

BRIEFING REPORT

STANDING COMMITTEE ON APPROPRIATIONS (SCOA)

PRESENTED BY:

NAME: Molefe-Isaac
SURNAME: Fani

Title:
Chief Procurement Officer

Date: 16 February 2022



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



**STAY
SAFE**

VACCINATE TO SAVE SOUTH AFRICA

PRESENTATION OUTLINE

- Overview of transversal contract related issues, enrolment/uptake by all the provinces and challenges thereof;
- The manner in which procurement is used to help with the implementation of the South African Economic Reconstruction and Recovery Plan;
- The number of deviations, expansions and modifications approved as including details on the number that directed to black, women, youth, and persons with disabilities' companies;
- Details of the largest deviations approved including the reasons for the deviations and the profiles of the companies that benefited from such deviations; and
- Progress report on the draft Public Procurement Bill.

Overview of transversal contract related issues, enrolment/uptake by all the provinces and challenges thereof



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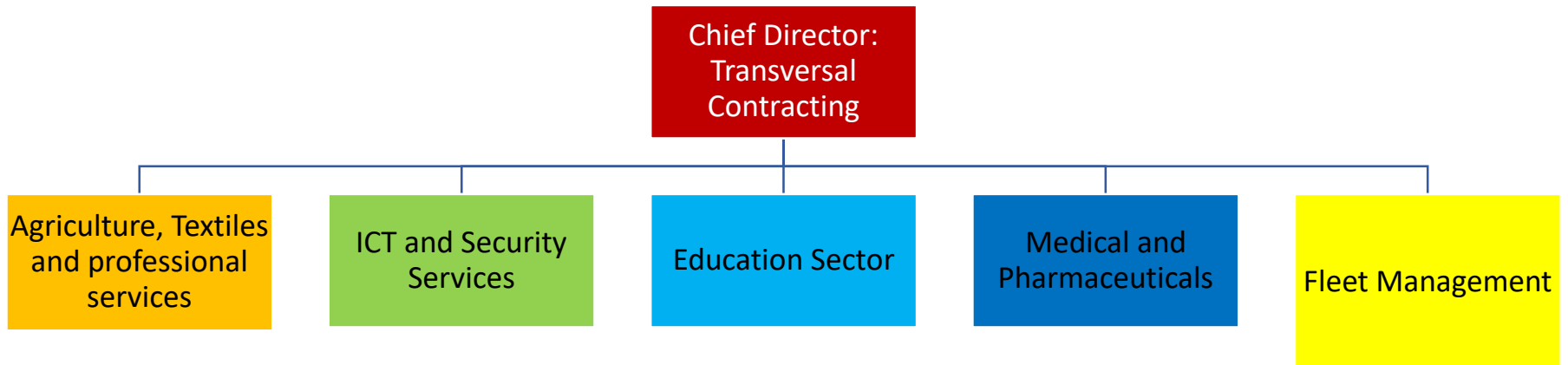
Transversal Contracting

- Responsible for the facilitation and management of transversal term contracts on behalf of Government;
- Mandated by Treasury Regulations (16A6.5)
 - ❖ *“The accounting officer or accounting authority may opt to participate in transversal term contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract”*
- Optional Provision to be part of Transversal Term Contracts
- Relevant Treasuries – National & Provincial

Transversal Contracting Benefits

- **Standardisation or consolidation of state requirements**
 - Common products
 - Similar specifications and pricing
- **Benefit from Economies of scale**
 - High Volumes
- **Reduce duplication of procurement efforts**
 - Single centre of procurement

Transversal Contracting - Structure



Transversal Contracting Commodities

Agriculture, Textiles and professional services 11 Contracts	ICT and Security Services 13 Contracts	Education Sector 8 Contracts	Medical and Pharmaceuticals 20 Contracts	Fleet Management 12 Contracts
<ul style="list-style-type: none"> • RT10- Veterinary Remedies • RT- Animal Feed • RT12 Agricultural remedies • RT14 Toilet paper and paper towels • RT26 Blankets and household textiles • RT27 Provision of debt Collection • RT28 Sterilization related items • RT59 Footwear • RT60 Fabric • RT64 Clothing 	<ul style="list-style-type: none"> • RT2 Medical equipment • RT3 Office automation solutions • RT13 Respiratory aids • RT24 Hospital furniture • RT31 Administration accessories • RT40 Crutches and walking aids • RT54 Mental Health Equipment • RT55 Therapeutic Rehabilitation Equipment 	<ul style="list-style-type: none"> • RT5 Courier services • RT6M learning material and apparatus for mathematics • RT7 LTSM: Distribution of School Textbooks • RT8 Transportation of cargo • RT17 LTSM: Distribution of School Stationery 	<ul style="list-style-type: none"> • RT4 Ambulance rescue • RT35 Medical male circumcision (MMC) • RT41 Rapid HIV test kits • RT50 Medical & industrial gases • RT75 Condoms and lubrication • RT76 Surgical and exam gloves • RT252 Surgical instruments • RT284 Hypodermic syringes • 8 RT287 Dental Instruments 	<ul style="list-style-type: none"> • RT23 Lubricating oil • RT46 Fleet Vehicle maintenance (Pool) • RT51 LPG Gases • RT58 Insurance for subsidized vehicles • RT62 Subsidized vehicle fleet • RT68 Financing of subsidized vehicles • RT69 Tyres and tubes • RT57 Vehicles • RT70 Petrol and diesel • RT61 Rental of aircraft and helicopters

