

South African Police Service



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Your reference/U verwysing:

THE NATIONAL COMMISSIONER
DIE NASIONALE KOMMISSARIS

My reference/My verwysing: 3/5/2/157(171)

PRETORIA

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Honourable T Godi
Chairperson: Standing Committee on Public Accounts
Parliament of the Republic of South Africa
PO Box 15
CAPE TOWN
8000

Dear Mr Godi

SUBMISSION OF REQUESTED INFORMATION: STANDING COMMITTEE ON PUBLIC ACCOUNTS APPEARANCE, DATED 28 FEBRUARY 2018: SOUTH AFRICAN POLICE SERVICE

The Standing Committee on Public Accounts (SCOPA) Committee meetings which were conducted on 29 November 2017 and 28 February 2018, refers.

The information requested, is submitted as follows:

RADIO FREQUENCY IDENTIFICATION TRIP

The memorandum was approved by the Minister of Police on the 15th of September 2011. It included two South African Police Service (SAPS) members, Col SL Masuku and Lt Col AHH Arendt and one Consultant, a subject matter expert, Mr P White, who were nominated to attend the Radio Frequency Identification (RFID) Europe 2011 Conference, regarding RFID and to visit RFID factories in Austria, from the of 26th September until the 5th of October, 2011.

All costs relating to accommodation, daily allowances, conference fees, travel fees and unforeseen expenses were covered by SAPS. Please find the memorandum attached as **Annexure A**.

OUTCOME OF THE INTERVIEW WITH MEMBERS

The two members who are in the employ of SAPS, Division: Technology Management Services, Brig SL Masuku and Col AHH Arendt were interviewed by both Lt Gen Schutte and Lt Gen Shezi on the 21st of February 2018. The members reported the following:

- They paid for their own t-shirts together with the printing of their names on the t-shirts;
- The soccer game tickets were arranged for, by an employee of Unisys, Mr J Bayard.

The members further reported, on a later date, that the value thereof was less than R300.00.

INVESTIGATION INTO THE ALLEGED UNISYS PAYMENT

The investigation, in terms of Regulation 8 of the SAPS Disciplinary Regulations, has been initiated on the 6th of March 2018 and the outcomes will be communicated.

FORENSIC DATA ANALYSTS CONTRACTS

The complete list of the 15 Forensic Data Analysts (FDA) Contracts (13 SAPS, 2 SITA) is as follows:

- **Bid 19/1/9/1/10TD (13):** Supply and Delivery of Evidence Sealing Bags, Security Seals and Labels to the SAPS, FSL for a period of two years.
- **Bid 19/1/9/1/228TD (13):** Supply & Delivery of Crime Scene Protective Stepping Plates for a period of two years.
- **Bid 19/1/9/1/235TD (14):** Supply, Delivery, Qualification, Training, Maintenance and Calibration of Forensic Light Sources for the Detection and Examination of Forensic Evidence including Blood, Body Fluids, Finger-marks and Minute items of Trace Evidence for a period of two years.
- **Bid 19/1/9/1/236TD (14):** Supply, Delivery and Maintenance/repair of Crime Scene Lightning System for Indoor and Outdoor Lightning of Crime Scene for a period of two years.
- **Bid 19/1/9/1/175TD (13):** Supply, Delivery, Installation, Demonstration, Training, Maintenance and Calibration of Mobile Cyanoacrylate Fuming System.
- **Bid 19/1/9/1/177TR (13):** Supply, Delivery, Installation and Training of Digital Capturing System and Enhancement of Latent Prints for a once-off contract, including a two year Maintenance Contract.
- **Bid 19/1/9/1/108TR (15/16):** Maintenance and Support for the Property Control and Exhibit Management (PCEM version 1.1) for the SAPS for a period of two years (Software licence included for 2017 and 2018, as per Specification SAPS 3109/2015).
- **19/4/56 (20/09/2015):** Procurement of Maintenance and Technical Support of the Firearm Permit System from sole supplier on a month-to-month basis: Division TMS.
- **19/4/56 (02/02/2015):** Procurement of the Property Control and Exhibit Management V1.1 Software: Annual Enterprise Licence Fee for 2015/2016: Division: Technology Management Services.
- **3/21/3/1/224:** Approval for maintenance, technical and functional support of the Property Control and Exhibit Management System Version 1.1.
- **3/21/3/1/224:** Approval of payment for the renewal of the PCEM V1.1 Annual Enterprise Software Licence Fee for the year 2016.

