

BRIEFING REPORT

STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA)

Q1 - 2021/22 deviations and
expansions (and Eskom Q2)

PRESENTED BY:

NAME: Molefe-Isaac
SURNAME: Fani

Title:
Chief Procurement Officer

Date: 09 November 2021



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



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PRESENTATION OUTLINE

- Legislative basis
- Definitions
- Deviations (Q1)
- Contract modification (Q1)
- *Eskom*-Deviations (Q2)
- *Eskom*-Contract modification (Q2)
- Common reasons for deviations and modifications
- Trends and observations
- Operational Challenges and remedies

LEGISLATIVE BASIS

TREASURY REGULATIONS

16A6.4 If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.

SCM PR Note 8 of 2007 08 Thresholds for Petty Cash, Quotations and Competitive Bids

3.4.3 Should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in case of a sole supplier, the accounting officer / authority may procure the required goods or services by other means, such as price quotations or negotiations in accordance with Treasury Regulation 16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer / authority or his / her delegate. Accounting officers /authorities are required to report within ten (10) working days to the relevant treasury and the Auditor-General all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.

LEGISLATIVE BASIS...

NT SCM Instr No. 3 of 2016-2017- Prevention and combating abuse in SCM

8. DEVIATIONS FROM NORMAL BIDDING PROCESS

- 8.1 The Accounting Officer/Accounting Authority must only deviate from inviting competitive bids in cases of emergency and sole supplier status.
- 8.2 An emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids.
- 8.3 Sole source procurement may occur when there is evidence that only one supplier possesses the unique and singularly available capacity to meet the requirements of the institution.
- 8.4 The Accounting Officer/Accounting Authority must invite as many suppliers as possible and select the preferred supplier using the competitive bid committee system.
- 8.5 Any other deviation will be allowed in exceptional cases subject to the prior written approval from the relevant treasury.

9. EXPANSIONS OR VARIATION OF ORDERS

- 9.1 The Accounting Officer/Accounting Authority must ensure that contracts are not varied by more than 20% or R 20 million (including VAT) for construction related goods, works and or services and 15% or R15 million (including VAT) for all other goods and or services of the original contract value.
- 9.2 Any deviation in excess of the prescribed thresholds will only be allowed in exceptional cases subject to prior written approval from the relevant treasury.

LEGISLATIVE BASIS...

Contract modifications types:

- ***Extension of Contract/purchase order***
 - Definition - means an extension to the duration of the an existing contract, (which may or may not have a financial implication), but not including any alteration to the scope of the contract.
- ***Expansion of scope in the Contract/purchase order***
 - Definition – Expansion of / change in the scope of work in a contract – means the commodity, services, and or works differs from the original contract requirement. It is additional to the original scope of work/bills of quantity
- ***Variation of Contract/purchase order***
 - Definition - Variation of a purchase order/contract – means where the purchase order/contract has been approved and or generated, however the quoted amount is exceeded upon receipt of the services/ commodities/ works. (It is not to be confused with Variation orders in the Construction Industry)

Deviations



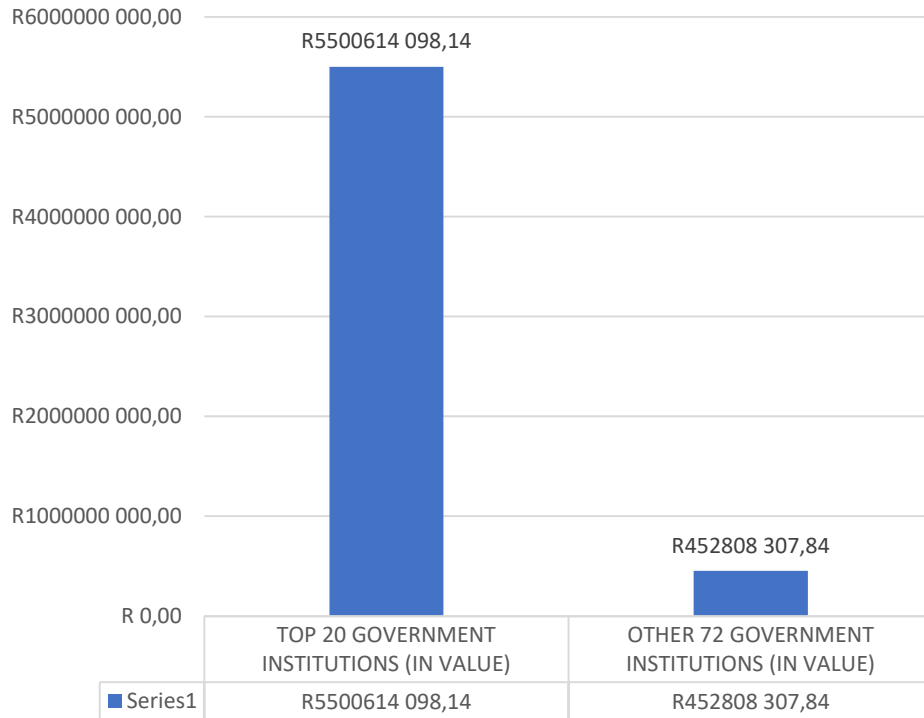
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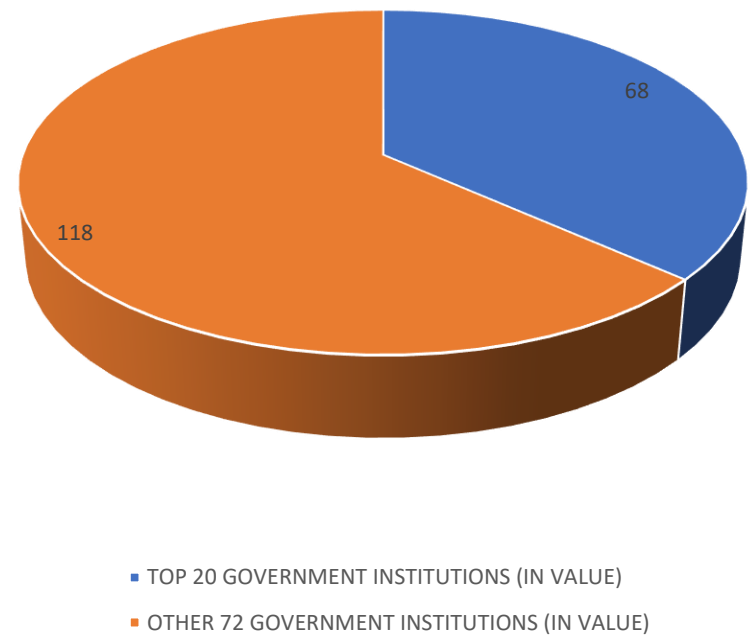
OVERVIEW: DEVIATIONS – Q1

