

EXAMPLES OF IRREGULAR EXPENDITURE

ANNEXURE C

Deviations from legislation and the impact thereof							
Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments	
<b>A. PROCUREMENT AND CONTRACT MANAGEMENT</b>							
<b>Awards to person in service of the institution and other state institutions</b>							
1 PN 7 of 2009/10 and TR 16A 6.3 (a) (i)	Bidders must complete disclosure documents in the prescribed manner and submit them together with their bids.	Bidders must complete prescribed bid documents, including submitting a declaration as to whether the bidder, or if not a natural person, any director, member or shareholder of the bidder is in the employ of the state.(disclosure of conflict of interest).  If a conflict of interest has been detected and that conflict was not declared, the bid may not be awarded.	Suppliers to whom awards were made did not <b>submit</b> declarations to declare that they are in the service of the institution or that a director/ member/ shareholder/ stakeholder is in the service of the institution and expenditure was incurred.	Non-Compliance Unless it was subsequently proven that a conflict of interest existed when the bid was awarded, then the omission of the declaration will be irregular expenditure	National Treasury		
2 TR 16A8.4PFMA sec. 50(3)(a) (in the case of public entities)PSR III/C1A	Compliance to ethical standards and ensuring that officials having conflicts of interest do not affect the procurement process	An official in the service of an institution who has a business interest in a company that has submitted a bid for work to be done in his/her institution must disclose such business interest and withdraw from all participation relating to that bid (disclosure of conflict of interest).  If a conflict of interest has been detected and that conflict was not declared, the bid may not be awarded to the company in which he/she has a business interest in.	An official in the service of the institution did not disclose his/her conflict of interest in the bid and/or did not recuse himself/herself from the adjudication of the bid which was <b>NOT</b> awarded to the company in which he/she has business interests in.  An official in the service of the institution did not disclose his/her conflict of interest in the bid and/or did not recuse himself/herself from the adjudication of the bid which was awarded to the company in which he/she has business interests in and expenditure was incurred.	Non-compliance with laws and regulations  Irregular Expenditure	Not Applicable  National Treasury		
3 Section 30(1) of the PSA(for departments)	Compliance to ethical standards and ensuring that officials do not perform private remunerative work without approval	No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.	Persons in service of the department who had interest in suppliers of the department and/or other state institutions did not have approval to perform additional remunerative work.	Non-compliance with laws and regulations	Not Applicable		
<b>Awards to close family members of persons in service of the institution</b>							
4 PN 7 of 2009/10 and TR 16A 6.3 (a) (i) and	Bidders must complete disclosure documents in the prescribed manner	Bidders must complete prescribed bid documents, including submitting a declaration whether a close family member/partner/associate of the supplier is in the employ of the state (disclosure of conflict of interest).	Suppliers to whom awards were made did not submit declarations to declare that their close family member are in the service of the institution or that a director/ member/ shareholder/ stakeholder is in the service of the institution and expenditure was incurred.	Misrepresentation and omission of information by a supplier with a direct interest will be Irregular expenditure Misrepresentation and omission of information by a supplier with <b>no direct</b> interest will be Non-compliance	National Treasury		
5 TR16A8.4PFMA section 50(3)(a)	Compliance to ethical standards and ensuring that officials having conflicts of interest do not affect the procurement process	If a person in the service of an institution or any of his/her close family members, his/her partner, associate of the supplier, director or a principal shareholder has a business interest in a company that has submitted a bid to his/her institution, that person must disclose the interest and withdraw from participating in any matter relating to the bid.	A person in the employ of an institution did not disclose the interest of his/ her close family members, a partner or associate and/or did not withdraw from participating in the award of the bid and expenditure has been incurred	Irregular expenditure	National Treasury,		
<b>Combating the abuse of the SCM system and follow-up of previous reports, complaints and allegation</b>							
6 TR 8.2.1	No expenditure may be incurred or committed unless a duly authorised process has been followed	Payment may only be made in terms of a valid contract to a duly authorised payee  Banking details and other relevant supplier information must be verified before any payment is effected	Payments made to fictitious suppliers  Incorrect authorisation of transactions (delegations not complied with)	Irregular expenditure Irregular expenditure	National Treasury Accounting officer or accounting authority	<i>Breakdown of internal controls Expenditure must be transferred to receivables for recovery.</i>	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
7	TR 16A 9.2 (a)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must disregard a bid if it has been found that the bidder or any of its directors have abused the institutions SCM system, have committed fraud or any other improper conduct in relation to such a system and/or have failed to perform on any previous contract.  If any of the above was detected prior to finalisation of the bidding process, then the bid may not be awarded.	An institution awarded a bid to a supplier who was found to have abused the institution's SCM system, committed fraud or another form of improper conduct in relation to such a system and/or failed to perform on a previous contract. This was detected prior to the institution incurring any expenditure in relation to this bid.  Notwithstanding the above, the bid was awarded and the expenditure was incurred by an institution operating on an accrual basis of accounting.	Non-compliance with laws and regulations  Irregular Expenditure	Not Applicable  Relevant Accounting officer or Accounting Authority	