Challenges

- Human resources
 - Inadequate number of competent officials
 - The current resources targeted by other department for employment opportunities
- Lack of support from other Government institutions
 - Reluctance to be part of Transversal Contracts
 - Organs of state not taking up the advantage for utilisation of transversal contracts
- Technology availability
 - No ERP system available to manage the tender processes
- Transformation agenda
 - Currently making appointment of suppliers at National level. The local economic transformation not happening based on limitations imposed by the current legislative framework

The manner in which procurement is used to help with the implementation of the South African Economic Reconstruction and Recovery Plan



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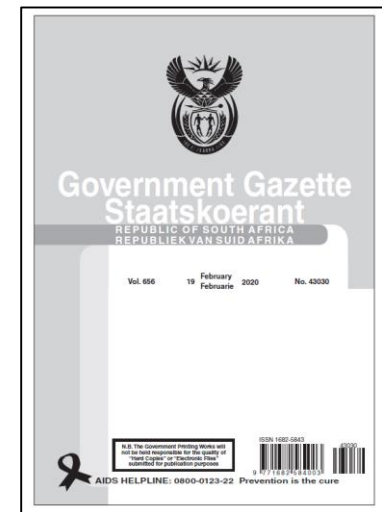


THE DISCUSSION CONTEXT



PROCUREMENT IN SOUTH AFRICA

- The procurement industry is quickly evolving beyond just buying and selling. Public Sector Supply Chain Management is one of the key levers of driving economic growth and confronting social equity.
- Government procurement policy is to leverage public procurement to promote broad socio-economic objectives such as black economic empowerment, small business development and local industrial development among others.
- Therefore, through the procurement policy, National Treasury has an enabling provision to strengthen SMME inclusion and localization through industrialization in support of the Economic Reconstruction and Recovery plan.



[NT Website \(legislation/draft bills\)](#)

LEGISLATIVE FRAMEWORK APPLICABLE TO PUBLIC PROCUREMENT



- The principle piece of legislation that regulates public procurement is the **Constitution of the Republic of South Africa, 1996**. **Section 217** of the Constitution requires that when an organ of state contracts for goods and services, it must do so in accordance with principles of fairness, equitability, transparency, competitiveness and cost-effectiveness.
- The Constitution permits organs of state to implement a **preferential procurement policy** that advances persons previously disadvantaged by unfair discrimination. Section 217(3) of the Constitution provides for legislation that will prescribe a framework within which the policy must be implemented to be enacted. In line with section 217(3) of the Constitution, the **Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA)** and the regulations published under it (Preferential Procurement Regulations) prescribe requirements regarding black economic empowerment (BEE) considerations for state tenders.



PREFERENTIAL PROCUREMENT

THE ROLE PREFERENTIAL PROCUREMENT REGULATIONS, 2017 IN FURTHERING ECONOMIC EMPOWERMENT OBJECTIVES.

- Preferential Procurement Policy framework Act (PPPFA), 2000 was enacted to give effect to section 217 (3) of the Constitution by providing a framework for the procurement policy contemplated in section 217 (2) of the Constitution.
- Section 217 (2) of the Constitution states “Subsection (1) does not prevent the organ of state or institutions referred to that subsection from implementing a procurement policy providing for-
 - (a) categories of preference in the allocation of contracts; and
 - (b) the protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination”
- The PPPFA is a short piece of legislation with only four pages; it covers the main principles whilst the detail is contained in the Preferential Procurement Regulations (PPR). The first set of regulations was promulgated in 2001; a revised set of the regulations was promulgated in 2011. This revision sought to align the aims of the PPPFA and the Broad- Based Black Economic Empowerment Act (B-BBEE). A third set (second revision) was promulgated in 2017. This revision was preceded by the need to advance enterprises owned by people living in township, rural and underdeveloped areas; small and medium enterprises and cooperatives. Although the 2011 regulations were concerned about alignment of aims of PPPFA and B-BBEEA, the 2017 Regulations sought to broaden the scope of the policy in favour of Section 217(2) (b) of the constitution.

STRENGTHENING SMME INCLUSION

Strengthening SMME inclusion

- There are at least four major changes brought by the 2017 regulations and these are discussed as follows:

(a) Increase in threshold for preference

- The upper threshold for application of the 80/20 preference point system has been increased from R 1 million to R 50 million. Effectively this means the 80/20 preference point system is applicable to all procurement between R 30K and R 50 million. The B-BBEE points for level 3 B-BBEE Status Level of Contributor were reduced from 16 to 14.
- The rationale for these changes is twofold; firstly, it is to increase the threshold value for participation of small and medium enterprises. It is envisaged that the 20 points for B-BBEE will play a significant role in ensuring that transforming enterprises are uplifted by the preference points to secure government contracts. Whereas the 20 points could only assist with up to R 1 million maximum, this has been increased to R50 million. The upper threshold value for the 80/20 is aligned with the upper threshold for Qualifying Small Enterprises (QSEs). Secondly, this change seeks to provide an incentive for enterprise transformation by the creation of a gap between enterprises that are more than 51% Black Owned and those that have not reached that level of transformation, hence the gap between B-BBEE Status Level of Contributor of 2 and 3 is a four point difference.
- Small and Medium Enterprises also referred to as Exempted Micro Enterprises (EMEs) and QSEs in the regulations and the codes of good practice stand a better chance of participating in government contracts through the 80/20 preference point system brought about by the 2017 revision. By increasing the thresholds, smaller enterprises (EMEs and QSEs) are now given an opportunity to receive a greater boost (extra points for preferential procurement), which in turn can assist them to compete more favourably with other well-established companies

Strengthening SMME inclusion

(b) Prequalification criteria for preferential procurement (Regulation 4)

- The 2017 regulations introduced prequalification criteria for preferential procurement. What this essentially entails is that categories of persons or categories of enterprises are advanced in specific tenders. Competition is reserved for similar enterprises to compete. Only enterprises who meet the prequalification criteria are evaluated and may be awarded a tender.
- It works as follows:
- Should the organ of state select to use prequalifying criteria in selected tenders to target designated groups, it must advertise the tender with specific tendering condition that only one or more of the tenders may apply:
 - (i) A tenderer having a stipulated minimum B-BBEE Status Level of contributor;
 - (ii) Being an EME or QSE; or
 - (iii) A tenderer subcontracting a minimum of 30% to:
 - EMEs or QSEs;

Strengthening SMME inclusion

- EMEs or QSEs that are at least 51% owned by either of the following:
 - Blacks people;
 - Black Youth;
 - Black Women;
 - Black people with disabilities;
 - Black people living in rural or underdeveloped areas or townships;
 - Cooperatives owned by Black people;
 - Black people who are military veterans
- The rationale and economic transformation impact of the regulation is to level the public procurement field to limit competition amongst enterprises of an equal standing. The premise adopted implicitly in the regulations is that this provision targets sectors and commodities that are lacking transformation or where it may be used to advance historically disadvantaged enterprises.
- The alignment of the aims of PPPFA and B-BBEE meant that only a B-BBEE score card is used to award points. There is no score card for enterprises listed in (iii) above hence they are listed for subcontracting other than being a category on their own for direct prequalification.

Strengthening SMME inclusion

- (c) **Subcontracting as condition of tender (Regulation 9)**
- Institutions will be required to identify tenders with an estimated value above R30 million that can be used for subcontracting to advance categories of persons or enterprises.
- The intention of regulation 9 (often referred to as compulsory subcontracting) is to ensure that Exempted Micro Enterprises (EMEs), Qualifying Small Enterprise (QSEs) and designated groups are able to participate in high value contracts.
- This regulation provides that if feasible to subcontract for a tender above R 30 million, an organ of state must apply subcontracting to advance designated groups.
- The way this provision works is that:
 - Organs of state must understand the entire supply value chain to identify subcontracting opportunities; this will vary from product to product and tender to tender. Where such opportunities have been identified, organs of state must advertise a tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to designated groups:
 - The rationale and subsequent envisaged economic transformation impact of the regulations is that historically disadvantaged enterprises are usually left out of high value contracts; the regulations thus seek to ensure that these enterprises continue to play a role in most tenders if feasible to do so. This also assists historically disadvantaged enterprises to build capacity under a well-established enterprise. It also serves the primary contractor in building their profile in terms of enterprise development or preferential procurement, depending on the subcontracting arrangement.

Strengthening SMME inclusion

- (d) **Negotiating a market-related price with preferred suppliers.**
- This is a sub-regulation in both regulation 6 and 7 that confers legislative power on the organ of state to negotiate a fair market price with preferred bidders where in the objective analysis of the organ of state the prices tendered far exceed the prevailing market prices and the impact of tendered price will negatively impact the project or budget for the project, and it will thus not be in the interest of government to pay the prices tendered.
- The rationale and economic transformation impact of the sub-regulation is that it aligns the government's policy of fiscal discipline. Although government is willing to pay a premium to advance historically disadvantaged enterprises, this must not be at any cost, it must be measured so that the projects can still be undertaken at reasonable costs.

Strengthening SMME inclusion

- The Preferential Procurement Regulations are essentially about ensuring that, through public procurement, there is an increase in the number of designated groups participating in economic activity of the country; and that there is an increase in monetary value of tenders awarded to SMMEs, as well as enterprises owned by black people. In other words, the Preferential Procurement Regulations, 2017, are concerned with equity (“levelling the playing fields” and redressing past imbalances), as opposed to mere equality.
- Inclusive growth through public procurement will be achieved through elevation of historically disadvantaged enterprises to the same competitive level as beneficiaries of the old apartheid system. However the challenge also extends to historically disadvantaged enterprises to create stable businesses with long term vision capable of using policy changes to sustain their enterprises for the long term. Historically disadvantaged enterprises must refrain from using the provisions of the regulations for fronting or any scheme that does not support developing their enterprises as self-sustainable entities.