Government Institutions	Total Summary of Deviations	
	Value	Count
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE) 92,39 %	R5 500 614 098,14	68
OTHER 72 GOVERNMENT INSTITUTIONS (IN VALUE) 7,61 %	R452 808 307,84	118
GRAND TOTAL 92 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)	R5 953 422 405,98	186

Rand Value summary

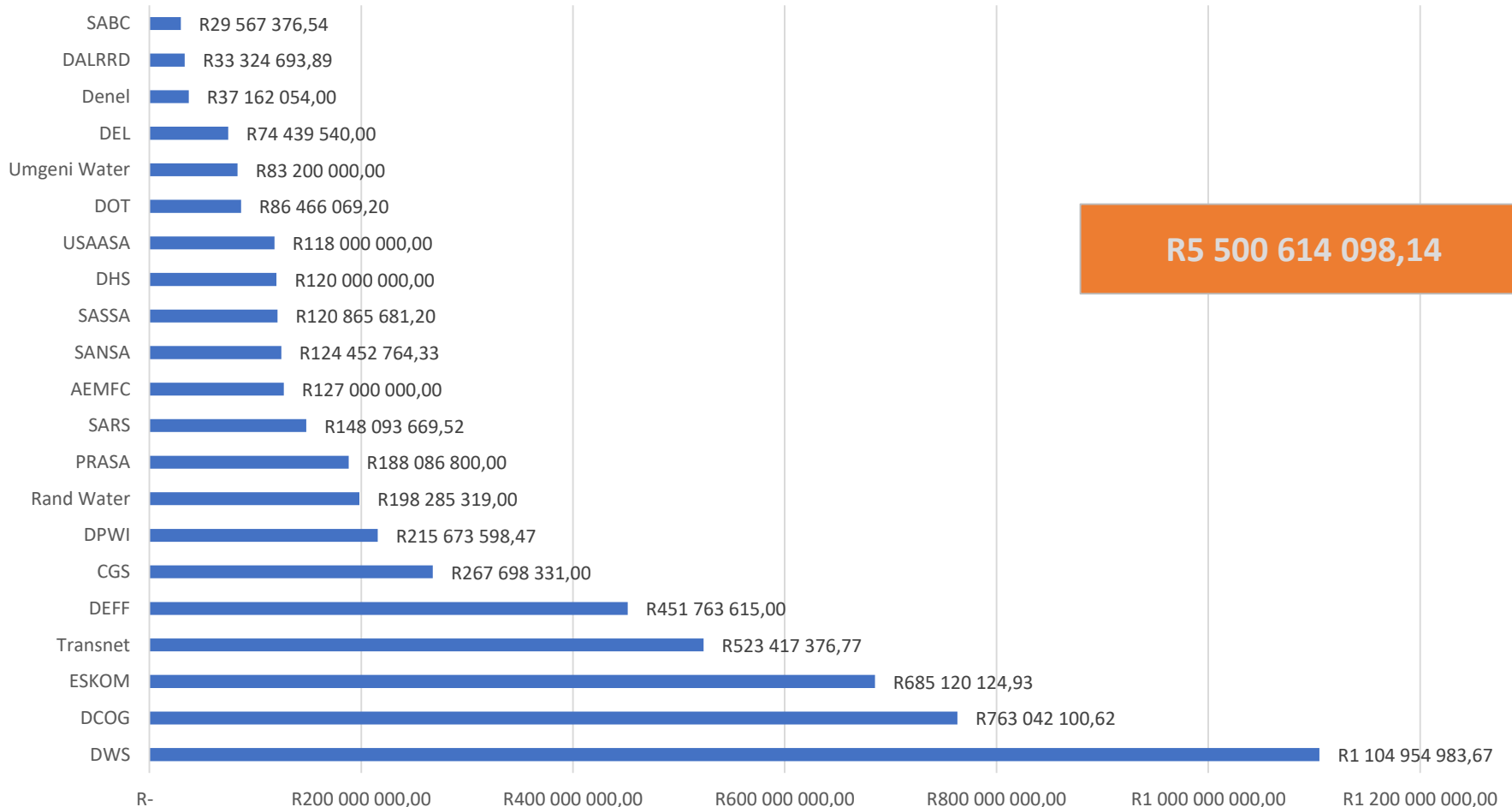


Number of applications summary



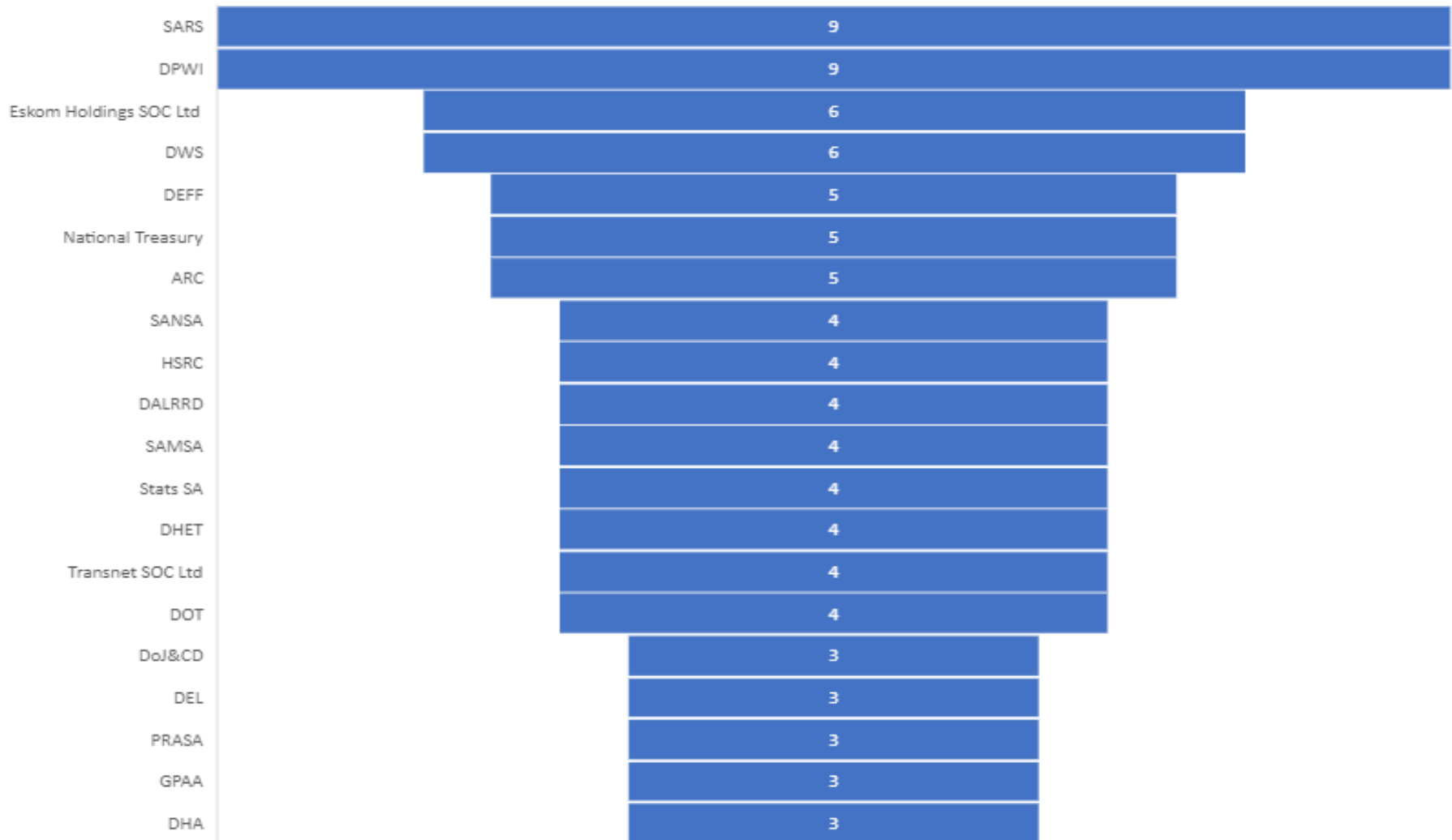
Q1 Top 20 DEVIATIONS APPLICATION IN VALUES