				Notwithstanding the above, the bid was awarded and the expenditure was incurred (paid) by an institution operating on a modified cash basis of accounting.	Irregular Expenditure	National Treasury	
8	TR16A9.1(e)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract.	An institution knowingly awarded a contract to a recommended bidder who is known to have committed a corrupt or fraudulent act in competing for that particular contract and expenditure was incurred.	Irregular expenditure	National Treasury	
9	TR16A9.1(f)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must cancel a contract awarded to a supplier of goods or service:-(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or (ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.	The accounting officer failed to cancel the contract awarded to a supplier after identifying that the supplier, any official or other role player committed a corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.	Irregular expenditure	National Treasury	
10	TR 16A9.1(c)	No bid may be awarded to bidders who listed in the National Treasury's database of restricted suppliers.	An institution must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector.	Awards were made to suppliers who are listed on the National Treasury's database as persons prohibited from doing business with the public sector. Expenditure was incurred on the awards	Irregular expenditure	National Treasury	
<b>Procurement need and economy</b>							
11	TR 16A6.5	An institution that consented to participate in transversal contracts facilitated by a relevant treasury may not procure goods or services contained in such contracts outside such transversal contracts .	Prior to going out on a bid for any particular good or service, the institution must confirm that such goods or services are not available for procurement in terms of a transversal contracts arranged by the relevant treasury which the institution agreed to participate in.  Where a legitimate deviation is required, (eg where the goods or services were in the transversal contracts were not available or the supplier is unable to deliver the goods or services in the required quantity or at a specific time, the institution may procure outside the transversal contracts in which the institution agreed to participate in with the prior written approval of the relevant treasury.  3. Maintaining of audit trail	The institution procured goods or services through means other than through a transversal contract arranged by the relevant treasury which the institution agreed to participate in.  Prior written approval for deviation from procuring through the transversal was not obtained from the relevant treasury.	Irregular expenditure  Irregular Expenditure	National Treasury  National Treasury	
12	PFMA sec 38(1)(a) (iv) and 51(1)(a) (iv)	An institution must have a system of evaluating all major capital projects prior to a final decision on the project	A system to evaluate capital projects must at least provide for a proper needs assessment, an analysis of costing and resources, testing of the market, feasibility testing, evaluating value for money and the identification of proper evaluation criteria to inform decision making.	An institution does not have a system to adequately evaluate major capital projects.	Non compliance with laws and regulations	Not Applicable	
13	TR 16A 6.3 (g)	Consultants may only be appointed in institutions when the need actually exists for their services which are absent in the institution.	An institution may only appoint a consultant when the necessary skills or resources required to perform a project, duty or study are not available and the institution cannot be expected to reasonably train or recruit people in the time available.	Consultants were contracted in to perform in a project, perform a duty or study for which skills were available within the institution or the institution had sufficient time to recruit and train people within the available time to perform such.	Non-compliance with laws and regulations	Not Applicable	
<b>Procurement process and deviations</b>							
14	TR 16.6.1	An institution may only conclude a PPP agreement with the prior written approval of the relevant treasury (Treasury Approval III)	The relevant treasury must satisfy itself that the institution complies with the requirements of TR 16.6.1 (a), (b) and (c) before granting its written approval for the institution to conclude a PPP agreement.	The institution incurred expenditure after entering into a public private partnership agreement without the prior written approval of the relevant treasury.	Irregular expenditure	Relevant treasury	

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15	TR 16A 6.1 and PN 8 of 2007/2008	Procurement methods must be guided by the prescribed thresholds	An institution must ensure that the procurement thresholds, as prescribed in paragraph 3.3 of PN 8 of 2007/2008, are strictly adhered to.	The method of procurement is inconsistent with those prescribed in terms of PN 8 of 2007/2008. For example, an institution procured the services of a service provider for goods and/or services in excess of R500 000 by means of three written price quotations instead of advertising the bid in the Government Gazette	Irregular expenditure	National Treasury	