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- **ITC 20157/N6934 Quotation Based 3/21/3/1/224 dated 2016-03-04:** PCEM v1.1 Monthly Maintenance, Functional and Technical Support.
- **Bid 19/1/9/1/89TD (16):** Supply and Delivery of Tamper Evidence Sealing Bags and Self-adhesive Labels and Security Seals to the SAPS, for a period of two years.
- **Memorandum of Agreement** between the State Information Technology Agency (SITA) and FDA for the Maintenance and Technical support of the SAPS Firearm Permit System (FPS), for a period of one year.
- **Memorandum of Agreement** between SITA and FDA to assist SITA with maintenance and support of SAPS ROFIN, Spheron and Nikon products for SAPS, for a period of five years, commencing on 01 December 2014 and terminating, on 30 November 2019.

OUTCOME OF THE COMBINED INVESTIGATIONS BY THE MULTI-DISCIPLINARY TEAM

To assess the allegations and to act in accordance with the Public Finance Management Act, Act 1 of 1999 (PFMA), a meeting was held with the Independent Police Investigative directorate (IPID) and other role players, on 07 March 2018, where an integrated value chain structure was established comprising of a forensic auditing capacity (Management Intervention, Internal Audit and an external forensic auditor), Treasury, IPID, the Directorate for Priority Crime Investigation (DPCI) and the Detective Service. The decision was taken that the multidisciplinary structure referred to, will convene weekly to report and release its findings, and where so required, interventions can be initiated immediately.

The preliminary findings were presented to the National Commissioner on the 14th of March 2018. The investigation is ongoing and comprehensive feedback will be provided, as soon as the investigation has been completed and approved.

DETAILS OF THE LABORATORY EXHIBIT TRACKING SYSTEM, EXHIBIT MANAGEMENT SYSTEM, PROPERTY AND CONTROL EXHIBIT MANAGEMENT SYSTEM AND FIREARM PERMIT SYSTEM CONTRACTS AND RELATED RISKS

The historical details collated on the Laboratory Exhibit Tracking System, Exhibit Management System, Property and Control Exhibit Management System and Firearm Permit System are as follows:

- The development and implementation of a barcoding solution to manage exhibits to the various Forensic Science Laboratory (FSL), the **Laboratory Exhibit Tracking System (LETS)** was acquired on a quotation basis from FDA, in July 2004, to a total cost of R276 478.46. The solution was limited to "track and trace", a quick fix solution which was designed to operate within Forensic Services to only manage packaged/sealed exhibits and case files.
- The purchase and installation of **Exhibit Management System (EMS)** was procured on quotation basis from FDA, in March 2006, to a total cost of R388 124.97. The total expenditure related to the roll-out of EMS, including goods and services which was paid to FDA, amounted to R10 131 860.81 for the period 2005/2006 to 2012/2013. The EMS was used to manage exhibit material and case records for the FSL.
- The **Property and Control Exhibit Management (PCEM) System** solution was procured following an open bidding process through SITA on 18 April 2008 and awarded to Unisys Africa

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(Pty) Ltd on 02 February 2009 and whose name later changed to Bytes.

- The contract negotiations ended with the agreement for the establishment, maintenance and support of PCEM solution in the SAPS between Unisys Africa (Pty) Ltd and the SAPS for three years from 2010-12-23 to 2013-12-22, to develop a Turnkey Solution which includes:
 - Equipping all SAPS FSL stores with a biometric and bar code solution, which expanded the scope of EMS to a point where the projected value of licenses was becoming prohibitive.
 - A system solution to manage exhibits/property items within the SAP 13 stores (replace SAPS 13 register) from the time it enters the SAPS process until the lawful disposal thereof, and:
 - List of Additional Goods as provided for in the PCEM contract: Schedule D.

On 17 December 2013, the extension of the PCEM contract was approved by the SAPS for the period of one year, ending in December 2014, thereafter month-to-month extensions were granted, until the end of September 2015.

The PCEM 1.1 software license, maintenance and support was granted to FDA on a month-to-month basis, from September 2015 to June 2016, for the awarding of the new bid. The new bid was awarded to FDA for the period of two years from June 2016 to June 2018. See **Annexure B**.

Details of **PCEM** investment and related payments:

| Description of PCEM Services | Payments |
|---|-------------------------|
| Statement of Work (SOW) 1: PCEM Project Management Services | R28 067 345.89 |
| SOW 2: PCEM v1.1 Enterprise Software, Annual Maintenance and Functional & Technical Support | R71 176 307.46 |
| SOW 3: PCEM Generic & Firearms Requirements Confirmation & Functional Design | R13 058 164.96 |
| SOW 4: PCEM Generic & Firearms Delivery | R71 415 957.60 |
| SOW 6: PCEM Maintenance and delivery of Additional Property Items/Exhibit Files | R54 697 127.61 |
| Arbitration | R13 000 000.00 |
| PCEM v1.1 Maintenance and Support, Annual Enterprise License Fee and Annual PCEM ESCROW (Source Code) Agreement Fee | R107 729 109.31 |
| Total PCEM System Expenditure * | R 359 144 012.83 |

(*this expenditure is included in the total payment to Bytes)

The historical details collated on **Firearm Permit System** are as follows:

- The **Firearm Control System (FCS)** was procured following an open bidding process through SITA, on 30 September 2004 and awarded to Waymark InfoTech (PTY). The Firearm Permit System (FPS) was acquired as part of Addendum 3 of this contract and commenced on 14

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February 2006. There was a dispute between Waymark and SAPS for a period of three years from 2012 to 2015 which resulted in litigation that is still pending.