Value of Deviations Applications Top 20 Applications in Q1 of 2021/22



Q1 Top 20 DEVIATIONS APPLICATION IN NUMBERS

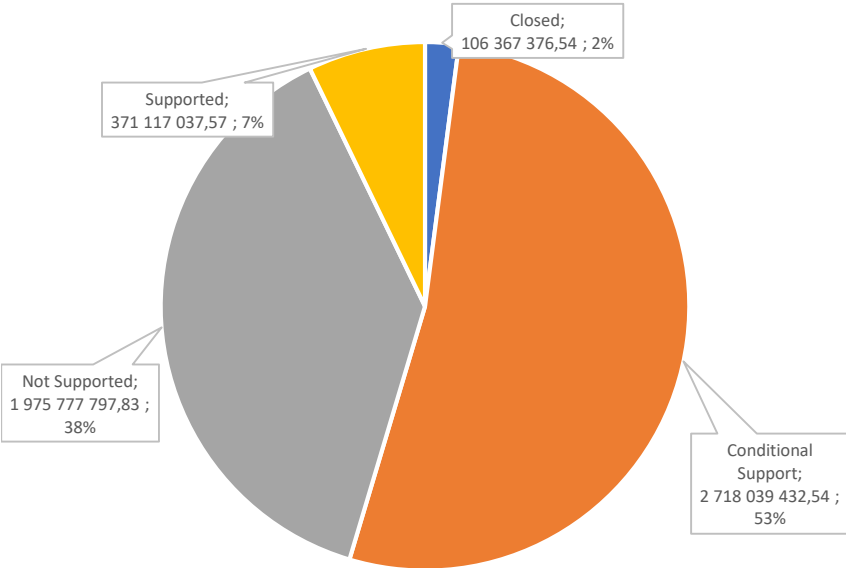
Number of Deviations Applications Top 20 Applications in Q1 of 2021/22



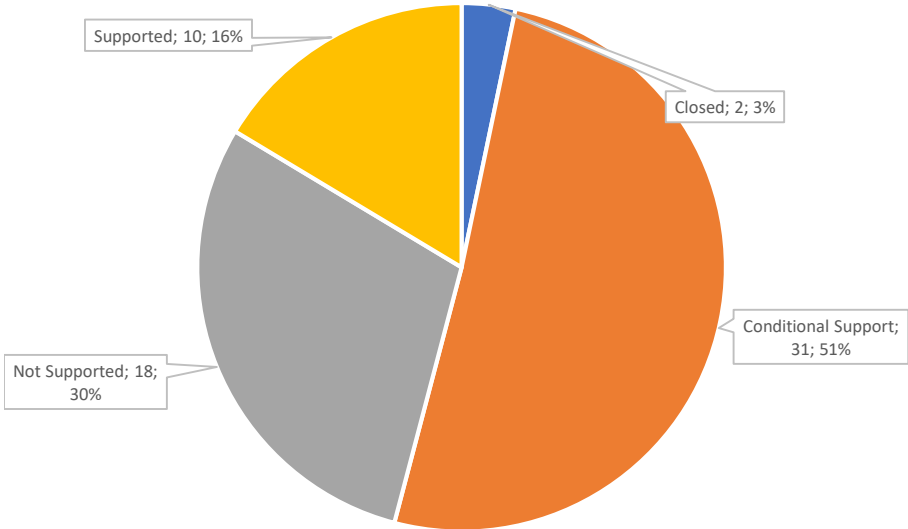
Q1 TOP 20 SUPPORTED / NOT SUPPORTED DEVIATIONS

	Closed	Conditional Support	Not Supported	Supported
Value ®	106 367 376,54	2 718 039 432,54	1 975 777 797,83	371 117 037,57
Count	2	31	18	10