16	TR16A6.4 and PN 6 of 2007/2008	Deviations from procurement processes may only take place under exceptional circumstances	<p>The accounting officer or accounting authority of an institution must ensure that the institution's SCM system makes provision for a competitive bidding process that, amongst others, provides for:</p> <p>(i) the invitation of bids;</p> <p>(ii) receipt of bids;</p> <p>(iii) evaluation of bids;</p> <p>(iv) clearing successful bidders before the award of contracts; and</p> <p>(v) proper record keeping;</p> <p>Deviations in terms of TR 16A.6.4 must be sufficiently motivated and justified for approval by the accounting officer/accounting authority or by an appropriately delegated employee or delegated post in the institution.</p> <p>The institution's SCM system must provide for a policy in relation to the management and treatment of situations when it is considered impractical to invite competitive bids and this policy must at least include the following:</p> <p>(i) situations when it is considered impractical;</p> <p>(ii) an outline of the institution's planning efforts to limit or improve responsiveness to impractical situations;</p> <p>(iii) an indication of the pre-requisites to consider when awarding and administering contracts during situations that are considered impractical;</p> <p>(iv) options available to an institution during situations that are considered impractical, including the procurement solutions of preference;</p> <p>(v) post execution assessment of the 'impractical' transaction;</p> <p>(vi) ex-post facto submission with sufficient motivation to the bid adjudication committee for ratification; and</p> <p>(vii) processes to be followed in respect of the recording and approval of 'impractical' procurement by the accounting officer or accounting authority</p>	<p>Supply chain management processes were deviated from for the purchase of goods and/or services in terms of TR16A.6.4 even though it was possible to comply with the requirement to procure these goods and/or services by means of the normal competitive bidding process.</p> <p>Deviations from competitive bidding were approved on the basis of it being an emergency, even though immediate action was not necessary and/or sufficient time was available to follow a normal competitive bidding process.</p> <p>An institution deviated from the prescribed procurement processes and the reasons were not documented and approved by the accounting officer/ authority or a delegated person.</p>	<p>Irregular expenditure</p> <p>Irregular expenditure</p>	<p>National Treasury</p> <p>Accounting officer or accounting authority</p>	
17	TR 16A 9.1 and PN 8 of 2007/08	The AO /AA must take all reasonable steps to avoid the abuse of the SCM system	Procurement transactions may not be deliberately split into parts of smaller value to merely avoid compliance with SCM requirements	Deliberate splitting into parts or items of smaller value merely to avoid complying with the requirements of the SCM policy and legislation.	Irregular expenditure	National Treasury	
18	Section 44(2)(c) of the PFMA and TR 8.2	The final decision to award a bid must be made by a properly delegated employee or by the holder of a specific post	Recommendation to award a bid must be done through a delegated employee or a committee	The decision to award the bid as made by an employee or the holder of a particular post who did have the appropriate delegation to award the bid.	Irregular expenditure	Accounting Officer	
19	NTR16A6.4(as defined PN 6 of 2007/08)	Institutions must provide for a process of limited bidding were a business case defines it as a feasible method of procurement	In instances where the institution requires a particular good and/or service that is only available from a specific service provider, the institution keep on record factual evidence to the effect.	Deviations from competitive bidding were approved on the basis of the goods and services only being produced by, or available from, a sole service supplier	Irregular expenditure, unless the institution is able to provide factual evidence that the goods and/or services can only be procured from the supplier to whom the bid was awarded.	National Treasury	
20	TR16A 3.2(a) and PN 8 of 2007/2008	An audit trail must be kept of the process followed when procuring through verbal quotations	<p>The processes followed to obtain the verbal quotations must be documented.</p> <p>An audit trail must be maintained that details the verbal quotations that have been obtained from service providers.</p> <p>A written quotation must be obtained from the service provider whose quotation was accepted.</p> <p>An order may only be placed when the written quotation is received from the accepted bidder.</p>	Goods and services with transaction values between R2 000 and R10 000 were procured through verbal quotations <u>without obtaining the written confirmation from the selected service provider.</u>	Non Compliance with laws and regulations	Not Applicable	
21	Sec 41 of the PFMA, TR 16A 6.4 and PN 6 of 2007/2008	Required reports to the relevant treasury and to the Auditor-General must be submitted and such submissions must be done timeously	When institutions deviate from competitive bidding processes and award bids with a transactional value in excess of R1 million, the accounting officer or accounting authority must, within 10 working days, furnish the relevant treasury and the Auditor-General with the required information after the award of such a bid.	Deviations from competitive bidding processes with transaction values above R1 million were not reported to the relevant treasury and the Auditor-General and/or such report was not submitted within 10 working days	Non Compliance with laws and regulations	Not Applicable	
<b>Bid specification and documentation</b>							
22	TR 16A.2 (b)	All institutions must have bid specification, bid evaluation and bid adjudication committees to evaluate their bids.	Rules of the establishment of the three bid committees are contained in paragraph 4 of NT Circular dated 24 March 2006.	The bid specification committee did not always draft the institution's bid specifications in accordance with its SCM policy	Non Compliance with laws and regulations	Not Applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