- The FPS was acquired to enable SAPS to comply with Section 98 of the Firearms Control Act, dealing with Official Institutions.
- Section 98(1)(a) of the Act stipulates that an employee of an Official Institution may not be in possession of a firearm under the control of the Official Institution without a permit issued in terms of Chapter 11 of the Act.
- In the period of the dispute, no payments were made to Waymark InfoTech (PTY) Ltd. However SAPS continued to utilise the FPS until it was notified that FDA owns the Enterprise Software license.
- Subsequent to this information, SAPS contracted FDA for a period of 12 months for maintenance and support, as well as an annual enterprise software license from October 2015 to October 2016.
- SITA established a contract with FDA for a period of one year from 18 October 2016 to 31 October 2017 for maintenance and technical support of FPS, which is accessed through the SAPS/SITA Service Level Agreement: Managed Application.
- A new request by SAPS dated 14 June 2017 was sent to SITA for a three year maintenance, support and software license contract. See **Annexure B**.

Details of **FPS** investment and payment:

| Description of FPS Services | Payments |
|--|-------------------------|
| FPS Expenses, as part of FCS contract (WAYMARK) (Ended 2012/2013 Fin Year) | R 178 756 650.25 |
| 5000 Futronic Biometric Devices | R 14 615 100.00 |
| FPS ADHOC requirements for 2 X programmers for correction of barcode functionality | R 177 825.60 |
| FPS Month-to-month procurement with SAPS | R 33 808 823.05 |
| FPS as part of SAPS/SITA maintenance SLA | R 11 924 415.99 |
| Total FPS Expenditure | R 239 282 814.89 |

All direct payments made by SAPS to **FDA**:

| Financial Year | Amount |
|----------------|-----------------|
| 2005/2006 | R 1 205 123.72 |
| 2006/2007 | R 2 297 764.68 |
| 2007/2008 | R 2 885 960.70 |
| 2008/2009 | R 3 240 310.68 |
| 2009/2010 | R 10 586 444.56 |
| 2010/2011 | R 5 893 089.85 |

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| Financial Year | Amount |
|-----------------------|-------------------------|
| 2011/2012 | R 10 087 676.74 |
| 2012/2013 | R 25 497 214.08 |
| 2013/2014 | R 13 023 187.54 |
| 2014/2015 | R 71 701 298.76 |
| 2015/2016 | R 136 591 371.05 |
| 2016/2017 | R 142 122 371.26 |
| 2017/2018 | R 33 058 239.57 |
| TOTAL | R 458 190 053.19 |

The SAPS/SITA Service Level Agreement (SLA) values in relation to the **maintenance and support** of SAPS ROFIN, Spheron and Nikon products for the SAPS:

| Year | Included in SLA | SLA Value | Actual Expenditure |
|--------------|--|------------------------|---------------------------|
| 2005/06 | CRC Hardware Maintenance | R4 507 684.02 | R1 878 201.70 |
| 2006/07 | CRC Hardware Maintenance | R9 476 474.90 | R8 666 768.68 |
| 2007/08 | CRC Hardware Maintenance | R7 655 993.01 | R8 404 967.46 |
| 2008/09 | Light sources & CRC Hardware Maintenance | R8 268 472.00 | R7 620 164.89 |
| 2009/10 | CRC Hardware Maintenance | R9 059 148.06 | R8 993 259.03 |
| 2010/11 | Light sources & CRC Hardware Maintenance | R11 580 319.42 | R12 335 247.32 |
| 2011/12 | Light sources & CRC Hardware Maintenance | R12 159 335.43 | R10 132 779.50 |
| 2012/13 | CRC Hardware Maintenance | R85 454 577.28 | R80 359 918.27 |
| 2013/14 | CRC Hardware Maintenance | R126 093 138.16 | R106 441 520.28 |
| 2014/15 | CRC Hardware Maintenance | R165 364 320.00 | R158 422 880.75 |
| 2015/16 | CRC Hardware Maintenance | R127 928 522.81 | R127 628 575.20 |
| 2016/17 | CRC Hardware Maintenance | R135 760 348.71 | R135 760 348.71 |
| 2017/18 | CRC Hardware Maintenance | R145 033 465.64 | R107 121 623.29 |
| TOTAL | | R848 341 799.44 | R773 786 255.08 |

It must be noted that since December 2017, **no payments** were made to FDA as per our correspondence dated 28 February 2018.