Value supported /Not supported



Number supported / Not supported



■ Closed ■ Conditional Support ■ Not Supported ■ Supported

■ Closed ■ Conditional Support ■ Not Supported ■ Supported

Q1 Top 20 DEVIATIONS - Status

Government Institutions	Closed		Conditional Support		Not Supported		Noting		Supported		Within AA/AO		Total Sum of Deviation	
	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count
Department of Water and Sanitation (DWS)	R76 800 000,00	1	R876 000 000,00	2	R152 154 983,67	3							R1 104 954 983,67	6
Department of Cooperative Governance (DCoG)					R763 042 100,62	1							R763 042 100,62	1
Eskom Holdings SOC Ltd			R201 354 749,81	3	R166 865 241,81	2	R316 900 133,31	1					R685 120 124,93	6
Transnet SOC Ltd			R523 417 376,77	4									R523 417 376,77	4
Department of Environment, Forestry and Fisheries (DEFF)			R351 956 535,00	3	R99 807 080,00	2							R451 763 615,00	5
Council for Geoscience (CGS)									R267 698 331,00	1			R267 698 331,00	1
Department of Public Works and Infrastructure (DPWI)			R11 197 170,80	3	R194 290 428,89	3	R2 300 913,66	2	R7 885 085,12	1			R215 673 598,47	9
Rand Water					R198 285 319,00	1							R198 285 319,00	1
Passenger Rail Agency of South Africa (PRASA)			R110 000 000,00	1	R78 086 800,00	2							R188 086 800,00	3
South African Revenue Service (SARS)			R6 999 588,07	3	R120 000 000,00	1			R21 094 081,45	5			R148 093 669,52	9
African Exploration Mining and Finance Corporation (AEMFC)			R127 000 000,00	1									R127 000 000,00	1
South African National Space Agency (SANSA)			R120 761 583,00	2	R45 843,84	1	R3 645 337,49	1					R124 452 764,33	4
South African Social Security Agency (SASSA)			R120 865 681,20	2									R120 865 681,20	2
Department of Human Settlements (DHS)					R120 000 000,00	1							R120 000 000,00	1
Universal Service and Access Agency of South Africa (USAASA)			R118 000 000,00	1									R118 000 000,00	1
Department of Transport (DOT)			R85 000 000,00	2			R1 240 791,20	1			R225 278,00	1	R86 466 069,20	4
Umgeni Water					R83 200 000,00	1							R83 200 000,00	1
Department of Employment and Labour (DEL)									R74 439 540,00	3			R74 439 540,00	3
Denel			R37 162 054,00	1									R37 162 054,00	1
Department of Agriculture, Land Reform and Rural Development (DALRRD)			R28 324 693,89	3			R5 000 000,00	1					R33 324 693,89	4
South African Broadcasting Corporation SOC Limited (SABC)	R29 567 376,54	1											R29 567 376,54	1
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE)	R106 367 376,54	2	R2 718 039 432,54	31	R1 975 777 797,83	18	R329 087 175,66	6	R371 117 037,57	10	R225 278,00	1	R5 500 614 098,14	68
OTHER 72 GOVERNMENT INSTITUTIONS (IN VALUE)	R0,00	1	R165 386 389,26	39	R159 201 424,65	33	R54 463 084,16	15	R71 535 051,55	27	R2 222 358,22	3	R452 808 307,84	118
GRAND TOTAL 92 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)	R106 367 376,54	3	R2 883 425 821,80	70	R2 134 979 222,48	51	R383 550 259,82	21	R442 652 089,12	37	R2 447 636,22	4	R5 953 422 405,98	186

Contract Modifications



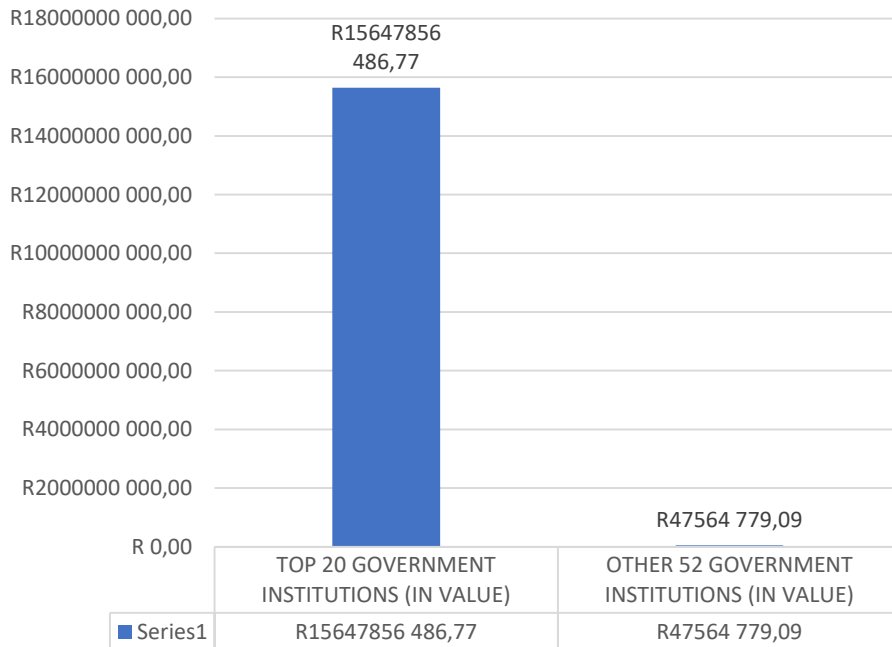
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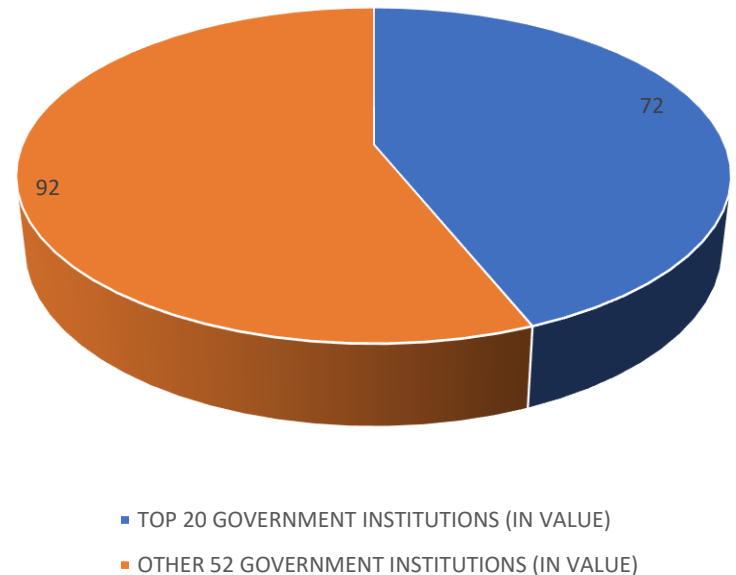
OVERVIEW: CONTRACT MODIFICATIONS – Q1