LOCALISATION

POLICY POSITION ON LOCAL PRODUCTION AND CONTENT

- The Constitution, in section 217, provides procurement principles to guide all processes related to public procurement.
- The PPPFA and its regulations sought to level the playing field by tipping the scales in favour of the previously marginalised and small and medium enterprises.
- The Preferential Procurement Regulations, 2017 ('the regulations') made in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) which came into effect on 01 April 2017 make provision for the Department of Trade and Industry (the dti), in consultation with the National Treasury, to designate sectors in line with national development and industrial policies for local production.
- Public procurement plays a strategic role in economic development and transformation.
- Regulation 8 (1) of the Preferential Procurement Regulations, 2017 provides for the Department of Trade and Industry to, in consultation with the National Treasury, designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors.
- Regulation 8 (2) of the Preferential Procurement Regulations, 2017 prescribes that in the case of a designated sector, an organ of state must advertise the invitation to tender with a specific condition that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

Localisation

1. According to Regulation 8 (3), the National Treasury must inform organs of state of any designation made in terms of regulation 8 (1) through a circular.
2. Working together with **the dti** (now **the dtic**), National Treasury has issued a number of instructions (prior to 2017) and now circulars (subsequent to March 2017) to designate sectors for local production and content, the aim is to stimulate local industrial development, skills development and employment creation.
3. The table below depicts the roles by the National Treasury and **the dtic** within the local content arena as well as their roles and responsibilities:

STAKEHOLDER	RESPONSIBILITY / ROLE
National Treasury	Consultation with the dtic on the proposed designation and issuing of circulars in respect of approved designations
the dtic	Implementation and monitoring of Industrial Policy, including conducting studies on local production and content and monitoring the implementation of designated sectors instructions / circulars

Localisation

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The number of deviations, expansions and modifications approved as including details on the number that directed to black, women, youth, and persons with disabilities' companies



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SECTION OUTLINE

- Legislative basis
- Definitions
- Deviations (Q3)
- Contract modification (Q3)
- 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.

DEFINITIONS

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



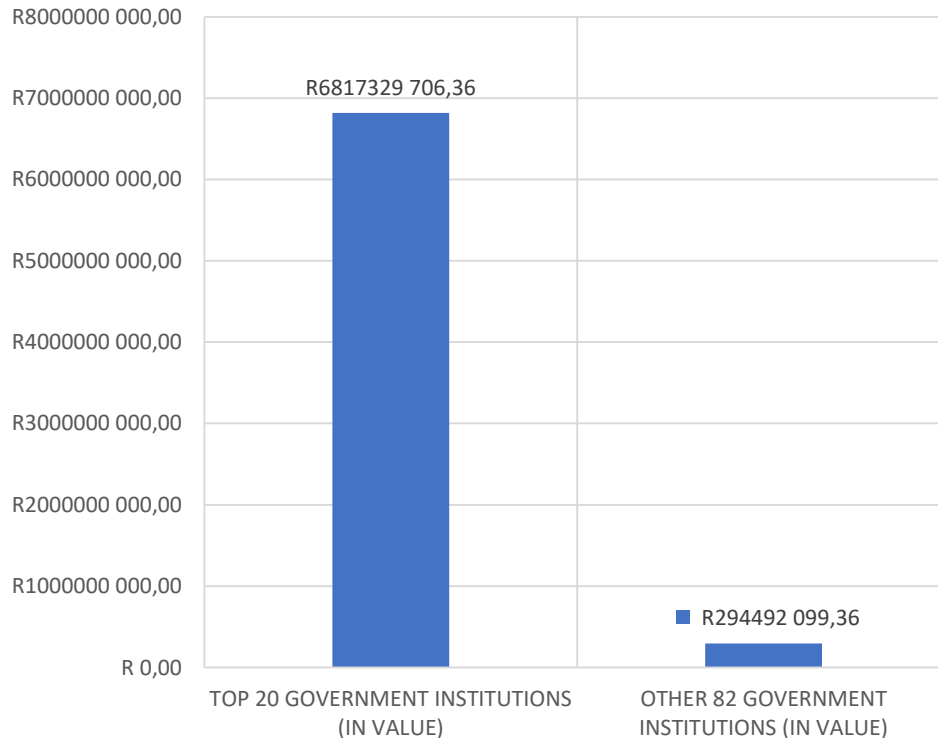
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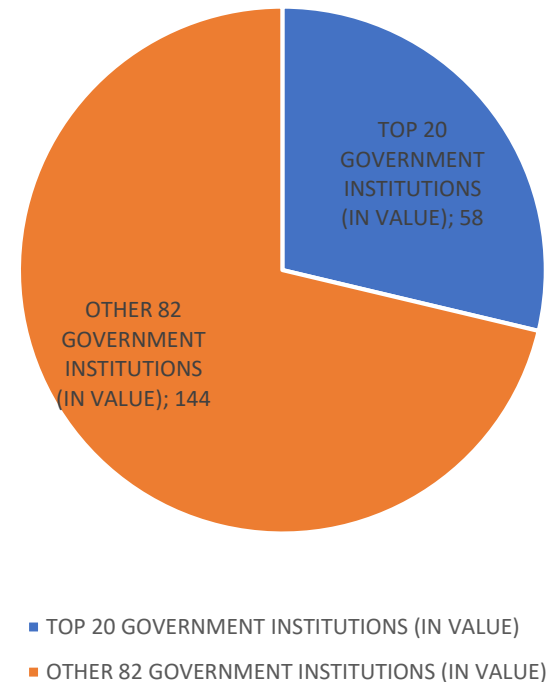
OVERVIEW: DEVIATIONS – Q3

