

**SECOND REPORT FOR STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA) ON DEVIATIONS AND EXPANSIONS OF THE DEPARTMENT OF PUBLIC WORKS FOR THE 3RDAND 4TH QUARTERS: FINANCIAL YEAR 2017/2018**

**BACKGROUND**

1. The Standing Committee on Public Accounts (SCOPA) issued letter dated 31 May 2017 to the Director General of the Department of Public Works (DPW) requesting the Department to appear before SCOPA on 7 June 2018 to answer questions on procurement deviations and expansions for the financial year 2016/2017. Subsequent to this, SCOPA then requested that the Department also provide the list of all expansions and deviations for the 3rd and 4th quarter of the financial year 2017/2018.

2. SCOPA required the Department to provide a written submission on (a) *deviations and expansions below the thresholds of 15% or R15 million or 20% or R20 million which were approved by the Accounting Officer*; (b) *if applicable, reasons why deviations were carried out despite permission not having been granted by National Treasury*.

3. National Treasury Instruction SCM Instruction Note 3 of 2016/17 dated 19 April 2016 on Preventing and Combating Abuse in the Supply Chain Management System limited Accounting Officers to expand or vary contracts by no more than 20% or R20 million (including VAT) for construction related goods, works or services and 15% or R15 million (including VAT) for all other goods and or services of the original contract value.

4. Any deviation in excess of the prescribed thresholds will only be allowed in exceptional cases subject to the prior approval from the relevant Treasury.

5. Instruction Note No 3 of 2016/17 further restricted Accounting Officers from approving deviations from normal bidding processes unless the deviation was related to cases of emergency or a sole supplier.

6. The National Treasury SCM Instruction Note 3 of 2016/17 became effective on 1 May 2016.

**DISCUSSION**

1. To effectively implement the above instruction the Department invoked business processes wherein any request for an expansion or deviation (outside the thresholds of the Accounting Officer) had to first be submitted to the delegated governance structures (Bid Adjudication Committees or Variation Order Committee) for consideration and recommendation to National Treasury.

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1. For deviations that were within the prescribed thresholds of the Accounting Officer, these had to be comprehensively motivated and submitted to the delegated approval authorities for consideration and approval. The authority to approve deviations and expansions within the prescribed thresholds are delegated to the respective Bid Adjudication Committees (Head Office or Regions) or the Variation Order Committee.

9. The Variation Order Committee is the only committee in the Department that is delegated to deal with variations related to infrastructure contracts.

10. The Departments Inspectorate and Compliance Unit was embedded within SCM as “gatekeepers” to review all procurement recommendations prior to the submissions serving for adjudication. This compliance measure was implemented in order to curb potential irregular expenditure. Further to this, all deviations are presented and reviewed at the monthly Accountability Management Committee (AMC) for monitoring and reporting.

11. In responding to SCOPA’s request for the 3rd and 4th quarter list of deviations and expansions for FY 2017/2018, this report in **Part A** contains the list of all deviations and expansions that were approved by the Accounting Officer, **Part B** refers to all deviations and expansions that were either supported or not supported by the National Treasury and **Part C** will refer to instances where the Department still proceeded with the expansions and deviation despite National Treasury not granting permission.

**PART A**

**DEVIATIONS AND EXPANSIONS APPROVED BY THE ACCOUNTING OFFICER FOR Q3 AND Q4 OF FY 2017/2018**

12**. Annexure A1** of Part A lists all *variations* that were approved by the Variation Order Committee within the Department. **Annexure A2(1)** of Part A lists all *deviations* that were approved by the Departments National Bid Adjudication Committee and **Annexure A2(2)** lists all deviations approved by the Departments National Bid Adjudication Committee Leasing.

**Annexure A1 – Variations**

1. Reflects a total of 65 *expansions/variation* of contracts for Q3 and Q4 of FY 2017/2018 which was approved by the Variation Order Committee.
2. The variation of contracts was due to formalisation of the change in scope of the works where such changes affects the financial status of the contract. Therefore a Variation Order is all instructions to a service provider to change the scope of the works (it can either be additions or deductions to the scope of works).