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Total expenditure on PCEM:

| | |
|---|---------------------------|
| Total PCEM System Expenditure | R 359 144 012.83 |
| Total amount spend on procurement from Schedule D | R 1 210 519 007.90 |
| Total PCEM Expenditure | R 1 569 663 020.73 |
| SAPS paid to FDA | R 90 706 225.93 |
| SAPS paid to Unisys / Bytes | R 1 478 956 794.80 |

Direct payments made by SAPS to Bytes:

| Financial Year | Amount |
|-----------------------|--------------------------|
| 1995/1996 | R249 054.68 |
| 1996/1997 | R811 910.90 |
| 1997/1998 | R1 918 887.08 |
| 1998/1999 | R762 511.37 |
| 1999/2000 | R13 421.44 |
| 2000/2001-2009/2010 | R0.00 |
| 2010/2011 | R353 236 167.80 |
| 2011/2012 | R502 173 053.82 |
| 2012/2013 | R239 125 836.22 |
| 2013/2014 | R107 144 242.67 |
| 2014/2015 | R231 897 488.09 |
| 2015/2016 | R25 755 508.15 |
| 2016/2017 | R0.00 |
| 2017/2018 | R16 124 173.80 |
| TOTAL | R1 479 212 256.02 |

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RISKS AND THEIR IMPACT (See Annexure B)

The risks referred to in the correspondence, dated 28 February 2018, are herewith augmented.

The following FDA and related services and products are currently utilised by the Division: Forensic Services, namely:

- Maintenance of light sources;
- PCEM track and trace software system;
- FPS fire arm permit software system; and
- Analyst Notebook software system.

FORENSIC LIGHT SOURCES

The forensic light sources utilised for the location and preliminary identification of body fluids on crime scenes have to be maintained, as prescribed by the manufacturer of these light sources. If not maintained, the consistency and reliability of the product becomes questionable in court proceedings.

PCEM TRACK AND TRACE SYSTEM

The PCEM System is an electronic system that interfaces with the CAS/ICDMS, FSL Admin System, PERSAL, NPIS, ROWA and Labware to enhance the recording and management of case files, exhibits and other case related documentation within the FSL. The purpose of the PCEM System is to maintain and manage secure *chain of custody* of case files, exhibits and case related documentation stored and moved within the FSL environment and to provide basic track and trace functionality.

Prior to this (PCEM) all exhibits received and case files created were managed manually in registers and logbooks. This was a tedious and non-optimal work procedure and currently due to the large number of exhibits and case files on hand, will be impractical to manage manually. On average 58 000 cases are received and analysed monthly at the FSL.

| Section/Region | Amount of case files on hand | Amount of exhibits/items on hand |
|-----------------------|-------------------------------------|---|
| Ballistics | 642 871 | 709 374 |
| Biology | 1 014 256 | 1 116 226 |
| Chemistry | 309 658 | 393 749 |
| Questioned Documents | 114 614 | 242 611 |
| Scientific Analysis | 78 466 | 244 253 |
| Victim Identification | 6 926 | 8 116 |
| FSL WC | 1 382 576 | 1 418 018 |
| FSL EC | 283 772 | 390 532 |
| FSL KZN | 222 734 | 426 373 |

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| Section/Region | Amount of case files on hand | Amount of exhibits/items on hand |
|----------------|------------------------------|----------------------------------|
| TOTAL | 4 055 873 | 4 949 252 |

The system provides an electronic platform for keeping accurate records of all FSL case files and items and records their movement within the FSL and to the clients of the laboratory. It, therefore, registers the movement of exhibit/documents either from person to person, from location to location or from location to an authorised individual.

It uses biometric identification to verify the identity and confirm the presence of a person before a transaction to transfer a case file/exhibit is processed on the system. Each transaction on a case file/exhibit is recorded with the details of the type of transaction, the persons involved, the storage facility and the date and time of the transaction to establish the chain of custody of the case file/exhibit. The system uses data-matrix codes which are printed onto high security labels, to uniquely identify each case file and item and its location within the FSL.

If this system is no longer available, the following consequences will materialise:

- The FSL will not be able to receive cases electronically from SAPS members. This will lead to overflowing of SAP13 store rooms at stations, thereby bringing its own challenges and risks;
- Sections of the FSL will not be able to hand over cases to the analysts for analysis and this will lead to increase in backlogs, increase in turnaround time of case finalisation, non-achievement of SAPS APP targets, unavailability of forensic reports at court will comprise the criminal justice system;
- Delay in DNA analysis and loading of forensic DNA profiles onto the NFDD (National Forensic DNA Database), which according to the DNA Act must be done within 30 days. If the DNA profiles are not loaded onto the NFDD timeously, serial perpetrators such as serial rapists will continue to rape more victims until the link between the cases will eventually be made. This can potentially lead to civil claims against the state for not timeously removing criminals from society;
- The chain of custody of an exhibit will not be able to be proven in a court of law and criminal cases will be thrown out of court due to this;
- The location of case files and exhibits of all items which are indicated in the table above will not be known and it will be impossible to retrieve a case file to assist the analyst in preparation for court attendance in cases which were previously completed as well as having the evidence in the case file and the exhibits available at court; and
- The National Drug Information Database (NDID) is managed through PCEM. All results for drug analyses which have performed are captured on the NDID, from which relevant reports can be obtained for reporting. Currently, the NDID offers information related to drug analysis cases, including types and amount of drugs, linked to specific exhibit bags that were received at the FSL. The FSL currently is responsible, according to the active Drugs Protocol, to report on all drugs analysed by the SAPS. Therefore, this functionality will be lost with the unavailability of such an electronic system.

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FIREARM PERMIT SYSTEM

The FPS is utilised by the SAPS to record all SAPS firearms. All SAPS firearms are dot peen marked and registered on the FPS. A testfire is done on each of the SAPS firearms and handed over to the Ballistics Section for capturing onto the IBIS system. If the FPS is no longer available this capturing of SAPS firearms onto IBIS and to verify if SAPS firearms were used in criminal activities will not be possible.

VETTING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

Please find a summary and concomitant detail of the vetting of Supply Chain Management (SCM) officials:

| Salary Level | Top Secret | Secret | Confidential | No clearance | Denied | In Process | Total |
|--------------|------------|--------|--------------|--------------|--------|------------|--------|
| 15 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| 14 | 2 | 0 | 0 | 2 | 0 | 0 | 4 |
| 13 | 9 | 0 | 0 | 5 | 1 | 0 | 15 |
| 12 | 0 | 0 | 0 | 60 | 0 | 0 | 60 |
| 10 and below | 0 | 0 | 0 | 1 322 | 0 | 16 | 1 338* |

* Including 904 employees appointed in terms of the Police Act and 434 employees appointed in terms of the Public Service Act.

DETAILS OF THE MEMBERS OF THE BID EVALUATION COMMITTEE AND BID ADJUDICATION COMMITTEES

Please refer to **Annexure C** for a list of Bid Evaluation Committee and Bid Adjudication Committee panel members, per contract.

MEASURES IMPLEMENTED TO IMPROVE CONTRACT MANAGEMENT

The SAPS is guided by the PFMA and the Contract Management Framework (CMF), as issued by National Treasury, during August 2010, which is a high level document that sets out the requirements for government institutions pertaining to the management of and accounting for contracts.

Furthermore, the SAPS is also guided by the Supply Chain Management: A Guide for Accounting Officers/Authorities (Guide), as issued by National Treasury during February 2004, as well as the SAPS internal Supply Chain Management User Manual: Directives in respect to Acquisition (Manual).

Supplementary to the aforementioned CMF, Guide and Manual, the SAPS has embarked on a process to complement these guidelines with a Contract Management Strategy (CMS). It is envisaged that the CMS will be implemented within the next six months. The purpose of the CMS is to set out the requirements pertaining to the management of and accounting for contracts and agreements.

TERMINATION OF CONTRACTS

In pursuit to terminate contracts as listed above, SAPS undertook to seek legal opinion on: SAPS's rights and obligations in so far as the current agreement/s with FDA is concerned; how future tenders by and contracts with FDA should be dealt with; whether SAPS can rely on the preliminary results of an investigation carried out by another entity to act against FDA.

LEGAL OPINION

The opinion obtained provides *inter alia* as follows:

- Allegations of irregularities in the procurement process and the conclusion of contracts with FDA exist and thus the SAPS cannot ignore the comments by, or views of the SCOPA members.
- In terms of Treasury Regulation 16A9.1, an accounting officer (the National Commissioner) has the obligation to investigate allegations of corruption, improper conduct or the failure to comply with the Supply Chain Management system.

Current Contracts

Section 16A.9.1 (f) of the Treasury Regulations expressly confers such power as mentioned above. However, the power can only be exercised under prescribed circumstances. If the circumstances exist, then the contract must be cancelled through review processes (i.e. a court application).

This obligation arises if the SAPS is satisfied that FDA has, or its directors have:

- Committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
- Any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the agreement entered into with FDA that benefitted it (FDA)

The SAPS can only be satisfied until it has conducted an investigation of its own or verified the correctness of the information provided to it.

The agreement/s may be cancelled only after the SAPS has (i) conducted an independent investigation as to whether the grounds referred to in section 16A.9.1 (f) of the Treasury Regulations exist and is satisfied that they do and; (ii) after it has afforded FDA the opportunity to respond to the findings of its investigation/s. If the latter step is omitted, then the decision to cancel the agreement will be in breach of the *audi alteram partem* rule and therefore, procedurally unfair.