23	TR16A3.2 (fairness & competition)SCM guide par 3.4.2	Specifications quoted in bidding documents should promote the broadest possible competition.	Specifications should be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications should be avoided. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" should be added after such reference. The specification should permit the acceptance of offers for goods which have similar characteristics and which provide performance at least equivalent to those specified. The quality of goods/services required should, however, not be overspecified to the extent that it will be impossible for others to offer such a product.	Bid specifications were drafted on a biased manner which did not allow all potential suppliers to offer their goods and services.	Irregular expenditure if transgression supported by factual evidence	National Treasury	
<b>Invitation and receipt of quotations and bids</b>							
24	TR16A6.3(c)	Bids must be advertised in the appropriate publications for the periods as prescribed in terms of the Treasury Regulations	Bids must be advertised in at least the Government Tender Bulletin for a minimum period of 21 days before bid closure.  Bids may be advertised in other media as well provided that it is also advertised in the Government Tender Bulletin  In instances where employees other than the accounting officer or accounting authority approves the shortened period of advertising, appropriate delegations of authority must be in place for such approval.	Public invitations for the competitive bids were advertised for a period shorter than the required 21 days and the deviation was not approved in accordance with the SCM policy requirements.  Public invitations for competitive bids were advertised in the media but such an invitation was not published in the Government Tender Bulletin  The employee that authorised the shortened period of advertising did not possess the delegated authority from the accounting officer or accounting authority to grant such approval.	Irregular expenditure  Irregular expenditure if the media used limited competition and resulted in a small pool of bidders. Otherwise, non-compliance.  Irregular expenditure	Accounting officer or accounting authority if such transgression can be justified  National treasury  National Treasury	
25	TR16A6.3(c)	Bids must be advertised in the appropriate publications for the periods as prescribed in terms of the Treasury Regulations	The institution must, for audit purposes, document the reasons that supports the decision to advertise bids for a period shorter than the prescribed 21 days. Poor demand planning is not considered a plausible motivation for shortening the advertising period.	Appropriate approval was granted to advertise a bid for a period shorter than the prescribed 21 days even though the goods and/or services were not urgently required.	Irregular expenditure if it can be factually proven (with evidence) that the need for the goods and/or services was not urgent.	National Treasury	
26	TR 16A 3.2 (a) [fairness]	Institutions must maintain proper records in relation to the receipt of bids and should not consider bids that have been submitted after	Bids received after the closing date may not be considered for award	A contract was awarded to bidders whose bid was received after the closing date for the bid in question.	Irregular expenditure	National Treasury	
27	PN 8 of 2007/2008	Institutions must promote BEE through the participation of Black empowered enterprises, black women owned enterprises and through the promotion of businesses owned by Historically Disadvantaged Individuals (HDIs)	An institution must have a list of prospective suppliers in place to be used to invite price quotations	An institution does not have a list of prospective suppliers from whom price quotations can be invited	Non Compliance with laws and regulations	Not applicable	
28	PN 8 of 2007/2008		List of prospective suppliers must be updated at least quarterly to accommodate newly created BEE businesses and othe HDI established suppliers	The list of prospective suppliers was not updated at least quarterly	Non Compliance with laws and regulations	Not applicable	
29	Instruction Note 32 dated 31 May 2011	Institutions must ensure transparency in the award of bids	After completing the bid process, the institution must publish on its website, the names of all bidders that submitted bids	The institution did not publish the names of successfully bidders on its website	Non Compliance with laws and regulations	Not applicable	
<b>Evaluation and adjudication committees</b>							
30	TR 16A6.2(b) & (c )	All bids must be scrutinised by the relevant committees prior to its award	Bid adjudication committees must be properly constituted in accordance with the institutions SCM policy and delegations of authority and its responsibility is to recommend the final award of a bid in accordance with the rules contained in paragraph 4 of NT Circular dated 24 March 2006.	Final awards and/or recommendation of awards to the accounting officer were not always made by the adjudication committee  The bid adjudication committee was not constituted in accordance with the institution's SCM policy and its delegation of authority.	Irregular expenditure	National Treasury	
31	TR16A6.2(b)	Final awards must be made via recommendation through a bid adjudication committee and any deviation must be authorised by the AO/AA or its delegatee	Whilst the bid adjudication committee has the responsibility to recommend bids to the accounting officer or accounting authority, such functionaries may award a bid to a service provider other than that which has been recommended by the bid adjudication committee. This deviation can take place <b>provided that</b> the accounting officer, accounting authority or such other delegated employee must document the reasons for not awarding the bid in accordance with the bid adjudication committees recommendation.  Code of conduct for BAC, issued March 2006 - par 2.2	The institution awarded a bid to a supplier that was not recommended by the bid adjudication committee and the deviation was not justifiable and/or not approved in terms of the SCM policy.	Irregular expenditure	National Treasury	If the accounting officer or accounting authority has delegated the power to approve the final award of bids, then the accounting officer or accounting authority concerned shall be the relevant authority.