Government Institutions		Total Summary of Expansions	
		Value	Count
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE)	99,67 %	R15 647 856 486,77	72
OTHER 52 GOVERNMENT INSTITUTIONS (IN VALUE)	0,33 %	R47 564 779,09	92
GRAND TOTAL 72 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)		R15 695 421 265,86	164

Rand Value summary

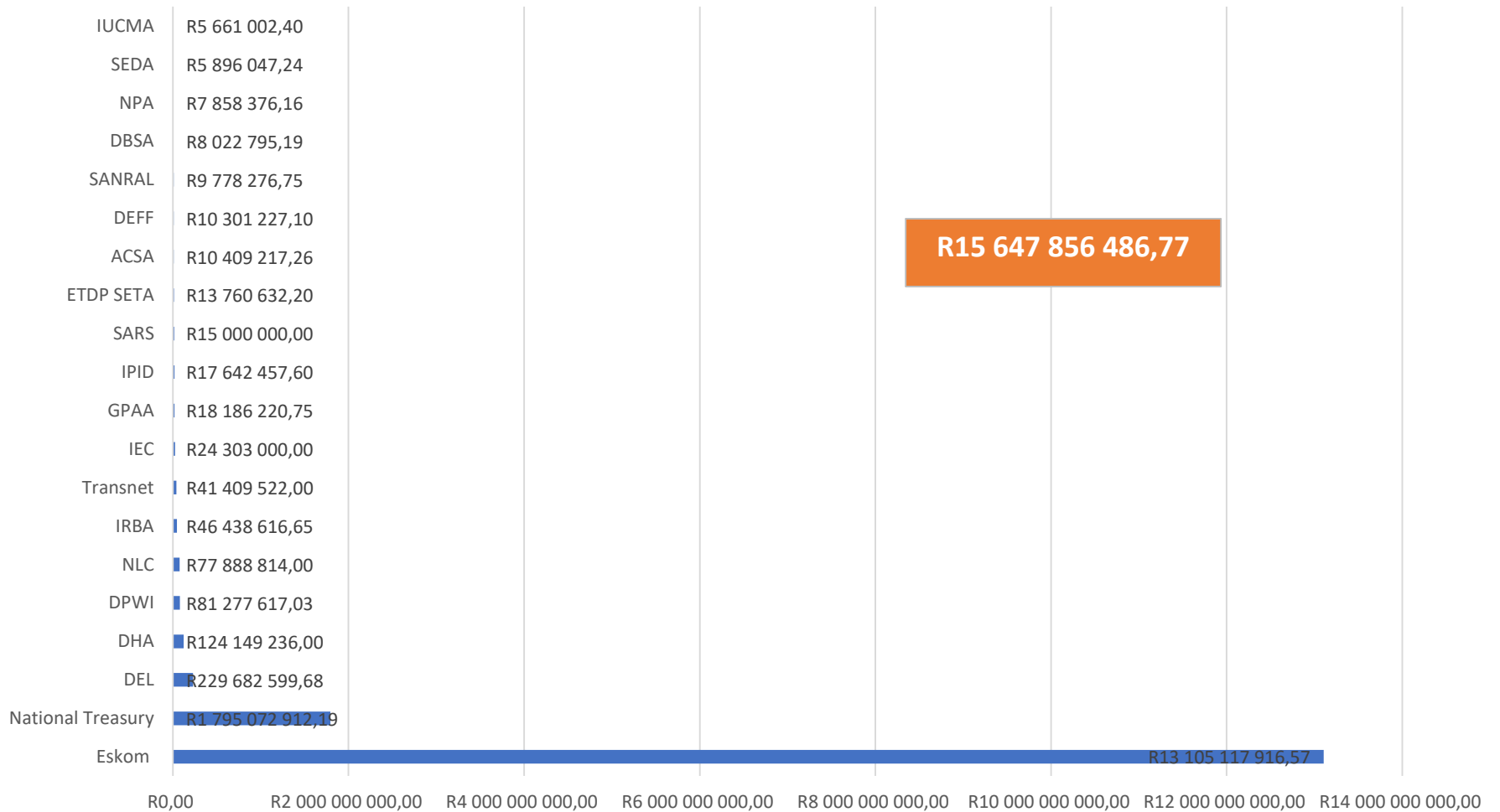


Number of applications summary

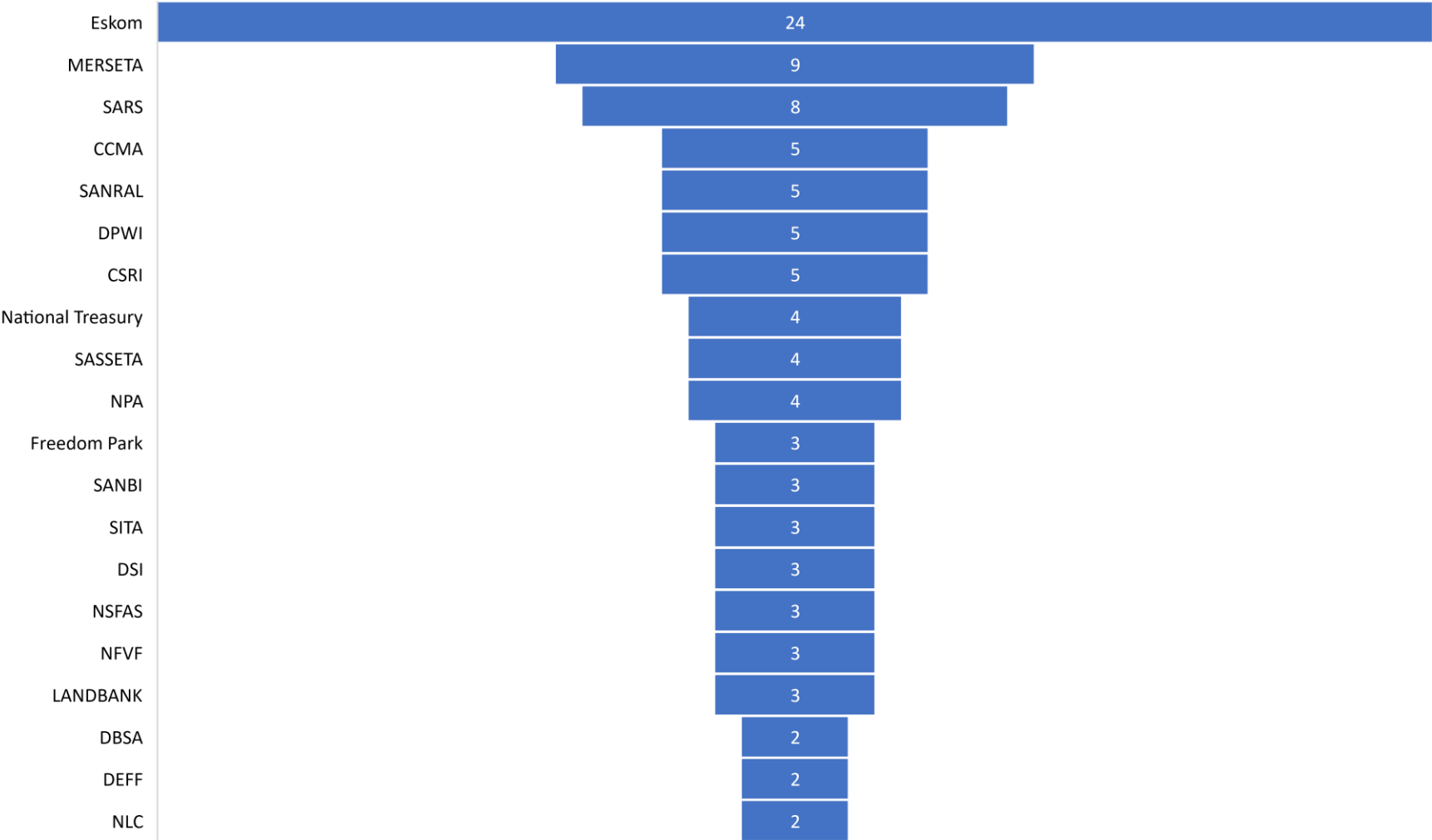