Only after the SAPS has received FDA's response and has applied its mind to it can it decide whether to cancel the agreement or not. Once the SAPS is satisfied that the circumstances contemplated in section 16A.9.1 (f) of the Treasury Regulations exist, then it is obliged to cancel the agreement/s by approaching court.

Future Tenders

The award or rejection of a tender is reviewable, either in terms of the Promotion of Administrative Justice Act, Act 3 of 2000, (PAJA) or on the principle of legality. This being so, the SAPS cannot disregard a tender submitted by FDA or exclude its tender from the evaluation process, based on allegations of impropriety. The decision not to award a tender to FDA must be reasonable, rational and lawful. The Treasury Regulations contemplate two scenarios which would entitle an organ of state to disregard a bid, *viz.*

- section 16A 9.1(e) – the recommended bidder has committed a corrupt or fraudulent act in competing for the contract; and
- section 16A.9.2 (a) – a bidder or any of its directors have:
 - o abused the supply chain management system;
 - o committed fraud or any other improper conduct, in relation to the supply chain management system; or
 - o failed to perform on a previous contract.

Restrictions

In terms of section 14 of the Preferential Procurement Regulations, 2017 (“*the PPPF Regulations*”) if the SAPS detects that FDA submitted false information regarding its B-BBEE status level of contributor, local production and content or any other matter required by the PPPF Regulations which will affect or has affected the evaluation of a tender or if FDA failed to declare any subcontracting arrangements, the SAPS is obliged:

- (i) to notify FDA of this and invite it to make representations amongst others why it should not be restricted from doing business with any organ of state;
- (ii) to notify the National Treasury of what was detected;
- (iii) to submit the representations, if any, received from FDA explaining why it should not be so restricted. The SAPS will have to make submissions to the National Treasury why FDA should be restricted.

The decision whether or not to restrict FDA, can only be taken by the National Treasury.

Possible Future Service Level Agreements

The SAPS may enter into future contracts with FDA, but this must be justifiable as found by the constitutional court that the interests of the delivery of essential services and the discharge of a constitutional obligation are compelling circumstances to give effect to an unlawful agreement (*Allpay Consolidated v Chief Executive Officer, SASSA, 2014(1) SA 604 (CC)*) and the SAPS must be able to show that the services cannot be procured elsewhere, and not when needed, the conclusion of future contracts can be justified - but it is imperative that the circumstances contemplated under section 16A 9.1(e) of the Treasury Regulations do not exist.

Counsel's Recommended Steps

If the SAPS' investigation/s reveal/s improper conduct, the SAPS must apply to court to have it set aside and declare the award of the tender to FDA and the resultant agreement/s invalid. SAPS to take the necessary steps leading up to National Treasury having to decide whether to restrict FDA from doing business with other organs of State. Future agreements (which are not covered by the current award) should only be concluded if sanctioned by a court. Insofar as future service level agreements under the current award are concerned, the award is valid until it is set aside and therefore nothing precludes the SAPS from concluding the service level agreements with FDA.

INVESTIGATION REGARDING PAYMENTS ON THE LAST DAY OF THE FINANCIAL YEAR

Investigations have been conducted relating to the transaction that was done with regard to the payment of forensic light sources on 31/03/2016 to the value of R52 million. The payment was done in terms of the administration of supplier payment policy and all the necessary system related processes and checks were complied with. It can be confirmed that a number of transactions do take place in the last week of the financial year as per **Annexure D**.