Evaluation - General

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
32	TR16A3.2 (fairness)	Bids must be fairly assessed in terms of the prescribed criteria	Institutions must provide clear criteria against which a bid shall be evaluated against. These criteria must be contained in the original request for quotations or bid documentation.	The evaluation criteria applied to evaluate bids differed from those provided in the original request for quotation or documentation.	Irregular expenditure	National Treasury	
33	TR16A9.1(d) PPPR 14	Bids may not be awarded to a bidder whose tax matters have not been declared by SARS to be in order	A bid must be rejected if the bidder's tax matters have been found to be not in order	Awards were made to a supplier who did not have a valid tax clearance certificate from SARS to indicate that the supplier's tax matters are in order nor has the supplier made arrangements with SARS to meet their tax obligations	Irregular expenditure	National Treasury	
34	TR 16A 3.2 (a) PN 8 of 2007/2008	Institutions should only deal with bidders who are in good standing	The accounting officer or accounting authority of an institution must reject a proposal for the award of a bid if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract	A bid was awarded to a bidder who has committed a corrupt or fraudulent act when competing for a particular bid	Irregular expenditure if it can be factually proven (with evidence) that the bidder committed a corrupt or fraudulent act when competing for a bid	National Treasury	
35	TR 16A 6.3(g)	The criteria for the evaluation of bids must be clearly stipulated in the bid documents	Institutions must ensure that consultants are appointed taking cognisance of the requirements in PN 3 of 2003 as amended by Instruction Note dated 3 September 2010	The institution did not include the consultant's experience and qualifications as part of the evaluation criteria	Non Compliance with laws and regulations	Not Applicable	
36	TR 16A 6.3 (a) PN 7 of 2009/2010	Supplier to complete disclosure documents in the prescribed manner	Before an accounting officer or accounting authority enters into any contract with an entity for the sale, lease or supply of goods or services, the entity must, in the prescribed manner, disclose any business interest that an employee or a family member of an employee who is in the service of the institution	There was non-disclosure of conflict of interest in that persons in service of the institution whose close family members/ partners/ associates had a private or business interest in contracts awarded by the institution failed to disclose such interest.  Conflict detected, contract awarded and expenditure incurred	Non-compliance with laws and regulations  Irregular Expenditure	Not Applicable  National Treasury	
<b>Evaluation - Preference points and functionality</b>							
37	PPPF Act section 2(a)			The preference point system was not applied in the procurement of goods and services above R30 000 (Vat included).	Irregular expenditure	National Treasury	
38	PPFA Sec 2(1)(e);PPPR 4 (3) Para 3.3 of NT Instruction Note September 2010	All evaluation criteria for functionality, price and/or preference points must be stipulated in the request for quotations/bids.	Before a bid is advertised ensure that the evaluation criteria for functionality, price/preference points are stipulated in the request for bids/quotations  If not stipulated, the institution must cancel and re-invite bids clearly stipulating the correct preference points system to be applied	Evaluation criteria applied in evaluating quotations/ bids for functionality, price and/or preference points were not stipulated in the request for quotations.	Irregular expenditure	National Treasury	
39	PPPF Act and its Regulations PPPR 3 (a) and (b); 5 and 6	Prior to inviting bids, the institution must determine and stipulate the appropriate preference point system to be used in the evaluation and adjudication of bids	Prior to a bid being advertised, the bid specification committee must verify that the correct preference points are allocated and approve it accordingly.  Before an award is made, the bid evaluation committee must verify that the preference points were calculated correctly. A record of such verification must be maintained for audit purposes	The calculation and allocation of preference points were not correctly performed in accordance with the requirements of the PPPF Act, 2000 and its subordinate PPPR. The non-compliance has resulted in the award of a bid to the incorrect bidder.	Irregular expenditure if the bid was awarded to the incorrect bidder	National Treasury	
40	PPFA Sec 2(1)(f) PPPR 7 (1)	Circumstances may exist for instances when bids are not awarded to bidders with the highest points.	Awards may be made to bidders who did not score the highest points provided that objective criteria was used to justify the award of the bid to another bidder.  Reasons for awarding a bid to a bidder who did not score the highest points must be documented and maintained for audit purposes	Awards was made to the quotation/ bids not scoring the highest points. Objective criteria was NOT used to justify that reasonable grounds existed not to select the quotation with the highest points.	Irregular expenditure if it can be proven with evidence that objective criteria were not used in the award of the bid	National Treasury	
<b>Construction contracts</b>							
41	CIDB Act section 18(1)	No contracts may be awarded to contractors who are not registered with Construction Industry Development Board (CIDB)	Before an contract is awarded make sure that the contractor is registered with CIDB	Construction contracts were awarded to contractors who are not registered with the CIDB	Irregular expenditure	CIDB	
42	CIDB regulation 17;CIDB regulation 25 (7A)	No contracts may be awarded to contractors whose CIDB grading is not suitable for the value of the contract	Before an contract is awarded the contractors CIDB, their grading must be verified to confirm that they are suitable for the assignment	Construction contracts were awarded to contractor whose CIDB grading is not suitable for the value of contract.	Irregular expenditure	CIDB	