Government Institutions	Total Sum of Deviation	
	Value	Count
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE) 96%	R6 817 329 706,36	58
OTHER 82 GOVERNMENT INSTITUTIONS (IN VALUE) 4%	R294 492 099,36	144
GRAND TOTAL 102 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)	R7 111 821 805,72	202

Rand Value of Applications Summary

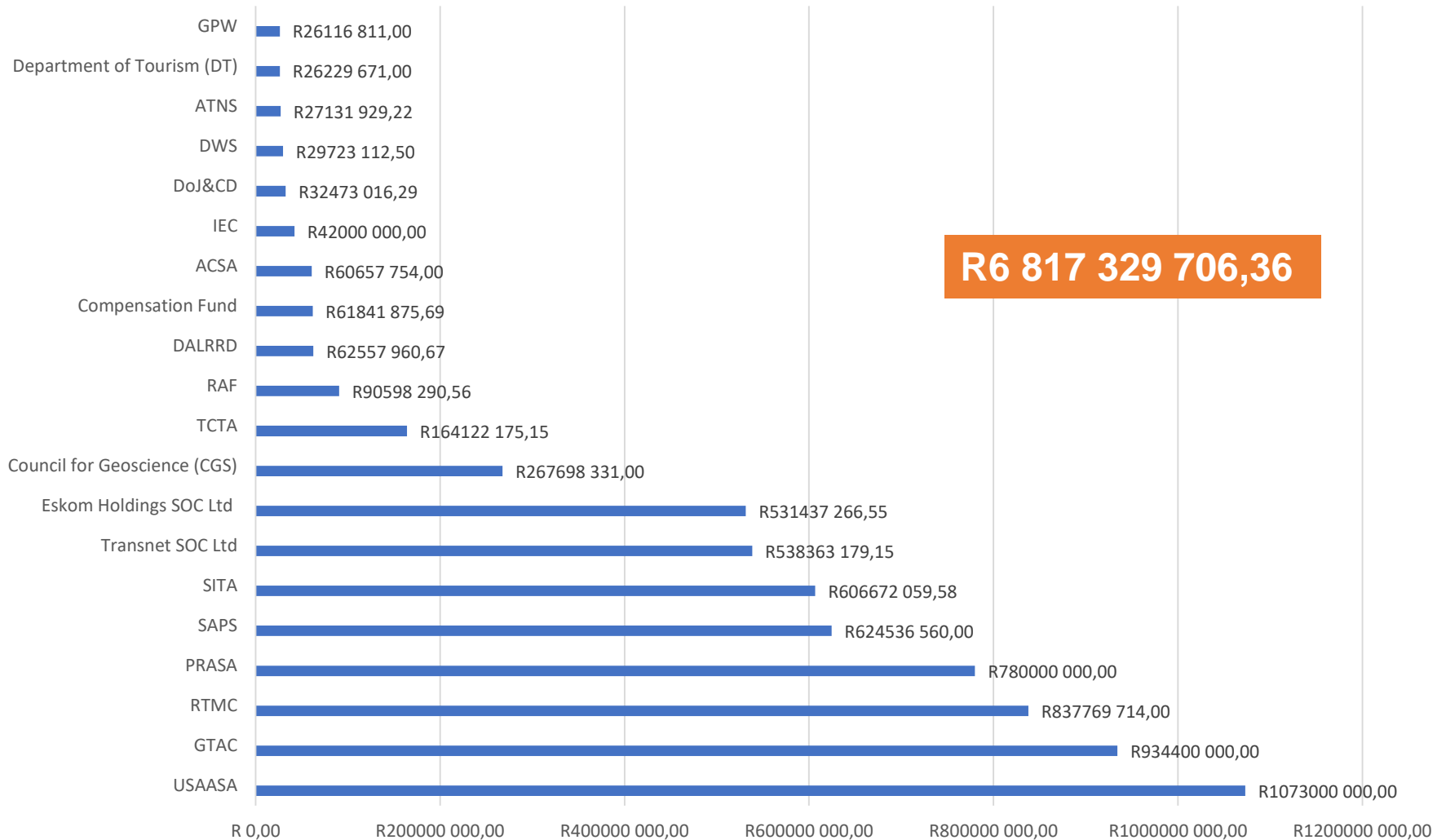


Number of Applications Summary



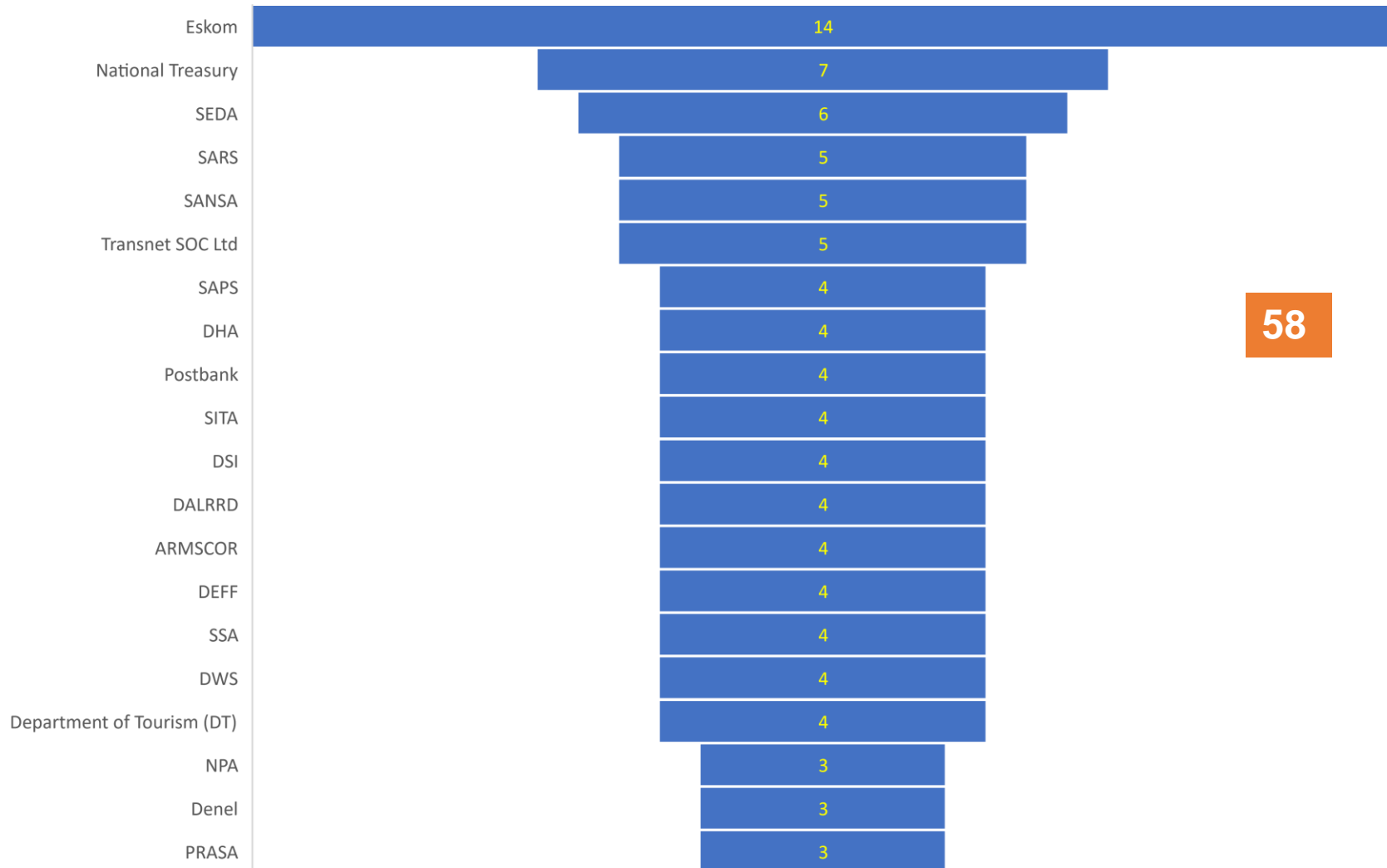
Q3 Top 20 DEVIATIONS APPLICATION IN VALUES

