Treasury Regulation 16A 8.5) that the secretaries were not permitted to attend the first meetings, in that they did not advise the AA in writing that the secretaries were prevented from performing their duties.

908. It appears that the SCM advisors did not put in writing to the AA, in accordance with Treasury Regulations 16A 8.5, the procurement irregularities relating to the rescoring of the bids the minutes do not reflect the decisions to rescore.

5.3.7 Procurement processes - Request for Quotations (RFQ)

909. We have determined that CETA utilises the SCM policy to distinguish between a procurement process of purchases to the value above R500 000 and that of purchases below R500 000.
910. Purchases below R500 000 are effected through request for quotation as per SCM policy dated 1 April 2018 which states that, the SCM unit should invite and accept quotations from as many suppliers as possible from the Central Supplier Database (CSD).
911. Purchases above R500 000 are effected through a request for proposal as per SCM policy dated 1 April 2018 which states that, the SCM unit should procure goods and services through a competitive bidding process.

5.3.8 The National Treasury Central Suppliers database

912. The National Treasury website indicates that "The Central Supplier Database maintains a database of organisations, institutions and individuals who can provide goods and services to government. The CSD will serve as the single source of key supplier information for organs of state from 01 April 2016 providing consolidated, accurate, up-to-date, complete and verified supplier information to procuring organs of state.
- Prospective suppliers interested in pursuing opportunities within the South African government are encouraged to self-register on the Central Supplier Database. This self-registration application represents an expression of interest from the supplier to conduct business with the South African government.
913. The CETA stopped to invite potential service providers through an advertisement in the media to register as suppliers and/or service providers on the database of CETA in compliance with National Treasury Practice Note 8 of 2007/2008.
914. The CETA implemented the use of the National Treasury Central Supplier Database as their supplier database and procurement management system. The training on the system is provided by National Treasury on an annual basis and they are responsible for the maintenance of the system.
915. There is no evidence that the CSD system provides for the rotation of suppliers per commodity. When the end user identifies a need to procure any

- goods or service, the responsible official is required to complete a request form. Once completed, the request form is forwarded to the SCM unit.
916. An SCM official is required to capture the details on the CSD system. The CSD system then automatically lists all the service providers for a selected commodity or other criteria, i.e., location of service provider, however, it does not request the service providers to submit a quotation. The CSD system is not automated to allow the SCM official to send emails directly from the system. The SCM official has to manually copy the email address of the service provider into their email in order to send requests for quotations to suppliers.
917. The system reflects the username of the official who captured the request on the system;
918. The service providers are requested to send quotations per email to the person from SCM who requested the quotation in respect of the goods or services.
919. The CSD system provides for the request to be sent by fax to the selected entities to ensure that the request reaches the intended destination.
920. It is the prerogative of the SCM official to choose which service providers they select to request a quotation from. The guide and generally accepted rule within the SCM unit is that the officials must source at least three quotations.
921. After the responses are received from the service providers, there is no computer system or record keeping mechanism for the quotations to be captured by an official of the SCM unit. We noted that the quotations will be received by an SCM official via email, the same will be printed and collated for later evaluation by the very same SCM official.
922. The evaluation of required goods or services is conducted in respect of lowest price. Depending on the value, should it be above R30 000, the SCM officials would employ a way to reflect the points scored.
923. The SCM official passes the completed evaluations and the supporting documents in the form of the requisition forms and memo to the SCM manager for approval and purchase order generation from the Pastel Evolution system.
924. We determined that the purchase order is generated by the SCM official acting as a supervisor or manager, who captures the details of the prospective service providers on the system in order to comply with the requirements of National Treasury Practice Note 8 of 2007/2008.

5.3.9 The practice followed by the SCM officials

925. When the end user identifies a need for the procurement of goods and/or services, the end user completes a requisition form (Log 1) reflecting the requirement;
926. After the requisition form is approved and signed by the relevant parties, it is forwarded in printed form to the SCM Unit;

927. The SCM officials then capture the request, including the terms of reference, on the CSD System;
928. The SCM officials then prepare a request on the CSD system to generate letters to a set number of suppliers (which number may vary according to the circumstances of each case);
929. Ms Mphuthi informed us that the request form is required to be submitted together with the specifications to commence with the procurement process.
930. The CSD system does not automatically forward emails to the service providers, however, an email is sent to service providers selected by the SCM official requesting them to submit a quotation;
931. The SCM officials also forwards the Terms of Reference to the service providers to quote with the closing date reflected in the email;
932. The system reflects the username of the official who captured the request on the system;
933. The CSD system provides for the service providers to forward their quotations per email back to the requester at SCM;
934. The system has no built-in feature to ensure that the requests are submitted to the prospective listed service providers;
935. We determined that the SCM officials would stipulate a turnaround time for quotations as little as 24 hours.
936. During our consultation with Ms Nthabiseng, Ms Matsapola and Mr Mogoane, they indicated that it was as a result of instructions from the end users that they should source the goods and services on an urgent basis.
937. When the quotation responses are received from the service providers, they are captured on an excel spreadsheet and, depending on the amount, the SCM official will perform an evaluation in respect of price and reflect on the points scored on their internal RFQ register.
938. Pursuant to the evaluation and approval of the recommended service provider, information is forwarded to Pastel Evolution for the creation of a formal purchase order; and
939. The SCM official selects service providers when quotations for goods and services are required, based on the commodity required and location of the required service. If a service provider is not registered for the required commodity and/or not in the required location, then the system will not select the said service provider for purposes of forwarding an invitation to quote.