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**Annexure A2(1) – Deviations approved by the NBAC**

1. Reflects 7 *deviations* for Q3 and Q4 of FY2017/2018 which were approved by the National Bid Adjudication Committee (NBAC).
2. Line 1 for SAPS forensic laboratory facilities management was a qualified tender process wherein a two stage tendering procedure was followed. This procedure is not regarded as a deviation as the first stage was an open tender process.
3. The procurement of laptops Lines 2, 3, 4 and 5 were procured from the SITA transversal contract RFB2005/2015.
4. The procurement of the datacentre at Line 6 from Odirile IT Holdings was a nominated procedure through the department’s preapproved panel of service providers.
5. The procurement of town planning services for Beit Bridge land port of entry was a nominated procedure through the department’s preapproved panel of service providers.
6. All deviations approved by the Bid Committee that is greater than R1 million rand was duly reported to the National Treasury and the Auditor General within 10 days as per SCM regulations.

**Annexure A2(2) – Deviations approved by the NBAC: L**

1. Annexure A2(2) reflects 1 deviation approved by the departments NBAC: L. This deviation related to a single source supplier as the requirement was for a high site for a SAPS communication tower at a specific location.

**PART B**

**DEVIATIONS AND EXPANSIONS SUPPORTED / NOT SUPPORTED BY THE NATIONAL TREASURY FOR Q3 AND Q4 OF FY 2017/2018**

1. **Annexure B1** of Part B lists all *expansions* / variations that were supported / not supported by the National Treasury. **Annexure B2** of Part B lists all *deviations* that were supported / not supported by the National Treasury.

**Annexure B1 – Expansions/Variations**

1. Reflects a total of 9 variations of contracts for Q3 and Q4 of FY 2017/2018 which were submitted by the Department to the National Treasury in terms of National Treasury SCM Instruction Note 3 of 2016/17 (thresholds were above the prescribed 20% or R20 million). National Treasury supported 1 variation, did not support 6 variations and conditionally supported 2 variations.
2. The variation at Line 2 was supported by National Treasury as per letter dated 25 October 2017. The variation at Line 7 was supported by National Treasury as per letter dated 06 February 2018.

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1. All variations that were not supported by National Treasury were then not processed.

**Annexure B2 - Deviations**

1. Reflects a total of 18 *deviations* from competitive biddingfor Q3 and Q4 of FY 2017/2018 which were submitted by the Department to the National Treasury in terms of National Treasury SCM Instruction Note 3 of 2016/17. National Treasury supported 1 deviation, 9 deviations were conditionally supported, 3 were not supported and 5 were listed as not verifiable.
2. National Treasury regarded the deviation request as not verifiable as they were uncertain if the department was building a new police station or moving other units within SAPS to Erf 247 (Paulpietersburg) which was an adjacent property to the current police station.
3. Lines 4, 5, 6 and 7 are related to the Limpopo Magistrates Court. The client department (DOJ) contracted IDT directly to build the Magistrates Court. Upon completion of the Project it was noted that inadequate provision was made for ongoing maintenance of the facility and installed systems. The IDT and the client department then obtained approval from National Treasury to appoint the same four contractors who installed the systems to provide maintenance. This asset was not handed over to the department however the client department requested DPW to assist with ongoing maintenance. Based on the urgency of this request and the fact that the client needed to take occupation the Department had no alternative but to urgently seek National Treasury approval to contract the same suppliers who installed the systems to provide maintenance. National Treasury then supported the deviation.
4. Line 11 dealt with the installation of additional security cameras at parliament. The National Treasury subsequently approved the deviation to utilise the same service provider as the work required formed part of the scope of the existing contract.
5. The deviation at Line 14 was not processed and the department went out on open tender.
6. The deviation at Line 15 was not processed after National Treasury did not support the request.
7. Lines 16, 17 and 18 related to provision of accommodation for the Commission on State Capture were subsequently supported by National Treasury after additional clarifying information and documents were provided by the Department.

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**PART C**

**DEVIATIONS AND EXPANSIONS NOT SUPPORTED BY NATIONAL TREASURY BUT STILL PROCESSED BY THE DEPARTMENT**

1. There were no deviations and expansions not supported by National Treasury and still processed by the Department.