UTILISATION OF EQUIPMENT PROCURED

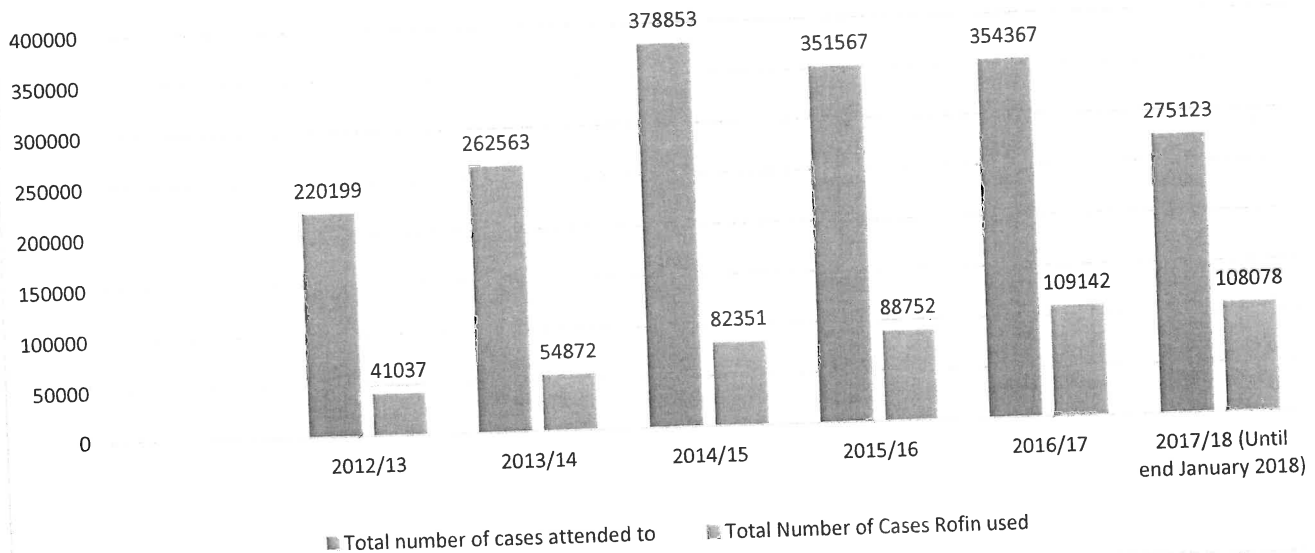
Rofin forensic light sources are used for the detection of various materials at crime scenes such as blood, semen, saliva, fingerprints, shoeprint impressions and other trace evidence. 1 632 Rofin light sources have been deployed at all Local Criminal Record Centres (LCRC) across the country.

The allocation ratio is 1:1.47 and the ideal should be 1:1. The light sources are utilised for crime scene processing and photography. The equipment was utilised to process crime scenes, as per the table below:

| Financial Year | Total Number Of Cases Attended To | Total Number Of Cases Rofin Used |
|---------------------------------------|--|---|
| 2012/2013 | 220 199 | 41 037 |
| 2013/2014 | 262 563 | 54 872 |
| 2014/2015 | 378 853 | 82 351 |
| 2015/2016 | 351 567 | 88 752 |
| 2016/2017 | 354 367 | 109 142 |
| 2017/2018 (Until end January 2018) | 275 123 | 108 078 |

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Refin Utilisation



EXPIRY (END OF LIFE) OF PROCURED EQUIPMENT IN CONTAINERS

Containers on the premises of Supply Chain Management

No expired equipment was found in the two containers. Please find listed below a summary of what was found in the two containers:

| Items Found in Container 1 | Manufacturing Date | Total |
|---|--------------------|------------|
| Sharp and dangerous item collection kit | 2014 | 1259 kits |
| Folien Paper | - | 699 sheets |
| Training Files | - | 54 files |

| Items Found in Container 2 | Manufacturing Date | Total |
|---|--------------------|---------------|
| Sharp and dangerous item collection kit | 2014 | 725 kits |
| Swabbing evidence collection kit | 2014 | 2060 kits |
| Anti-Foam | - | 3 x 25l drums |
| Gelatine | 2007 | 500kg |
| Black gumboots | - | 3 pairs |
| Steel racks with 4 shelves each | - | 2 |
| Steel cabinet with 4 loose shelves | - | 1 |

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| Items Found in Container 2 | Manufacturing Date | Total |
|---------------------------------|--------------------|--------|
| Heaters | - | 2 |
| Display posters | - | 2 |
| Mop and feather duster | - | 1 each |
| Round brushes | - | 5 |
| Steel roller | - | 1 |
| Broken plastic measuring beaker | - | 1 |

The sharp and dangerous item collection kits do not contain any items that has an expiry date and can therefore still be distributed for utilization. The Folien paper has no expiry date and can still be distributed for utilization. The training files are those of members who completed the training and are just kept in the container due to a lack of storage facility at the applicable office of the Criminal Record and Crime Scene Management capability. The swabbing evidence collection kits may still be distributed for utilization. None of the items found in the two containers relate to RFID.

Supply Chain Management Stores

The table below provides a summary of the contents found at the SCM:

| Item Type | Total |
|---|------------|
| Grey and black cabinets | 44 racks |
| Sticker, RFID, 915MHZ, tamper evident, white boxes | 1559 boxes |
| Sticker, RFID, 915MHZ, tag type 1 destructive PVC tags, brown boxes | 266 boxes |
| Lockable, RFID, Confidex, tags | 20 boxes |

The 44 racks found at the SCM store will be installed at SAPS drug stores upon completion of infrastructure establishment. The cost of one smart shelf is R117 095.76 and the total amount is R5 152 213.44. The total amount of all tags procured amounted to R26 884 454.88. Due to the fact that some of the tags are already in use by the FSL, the correct value of the tags found could not be established. The cost of one tag is R7.64. Therefore the total value of the items found in the SCM store is less than R32 036 668.32. The investigation will reveal the actual amount of tags that have already expired. Consequence management will be informed by the outcome of the investigation.