Q1 Top 20 CONTRACT MODIFICATIONS APPLICATION IN VALUES

Value of Modifications Top 20 Applicants Q1 2021/2022



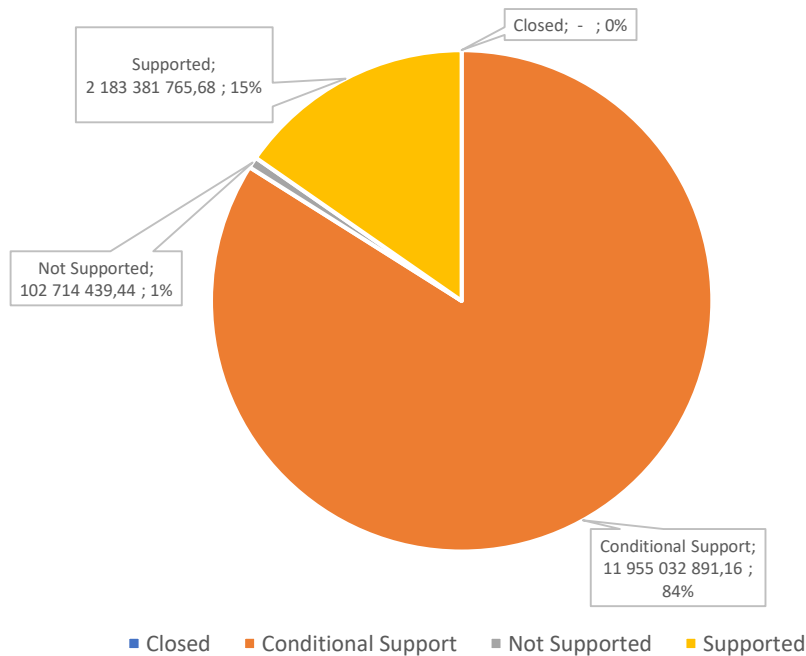
Q1 Top 20 CONTRACT MODIFICATIONS APPLICATION IN NUMBERS



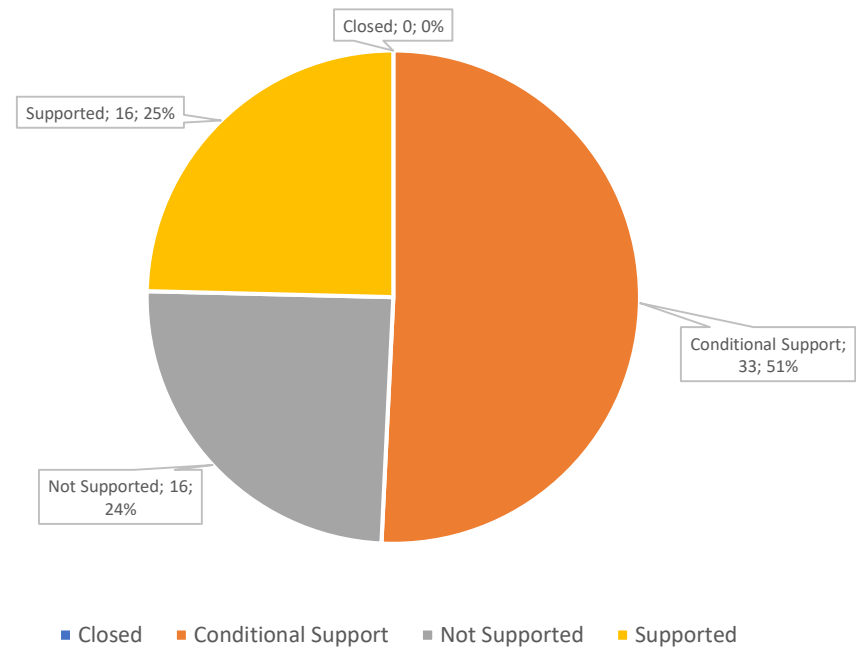
Q1 TOP 20 SUPPORTED / NOT SUPPORTED CONTRACT MODIFICATIONS

	Closed	Conditional Support	Not Supported	Supported
Value ®	-	11 955 032 891,16	102 714 439,44	2 183 381 765,68
Count	0	33	16	16