43	CIDB regulation 17	No contract may be awarded to contractors for projects who are not registered in relation to the class of construction works.	Before an contract is awarded, the institution must make sure that the contractor is registered in the class of construction works that the projects relates to	Construction contracts were awarded to contractors who are not registered in the class of construction works that the projects relate to.	Irregular expenditure	CIDB	
44	CIDB regulation 25(1); CIDB standard for uniformity (SFU) 4.5.4	Institutions must ensure compliance with regulations and also ensure that only contractors who are registered in a category of registration with CIDB are evaluated in relation to a contract	The category of registration as well as an evaluation criteria for contractors must be clearly stipulated in the bid documents.	The bid invitations or request for quotations did not stipulate the minimum category which the bidders must be registered at with the CIDB in order to qualify for evaluation	Non compliance with laws and regulations	Not applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
45	CIDB regulation 24	All invitations for bids or calls for expression of interest must be published on the CIDB website	Ensure that all tenders or expression of interests are published on the CIDB Website	Failure to advertise the invitations for bids or calls for expression of interest on the CIDB website	Non compliance with laws and regulations	Not applicable	
46	CIDB Act section 22(3) and CIDB regulation 18(1A), (1)	All construction projects above a certain amount must be registered in the CIDB's register of construction contracts	All contracts exceeding R200 000 must registered in the CIDB's register of construction contracts in the prescribed manner	Failure to register construction projects above the value of R200 000.00 on the CIDB's register of construction contracts.	Non compliance with laws and regulations	Not applicable	
<b>Contracts and contract management</b>							
47	NTR 8.2 Instruction Note 31 dated 31 May 2012	Public money may only be spent if approved by the proper delegated official.	Contracts may not be amended or extended without the approval of the accounting officer or accounting authority or by an appropriately delegated employee	A contract was amended or extended by an employee who did not possess the appropriate authority.	Irregular expenditure	Accounting Officer or Accounting Authority	
48	NTR 8.2	Effective control measures must be in place to ensure correct payments are made for the supply of goods and/or services (i.e. payments to correct suppliers and payment of correct amounts).	An institution's internal control system must ensure that it is able to detect when incorrect amounts are being paid and/ or when payments are being made to a incorrect service provider.	Payments were made to the suppliers in excess of the approved contract or quoted amount.	Irregular expenditure	Accounting Officer or Accounting Authority  National Treasury - in instances where the accounting officer approved such payments	
49	Sec 38 of the PFMA (internal controls) and Para 1.2 and 2.3 of PN 1 of 2003	Payments may only be made to service providers after the conclusion of a valid contract, except in cases of emergency procurement in terms of TR 16A6.4	An institution's internal control system must ensure that it is able to detect when payments are being made to service providers in advance of concluding a valid contract	Goods and services were supplied by the supplier and paid for without a valid written signed contract	Non compliance with laws and regulations	Not Applicable	
50	NTR 16A6.3(a) and (e)	The General Conditions of Contract (GCC) must form part of bid documents and may not be amended after its submission by the service provider. When provisions in the Special Conditions of Contract (SCC) are in conflict with those contained in the General Conditions of Contract (GCC), the provisions	The contract must consist of those conditions, as contained in the General Conditions of Contract (GCC), as prescribed by the National Treasury:	Conditions contained in a contracts were in conflict with the General Conditions of Contract, as issued by National Treasury	Non Compliance with laws and regulations	Not applicable	
51	PPFR 13 (1) (b) GCC Clause 22 & 23	Suppliers have a responsibility to ensure that their BEEE credentials are correct and that such was not obtained fraudulently. Suppliers also have an obligation to ensure that conditions in a contract are adhered to. Institutions must have mechanisms to detect whether suppliers BEEE credentials are correct and that the possibility of obtaining contracts	Institutions must ensure that appropriate action is taken against suppliers who claim or who obtain BEEE levels fraudulently or who don't fulfil the conditions of their contracts	No action was taken against the suppliers who failed to perform in accordance with standards agreed upon in the contract	Non Compliance with laws and regulations	Not applicable	
<b>IT related goods and services</b>							
52	NTR 16A6.3(e)	The procurement of all IT related goods and/or services must be procured in terms of procedures as prescribed by the National Treasury in terms of Practice Note 5 of 2009/2010	All IT goods and/or services below the value of R500 000 must be procured from SITA's list of prospective suppliers.	IT goods and/or services of a transaction value below R500 000 were procured through quotations from suppliers who were not registered on SITA's list of prospective suppliers.	Irregular expenditure	SITA	
53	NTR 16A6.3(e)		If an institution requires IT related goods and/or services (below R500 000) but such are not available from SITA's list of approved suppliers, the institution may obtain quotations from other suppliers and must inform SITA accordingly.	IT related goods and/or services of a transaction value below R500 000 were not available from the list of SITA's suppliers and such were procured from other suppliers but SITA was not informed.	Non Compliance with laws and regulations	Not applicable	
54	NTR 16A6.3 (e) SITA Regulation 9	Contracts relating to information technology are prepared in accordance with the State Information Technology (SITA), Act 1998	SITA is the mandated supplier of certain IT related goods and/or services or it must facilitate the procurement of certain IT related goods and/or services	The department procured IT related services which are classified as mandatory through other means than SITA.	Irregular expenditure	SITA	