COOPERATION WITH THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE AND THE DECLASSIFICATION OF DOCUMENTS

General Sitole, engaged with the chairperson of the Joint Standing Committee on Intelligence (JSCI) to discuss a secure means, in terms of which classified and sensitive information in the domain of Crime Intelligence, required by IPID, can best be dealt with to ensure the integrity and protection of information, where so required by the law.

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The chairperson of the JSCI indicated to the National Commissioner that he had requested a meeting with the chairpersons of both SCOPA and the Portfolio Committee of Police (PCoP), to further engage in this regard and to agree on the methodology on how best to deal with IPID's requests for intelligence and classified information.

On Wednesday, 7 March 2018, the National Commissioner held two separate meetings with IPID to *inter alia* discuss their investigations pertaining to the SAPS. The first meeting was held with Mr. Sesoko and a team of IPID investigators, which included a representative of the DPCI. Other role players included Internal Audit, Management Intervention and National Treasury. A meeting was also held between the Executive Director of IPID, Mr. McBride and the National Commissioner. During the meetings with IPID, agreement was reached on the establishment of an integrated value chain structure, comprising of a forensic auditing capacity, National Treasury, IPID, the DPCI and the Detective Service. The issue of resources was also discussed but this aspect is subject to further engagements with the Minister of Police and budgetary processes. Pending the finalisation of physical resources to IPID, the two environments will work together within the context of integrated task teams.

A decision was taken that the multidisciplinary structure/task team referred to above, will meet once a week and report and release its findings, on a Wednesday. Where so required, interventions can be initiated immediately.

An agreement was also reached with IPID in the meeting with Mr Sesoko, that instead of repeated correspondence to the SAPS, IPID should table its requests during the weekly engagement with the National Commissioner, for the expedient reaction to and coordination of these requests.

On Friday 09 March 2018, a representative of the Division: Legal and Policy Services, visited IPID to obtain their own list of matters that were referred to the SAPS. IPID's list includes the following 13 matters that were referred to the SAPS:

- Request dated 18 August 2017, to Lt Gen Mothiba, for the declassification of the so-called Mdluli documents. (Matter is being considered in conjunction with the JSCI).
- Request dated 25 October 2017, to Lt Gen Mothiba, for stopping of payments to FDA until finalisation of IPID's investigations and recommendation to suspend Brigadier Phahlane and Colonel Potgieter of the Division: TMS. (Payments are suspended, disciplinary processes were initiated.)
- Request dated 15 December 2017, to Gen Sitole, in which it is requested that the National Commissioner stops a transaction to the amount of R45 000 000 with a service provider, I-View Integrated Systems and that all dealings with Brainwave, trading as I-View Integrated Systems, be suspended until finalisation of IPID's investigations.
- Request dated 18 January 2018, to Gen Sitole, in which it is requested that disciplinary steps must be taken against Maj Gen Nemuthanzela, of Crime Intelligence, who returned to work after his suspension and institution of disciplinary steps against the Acting Divisional Commissioner of Crime Intelligence, Maj Gen Ngcobo, for failing to initiate disciplinary action against Maj Gen Nemuthanzela.
- Request dated 23 January 2018, to Gen Sitole, requesting documents pertaining to I-View and declassification thereof, the personnel file of Captain KGB Tshabalala, the declassification of this file and a list of questions about Tshabalala's appointment, a de-classified report of the alleged security breach at the residence of Lt Gen Phahlane (originally dated 17 July 2017),

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- and the original request for declassification of the so-called Mdluli documents, dated 18 August 2017. Matters are being considered in conjunction with the JSCI.
- Request for an interview with Maj Gen Ngcobo, dated 13 February 2018.
 - Request for an interview with Gen Sitole, dated 13 February 2018.
 - Request for an interview with Lt Gen Vuma, dated 13 February 2018.
 - Request for an interview with Lt Gen Tsumane, dated 13 February 2018.
 - Request for an interview with advisor of former Minister, Mr. Mbindwane dated 13 February 2018. Interview requests are being attended after legal representation was approved.
 - Request for outstanding Crime Intelligence matters, addressed to, Gen Sitole, dated 14 February 2018. Matters are being considered in conjunction with the JSCI.
 - Repeat request to Lt Gen Khan for interviews with top management indicated above and the advisor of former Minister, dated 15 February 2018. See above.
 - Request for feedback on disciplinary proceedings against Lt Gen Phahlane, the Provincial Commissioner of North West, Major Generals Makhele and Mabula, as well as the so-called North West Investigation team, dated 15 February 2018. Feedback was provided to IPID in a letter by the National Commissioner to the Executive Director of IPID, on 21 February 2018.

The employment files of Major Generals Ngcobo and Tshika, obtained from the Division: Personnel Management, were provided to IPID, on 9 March 2018.

Yours sincerely,

**GENERAL
NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
KJ SITOLE (SOEG)**