Value supported /Not supported



Number supported / Not supported



Q1 Top 20 CONTRACT MODIFICATIONS - Status

Government Institutions	Closed		Conditional Support		Not Supported		Noting		Supported		Within AA/AO		Total Sum of Expansion	
	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count
Eskom Holdings SOC Ltd			R11 715 989 370,28	15	R6 704 155,80	4	R1 382 424 390,49	5					R13 105 117 916,57	24
National Treasury			R302 220,00	1	R1 733 972,19	1			R1 793 036 720,00	2			R1 795 072 912,19	4
Department of Employment and Labour (DEL)									R229 682 599,68	2			R229 682 599,68	2
Department of Home Affairs (DHA)									R124 149 236,00	1			R124 149 236,00	1
Department of Public Works and Infrastructure (DPWI)			R11 195 279,43	2	R70 082 337,60	3							R81 277 617,03	5
National Lotteries Commission (NLC)			R73 774 344,00	1	R4 114 470,00	1							R77 888 814,00	2
Independent Regulatory Board for Auditors (IRBA)			R46 438 616,65	2									R46 438 616,65	2
Transnet			R41 409 522,00	1									R41 409 522,00	1
Electoral Commission (IEC) of South Africa							R24 303 000,00	1					R24 303 000,00	1
Government Pensions Administration Agency (GPAA)			R18 186 220,75	1					R0,00	1			R18 186 220,75	2
Independent Police Investigative Directorate (IPID)									R17 642 457,60	1			R17 642 457,60	1
South African Revenue Service (SARS)			R15 000 000,00	3					R0,00	4	R0,00	1	R15 000 000,00	8
Education, Training and Development Practices Sector Education and Training Authority (ETDP SETA) SETA									R13 760 632,20	1			R13 760 632,20	1
Airports Company South Africa (ACSA)			R10 409 217,26	2									R10 409 217,26	2
Department of Environment, Forestry and Fisheries (DEFF)					R10 301 227,10	2							R10 301 227,10	2
The South African National Roads Agency SOC Ltd (SANRAL)					R9 778 276,75	5							R9 778 276,75	5
Development Bank of Southern Africa (DBSA)			R6 436 057,15	1					R1 586 738,04	1			R8 022 795,19	2
National Prosecuting Authority of South Africa (NPA)			R4 334 994,00	2					R3 523 382,16	2			R7 858 376,16	4
Small Enterprise Development Agency (SEDA)			R5 896 047,24	1					R0,00	1			R5 896 047,24	2
Inkomati-Usuthu Catchment Management Agency (IUCMA)			R5 661 002,40	1									R5 661 002,40	1
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE)	R0,00	0	R11 955 032 891,16	33	R102 714 439,44	16	R1 406 727 390,49	6	R2 183 381 765,68	16	R0,00	1	R15 647 856 486,77	72
OTHER 72 GOVERNMENT INSTITUTIONS (IN VALUE)	R0,00	0	R17 574 274,36	34	R19 180 792,52	32	R1 274 737,50	2	R9 534 974,71	23	R0,00	1	R47 564 779,09	92
GRAND TOTAL 72 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)	R0,00	0	R11 972 607 165,52	67	R121 895 231,96	48	R1 408 002 127,99	8	R2 192 916 740,39	39	R0,00	2	R15 695 421 265,86	164

ESKOM

DEVIATIONS & CONTRACT MODIFICATIONS



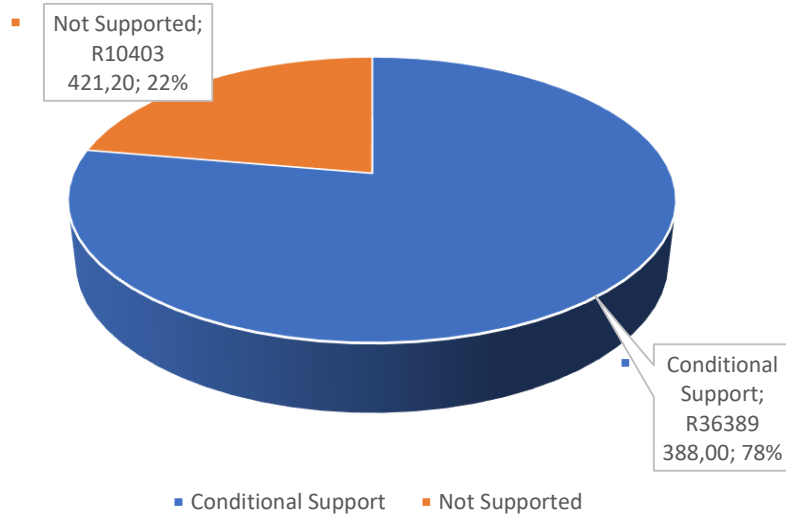
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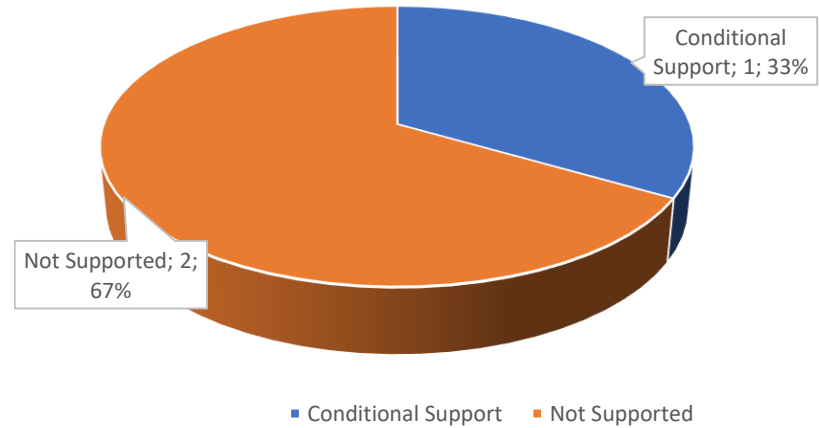
Q2 ESKOM SUPPORTED / NOT SUPPORTED DEVIATIONS