Q3 2021/2022_Dev_Top 20 Amount



Q3 Top 20 DEVIATIONS APPLICATION IN NUMBERS

Q3 2021/2022_Deviations_Top 20 Applications

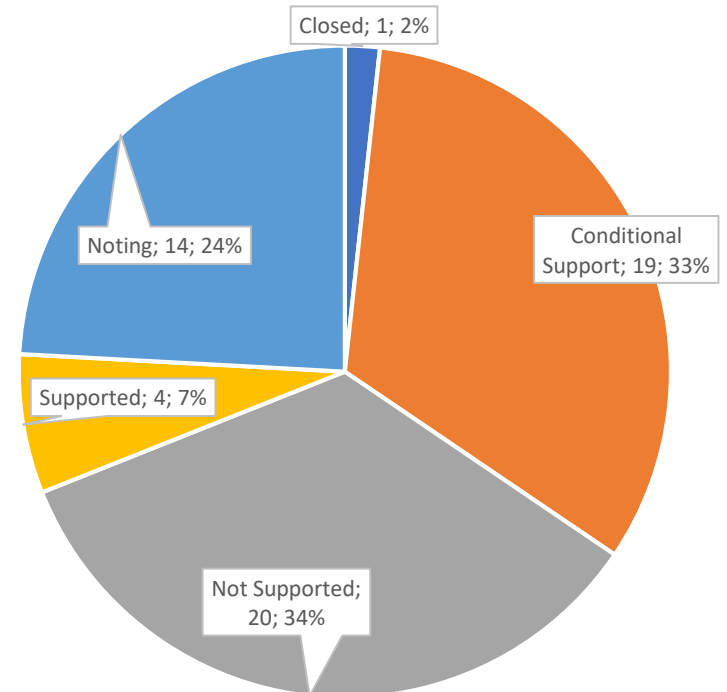
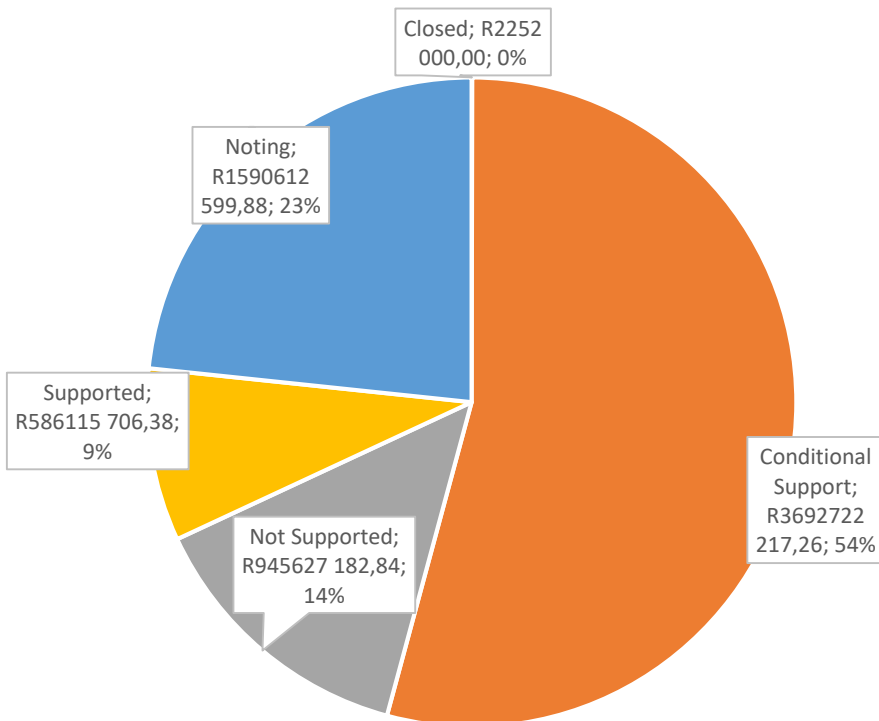


Q3 TOP 20 SUPPORTED / NOT SUPPORTED DEVIATIONS

	Closed	Conditional Support	Not Supported	Supported	Noting
Value @	R2 252 000,00	R3 692 722 217,26	R945 627 182,84	R586 115 706,38	R1 590 612 599,88
Count	1	19	20	4	14

Value supported / Not supported

Number supported / Not supported



■ Closed ■ Conditional Support ■ Not Supported ■ Supported ■ Noting

■ Closed ■ Conditional Support ■ Not Supported ■ Supported ■ Noting

Q3 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
Universal Service and Access Agency of South Africa (USAASA)			R1 073 000 000,00	1									R1 073 000 000,00	1
Government Technical Advisory Centre (GTAC)			R934 400 000,00	1									R934 400 000,00	1
Road Traffic Management Corporation (RTMC)							R837 769 714,00	1					R837 769 714,00	1
Passenger Rail Agency of South Africa (PRASA)			R300 000 000,00	1	R480 000 000,00	2							R780 000 000,00	3
South African Police Service (SAPS)			R600 000 000,00	1	R24 536 560,00	3							R624 536 560,00	4
State Information Technology Agency (SITA)			R516 709 412,05	3					R89 962 647,53	1			R606 672 059,58	4
Transnet SOC Ltd			R199 829 401,95	2	R0,00	1	R112 779 049,35	1	R225 754 727,85	1			R538 363 179,15	5
Eskom Holdings SOC Ltd			R20 667 947,77	6	R45 592 406,78	4	R465 176 912,00	4					R531 437 266,55	14
Council for Geoscience (CGS)									R267 698 331,00	1			R267 698 331,00	1
Trans-Caledon Tunnel Authority (TCTA)					R164 122 175,15	1							R164 122 175,15	1
Road Accident Fund (RAF)							R90 598 290,56	1					R90 598 290,56	1
Department of Agriculture, Land Reform and Rural Development (DALRRD)			R7 992 439,20	1			R54 565 521,47	3					R62 557 960,67	4
Compensation Fund					R61 841 875,69	1							R61 841 875,69	1
Airports Company South Africa (ACSA)					R60 657 754,00	1							R60 657 754,00	1
Electoral Commission (IEC) of South Africa					R42 000 000,00	1							R42 000 000,00	1
Department of Justice and Constitutional Development (DoJ&CD)			R23 473 016,29	1	R9 000 000,00	1							R32 473 016,29	2
Department of Water and Sanitation (DWS)							R29 723 112,50	4					R29 723 112,50	4
Air Traffic and Navigation Services (ATNS)					R27 131 929,22	2							R27 131 929,22	2
Department of Tourism (DT)	R2 252 000,00	1	R2 250 000,00	1	R21 727 671,00	2							R26 229 671,00	4
Government Printing Works (GPW)			R14 400 000,00	1	R9 016 811,00	1			R2 700 000,00	1			R26 116 811,00	3
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE)	R2 252 000,00	1	R3 692 722 217,26	19	R945 627 182,84	20	R1 590 612 599,88	14	R586 115 706,38	4	R0,00	0	R6 817 329 706,36	58
OTHER 82 GOVERNMENT INSTITUTIONS (IN VALUE)	R0,00	3	R118 978 249,46	57	R67 149 988,59	38	R47 768 941,37	22	R60 594 919,94	24	R0,00	0	R294 492 099,36	144
GRAND TOTAL 102 GOVERNMENT INSTITUTIONS APPLIED (IN V	R2 252 000,00	4	R3 811 700 466,72	76	R1 012 777 171,43	58	R1 638 381 541,25	36	R646 710 626,32	28	R0,00	0	R7 111 821 805,72	202