55	NTR 17.3.1	Departments may not effect changes to their computerised financial administration systems without the appropriate approvals	Departments may not amend or institute new computerised systems that will affect financial administration without the prior written approval of the National Treasury	The department purchased a new computerised system to record its inventories without obtaining prior written approval from the National Treasury.	Irregular expenditure	National Treasury	
56	SITA Regulation 8, 13, 14	Institutions must ensure compliance with SITA's requirements related to the appointment of designated officials, procurement in terms of a business case and required reporting.	IT related procurement must take place in terms of the SITA Act and is guided by Practice Note 5 of 2009/2010	The institution did not follow the undermentioned prescripts relating to the procurement of an institutional specific IT contract via SITA: <ul style="list-style-type: none"> <li>• the department did not appoint a designated official to administer the contract;</li> <li>• IT related goods and services were procured without an approved business case;</li> <li>• a contract for IT related goods and services was awarded to a bidder other than the one recommended and the reason for such deviation was not submitted to the AGSA and the relevant treasury within 10 working days</li> </ul>	Non Compliance with laws and regulations	Not applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
57	SITA Regulations 13	The Agency must, in consultation with the designated department, establish the Bid Evaluation and Bid Adjudication committees to deal with the evaluation of bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body	Department must ensure that the provisions of Regulations 13 are adhered to when procuring goods and services in terms of the SITA Act and ensure that departments are represented in the procurement process.	Where institutions are required by law to make use of other organs of state to procure goods and/or services, the institution receiving the goods and/or services must, where possible, ensure that it has representatives on the procuring institution's bid evaluation and bid adjudication committees to ensure that the appropriate supply chain management processes are followed	Non-compliance with laws and regulations in the books of the State Information Technology Agency (SITA)	Not applicable	
<b>Unsolicited bids</b>							
58	PN 11 of 2008/2009	PN 11 of 2008/2009 defines the parameters of an unsolicited bid to ensure consistency in the approach that is followed.  The accounting officer or accounting authority of an institution is not obliged to consider an unsolicited proposal	Institutions must ensure that the requirements of PN 11 of 2008/2009 are adhered to when procuring goods and/or services by means of an unsolicited bid	An institution accepted an unsolicited bid without a comprehensive and relevant project feasibility study and an accompanying business case.	Irregular expenditure	National Treasury	
59				Unsolicited bids were accepted and awarded to bidders who did not have tax clearance from SARS confirming that their tax matters are in order.	Irregular expenditure	National Treasury	
60				Unsolicited bids were accepted for goods/ services which are generally available from other suppliers.	Irregular expenditure if transgression supported by factual evidence	National Treasury	
61				Unsolicited bids were accepted from bidders who did not declare their past SCM practices	Non Compliance with laws and regulations	Not applicable	
62				Unsolicited bids were accepted from bidders who did not declare the following: (i) whether the bidder or any person connected to the bidder is employed by the state (ii) whether the bidder or any person connected with the bidder, has any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid	Non Compliance with laws and regulations	Not applicable	
<b>B. HUMAN RESOURCES MANAGEMENT</b>							
63	PSR 1/V/D2(b)			Overtime paid to employees even though the department does not have an overtime policy	Irregular expenditure	Relevant executive authority	
64	PSR 1/V/C5			Employees received salary increases to higher salary range without a job evaluation to prove that the post was incorrectly graded.	Irregular expenditure	DPSA	
65	PSR 1/V/D2(d)			Employees received overtime payments in excess of 30% of their monthly salaries, without justification.	Irregular expenditure	DPSA	
66	PSR 1/V/D2(c)			Employees worked and received payments for overtime without prior written authorization.	Irregular expenditure	DPSA	
67	PSR 1/V/III/F1			Performance bonuses were paid to employees even though the department does not have a policy for financial incentive scheme.	Irregular expenditure	DPSA	
68	PSR 4/III/B3			The department awarded performance bonuses to SMS employees who are not entitled to the bonus in terms of the rules of the departmental financial incentive scheme and the SMS handbook.	Irregular expenditure	DPSA	
69	PSR I/VI/B5.1			Acting allowance was paid to employees who acted in higher positions for periods less than the minimum six weeks provided for in the DPSA Policy on Acting Allowance	Irregular expenditure	Relevant executive authority	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
70	PSR 1/VI/B.5.3			Employees acted in higher vacant posts for an uninterrupted period exceeding 12 months without the necessary approval from the delegated authority	Irregular expenditure	Relevant executive authority	
71	PSR I/VI/B5.1			SMS members acted on higher positions for periods exceeding six months without prior approval from the relevant executive authority as provided for in the DPSA Policy on Acting Allowance for SMS	Irregular expenditure	Relevant executive authority	
72	PSR 1/VI/B.5.1 and 5.2			Employees were compensated for acting in posts which [were not vacant and/or resulted in more than two employees simultaneously being compensated as a result of a single vacancy] without the necessary approval from the delegated authority	Irregular expenditure	Relevant executive authority	