Deviations ESKOM Summary Q2 2021								
Institution		Closed	Conditional Support	Not Supported	Supported	Noting	Within AA/AO	Total
Eskom	Value ®	R0,00	R36 389 388,00	R10 403 421,20	R0,00	R0,00	R0,00	R46 792 809,20
	Count	0	1	2	0	0	0	3

Value supported /Not supported



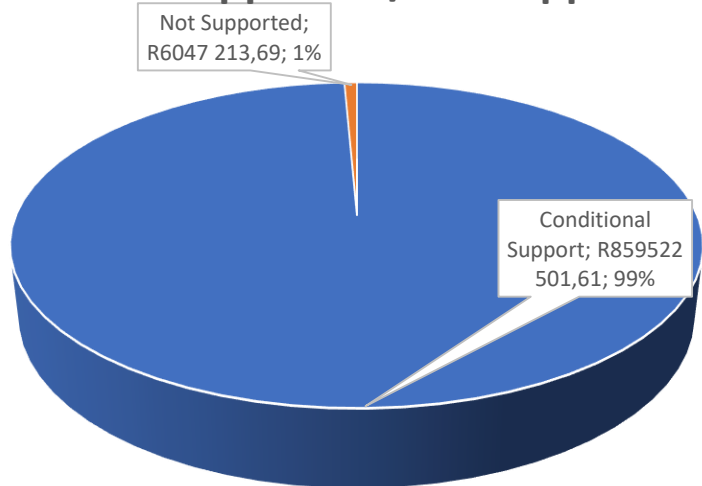
Number supported / Not supported



Q2 ESKOM SUPPORTED / NOT SUPPORTED CONTRACT MODIFICATIONS

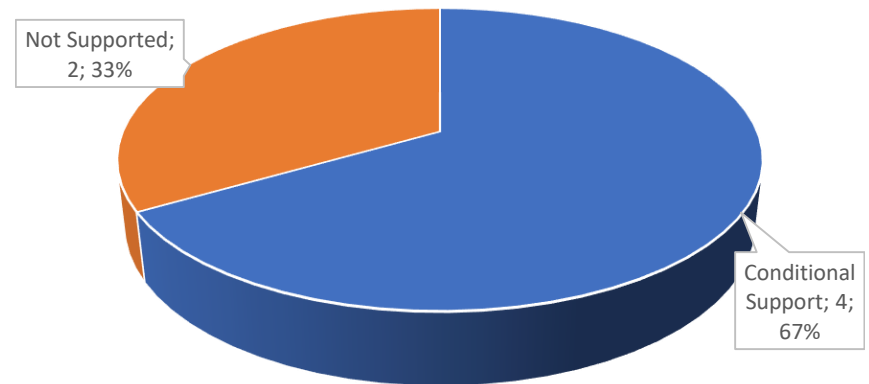
Expansion ESKOM Summary Q2 2021						
Institution		Closed	Conditional Support	Not Supported	Supported	Total
Eskom	Value ®	R0,00	R859 522 501,61	R6 047 213,69	R0,00	R865 569 715,30
	Count	0	4	2	0	6

Value supported /Not supported



■ Conditional Support ■ Not Supported

Number supported / Not supported



■ Conditional Support ■ Not Supported

COMMON REASONS FOR DEVIATIONS & EXPANSIONS

- Sole Supplier and/or Single Source – e.g. OEM
- Closed bid process (Limited market)
- Business continuity
- Business Strategy/operations (Recently found with SOCs with their turn-around strategies)
- Service Delivery Urgency
- Extensions on current contracts due to new tender processes not concluded in time
- Failed tender processes; Restart tender processes
- Value-for-money
- Extension of Accommodation Leases
- Continue using existing software
- Exceeding the 15%/R15m or 20%/R20m threshold for expansions (especially SOCs with large projects)
- Government-to-Government Procurement (NSG, GTAC, CSIR, etc)
- Expansion of scope (time & material)

TRENDS AND OBSERVATIONS

- Increased departure from the competitive bidding process.
- Continuous modification of contracts that keep same service providers
- Increasing audit disputes
- Poor procurement planning
- Poor implementation of projects leading to either contract expansion or single source deviations
- Poor governance structures
- Non implementation of consequence management on officials who cause irregular expenditure

OPERATIONAL CHALLENGES AND REMEDIES

CHALLENGES	REMEDIES
Manual process of requests/applications, resulting in inadequate monitoring	<ul style="list-style-type: none"> Project to automate submission, processing, monitoring and reporting of requests/applications has been initiated.
Insufficient capacity that results in delays in processing requests and responding to organs of state	<ul style="list-style-type: none"> Recruitment processes are underway to add to the existing human capital
Inadequate, incorrect, intentional or negligent supply of information in the applications to the OCPO	<ul style="list-style-type: none"> Developing a Deviations framework to set the standards for applications and processing of deviations and contract modifications Workshops will be conducted to educate organs of state on the deviation framework Proposal to include affidavit in application for deviations/contract modifications
Inability to design and implement proactive measures to minimise abuse of SCM system and non-compliance	<ul style="list-style-type: none"> With automated system and additional capacity the Division can design and implement a Governance framework to proactively improve monitoring, efficiency and effectiveness of SCM units in government.
Increasing investigations due to inappropriate use and implementation of emergency procurement procedures	<ul style="list-style-type: none"> Compliance reviews are being conducted on emergency deviations and affidavits provided to law enforcement agencies (HAWKS, SIU, PP etc.) for procurement investigations

THANK YOU



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