5.3.10 Detailed bid findings

5.3.10.1 Provision of Vehicle Bid 001- 2018/2019

940. Bid number 001-2018/2019 was advertised on 03 August 2018 on the CETA website, National Government tender bulletin, National Treasury E-tender Publication and the Sunday Times newspaper dated Sunday 05 August 2018. The closing date stipulated on the advert was 24 August 2018 which allowed 21 days for the prospective bidders to submit their bid responses. There was

- no compulsory briefing session for the prospective bidders to attend. (See Exhibit SCM 1)
941. National Treasury Regulation 16A of March 2005 (Paragraph 6.3 (c)) stipulates that:
- 'The accounting officer or accounting authority must ensure that –
- (c) bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine".
942. The CETA SCM Policy 2018/19 (Paragraph 9.4.2) prescribes the following:
- 'Bids must be advertised for at least 21 days before closing time, except in urgent cases when bids may be advertised for such shorter period as the Accounting Authority or delegate may determine.'
943. We determined through the submission register dated 24 August 2018 that twenty (20) bid responses were received with no late submission recorded. We confirmed that the bid submission register was signed by two SCM officials being Ms Matsapola and Mr Kuzana. (See Exhibit SCM 2)
944. The CETA SCM Policy 2018/19 (Paragraph 9.5.4) prescribes the following:
- 'At least two officials must be present during opening of bids on the closing date and after the closing time specified for the bid in question.'
945. We were informed through the interviews of all the SCM officials (Ms Mphuthi, Ms Matsapola, Mr Mogoane, Ms Senkoto) that the bid response documents of Bid 001-2018/2019, were not opened in public on the closing date and time as per the National Treasury Guide of February 2004.
946. Paragraph 4.10 of the National Treasury Guide of 2004 stipulates the following:
- 'The time for the bid opening should be the same as for the deadline for receipt of bids or promptly thereafter and should be announced, together with the place for bid opening, in the invitation to bid. The institution should open all bids at the stipulated time and place. Bids should be opened in public, that is, bidders or their representatives should be allowed to be present. If requested by any bidder, the name of the bidders and if practical the total amount of each bid and of any alternative bids, should be read aloud. The names of the bidders and their individual total prices should be recorded when bids are opened.'
947. We determined that the bid documents were stored in the office of the CFO, Ms Velile Ndlovu instead of the SCM unit storage, on instruction relayed by Ms Ndlovu to the SCM officials, as discussed above. Ms Ndlovu denied that she initiated the said instruction but stated that she kept the bid documents solely for storage as she herself was following instruction of the former CEO, Ms Pilusa, that the bid documents are to be kept in her office until the bid evaluation committee requires them.
948. The following were the BSC members who drafted the specifications of this bid: (See Exhibit SCM 3)

| Name | BSC Position |
|------------------|---------------------------------|
| Simphiwe Nene | Chairperson |
| Reandra Chetty | Member |
| Kgomotso Motang | Requester from Travel and Admin |
| Jane Maleka | Requester from Logistics unit |
| Tshepo Mogoane | SCM Secretary |
| Nokwanda Dlamini | SCM Advisor |

949. The following were the BEC members who evaluated this bid: (See Exhibit SCM 4)

| Name | BEC Position |
|------------------|--------------|
| Jabulani Jiyane | Chairperson |
| Sipho Masombuka | Member |
| Innocent Ngenzi | Member |
| Annetjie Phuti | Member |
| Vincent Namane | Member |
| Lungisile Kuzana | SCM Advisor |

950. We were informed by SCM officials namely Ms Mphuthi, Ms Matsapola and Mr Mogoane that there are two BEC meetings, as discussed below, and we noted in the attendance register that two evaluation meetings were held for this bid 001-2018/2019. The register indicates that there was a meeting that sat on the 29 August 2018 that evaluated this bid where Ms Matsapola was not in attendance.
951. Ms Matsapola was present and was a secretary during the subsequent meeting dated 11 September 2018 where the BEC was preparing a presentation for their consolidated scoring. (See Exhibit SCM 5)
952. The BEC report dated 11 September 2018, states that the bids were subjected to the mandatory requirements evaluation and as a result, none of the bidders were disqualified for failing to meet the mandatory requirements.