73	PSR 1/V/D2(a)			Overtime was paid to SMS employees	Irregular expenditure	Relevant executive authority	
<b>C. TRANSFERS AND CONDITIONAL GRANTS</b>							
74	DoRA sec. 33 DoRA sec. 9(1) section 10(1)			Transfer by a transferring national officer to a bank account of a province or municipality that is not:- (i) the primary bank account; (ii) in respect of provinces, a corporation for public deposits account; or (iii) in respect of the Gautrain Rapid Rail Link Grant, the dedicated banking account configuration established for the transfer of the Gautrain RapidRail Link Grant in accordance with the directive issued by the National Treasury.	Irregular expenditure	National Treasury	
75	PFMA sec 38(1)(j)			Transfers were made to other entities without [obtaining a written assurance that that entity implements effective, efficient and transparent financial management and internal control systems / or rendering the transfer of funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems].	Non Compliance with laws and regulations	Not applicable	
76	DoRA sec 10(1)(a)(iii)&(iv)			Schedule 5 and 6 transfers were made without an approved business plan for the utilisation of funds by the province or municipality.	Irregular expenditure	National Treasury	
77	DoRA sec 11(1)(a), 12(1) & 15(1)			The schedule 4, 5, 7 or 8 allocation was utilised for purposes other than those stipulated in the schedule or in accordance with the framework published for the allocation.	Irregular expenditure	National Treasury	
78	DoRA sec 15(2)			The accounting officer transferred a schedule 5, 7 or 8 allocation portion of the allocation to another entity without entering into a payment schedule with the entity.	Irregular expenditure	National Treasury	
<b>D. OTHER PFMA AND TREASURY REGULATION PROVISIONS</b>							
79	Section 38(1)(j) of the PFMA			The department did not obtain written assurance to the effect that the entity to which it transferred funds implements effective, efficient and transparent financial management and internal control systems	Non Compliance with laws and regulations	Not Applicable	
80	Section 43(4)(a) of the PFMA			The department utilised a saving in an amount that was specifically and exclusively appropriated for a purpose mentioned under a main division within a vote	Irregular expenditure	Relevant Treasury	
81	Section 5(1)(a) of the Appropriation Act, 2012			The department utilised a saving in an amount that was appropriated for transfer to another organ of state without approval of the National Treasury	Irregular expenditure	National Treasury	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
82	Section 5(1)(b) of the Appropriation Act, 2012			The department utilised a saving in an amount appropriated for capital assets without approval of the National Treasury	Irregular expenditure	National Treasury	
83	Treasury Regulation (TR) 3.1.6 read with TR 20.2.2 and 20.2.3			Members of an audit committee who are appointed from outside the public service are remunerated at tariffs inconsistent with those prescribed by the National Treasury and SAICA in terms of Treasury Regulations 20.2.2 and 20.2.3 respectively.	Irregular expenditure	National Treasury	
84	TR 3.2.4 and TR 27.2.4			The department/public entity contracted out its internal audit function to an external organisation with specialist audit expertise without following a competitive bidding process	Irregular expenditure	National Treasury	
85	TR 6.3.1(a)			A department increased its compensation of employees without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
86	TR 6.3.1(b)			A department introduced a new transfer and subsidy without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
87	TR 6.3.1(c)			A department utilised an allocation that was earmarked by the relevant treasury for a specific purpose for another purpose without obtaining its approval	Irregular expenditure	Relevant treasury	
88	TR 8.2.1			An official in a department has authorised payments for processing without being in receipt of a delegation of authority to do so	Irregular expenditure	Accounting Officer	
89	TR 8.2.3			A department paid an invoice after the required period of 30 days from receipt thereof	Non Compliance with laws and regulations	Not applicable	
90	TR 8.3.1			An official in a department approved the appointment of a new employee on the payroll system and authorised the payment of this person's salary as well on the system	Irregular expenditure	Accounting Officer	
91	TR 12.1.2			A department insured movable assets and incurred expenses related thereto which exceeded R250 000 without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
92	TR 12.2.4			The State Attorney obligated funds of a department without the prior written approval of the accounting officer	Irregular expenditure	Accounting Officer	
93	TR 15.12.1			An official in a department approved a warrant voucher/cheque without the accounting officer having assigned him the power to do so	Irregular expenditure	Accounting Officer	
94	TR 15.12.2			An official signed a hand drawn warrant voucher/cheque without having the authority to do so	Irregular expenditure	Accounting Officer	
95	TR 15.12.3			An official in a department processed a hand drawn warrant voucher/cheque to the value of R2500	Non Compliance with laws and regulations	Not applicable	
96	TR 16.2.1			The Chief Operating Officer of an institution entered into a Public Private Partnership (PPP) agreement on behalf of that institution after which payments were effected in relation to that PPP agreement	Irregular expenditure	Accounting Officer	
97	TR 16.8.1			Material amendments were effected to a PPP agreement without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
98	TR 17.1.1			An institution processed payments in favour of a supplier without having authentic and verifiable source documents	Irregular expenditure	National Treasury	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
99	TR 20.2.1 and Section 38 of the PSA			An official member serving on a Committee of Enquiry received remuneration for his participation in the Committee	Irregular expenditure	DPSA	
100	TR 21.1.1			A department granted a cash donation to a welfare organisation amounting to R150 000 without obtaining the appropriate approval from the relevant legislature	Irregular expenditure	Relevant treasury	