Contract Modifications



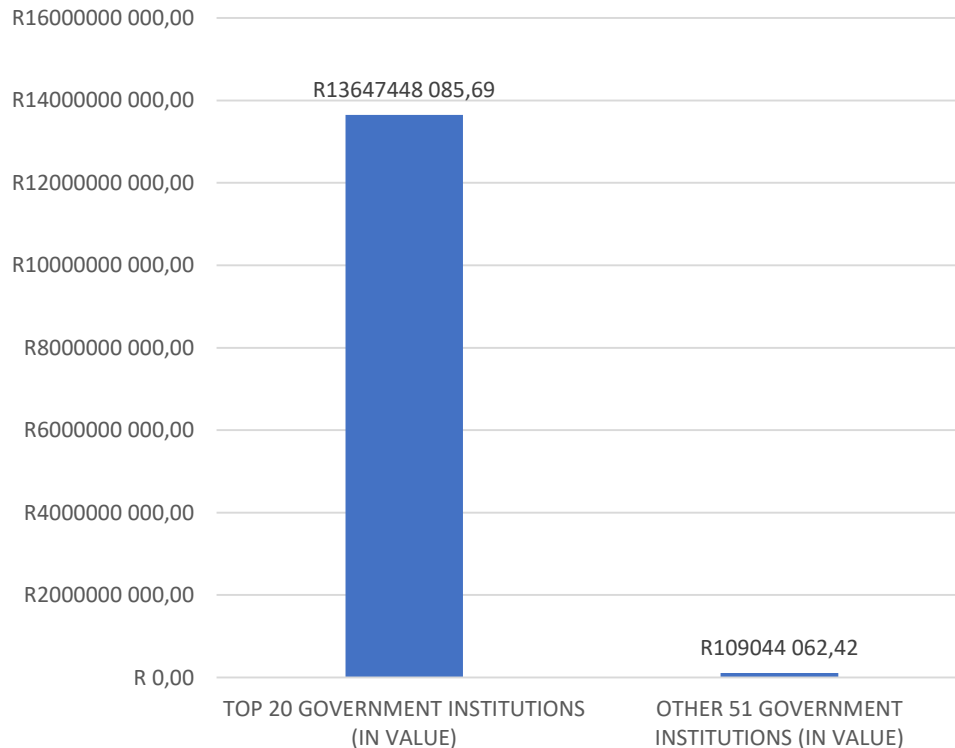
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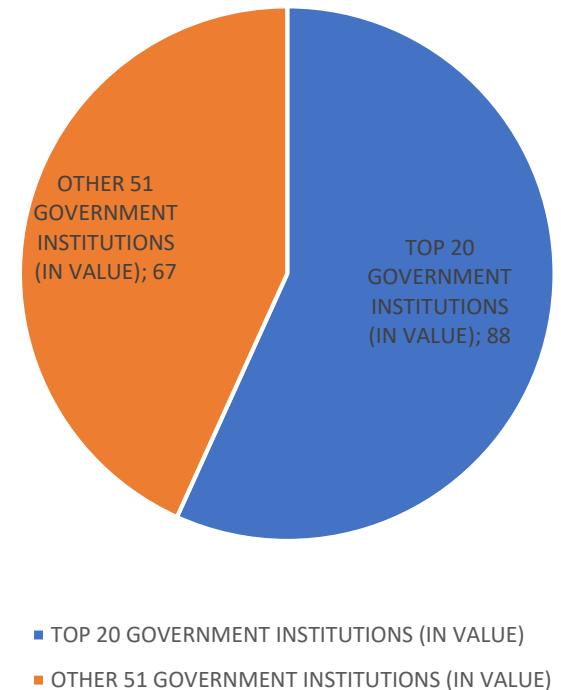
OVERVIEW: CONTRACT MODIFICATIONS – Q3

Government Institutions	Total Sum of Deviation	
	Value	Count
TOP 20 GOVERNMENT INSTITUTIONS (IN VALUE)	R13 647 448 085,69	88
OTHER 51 GOVERNMENT INSTITUTIONS (IN VALUE)	R109 044 062,42	67
GRAND TOTAL 71 GOVERNMENT INSTITUTIONS APPLIED (IN VALUE)	R13 756 492 148,11	155

Rand Value of Applications Summary

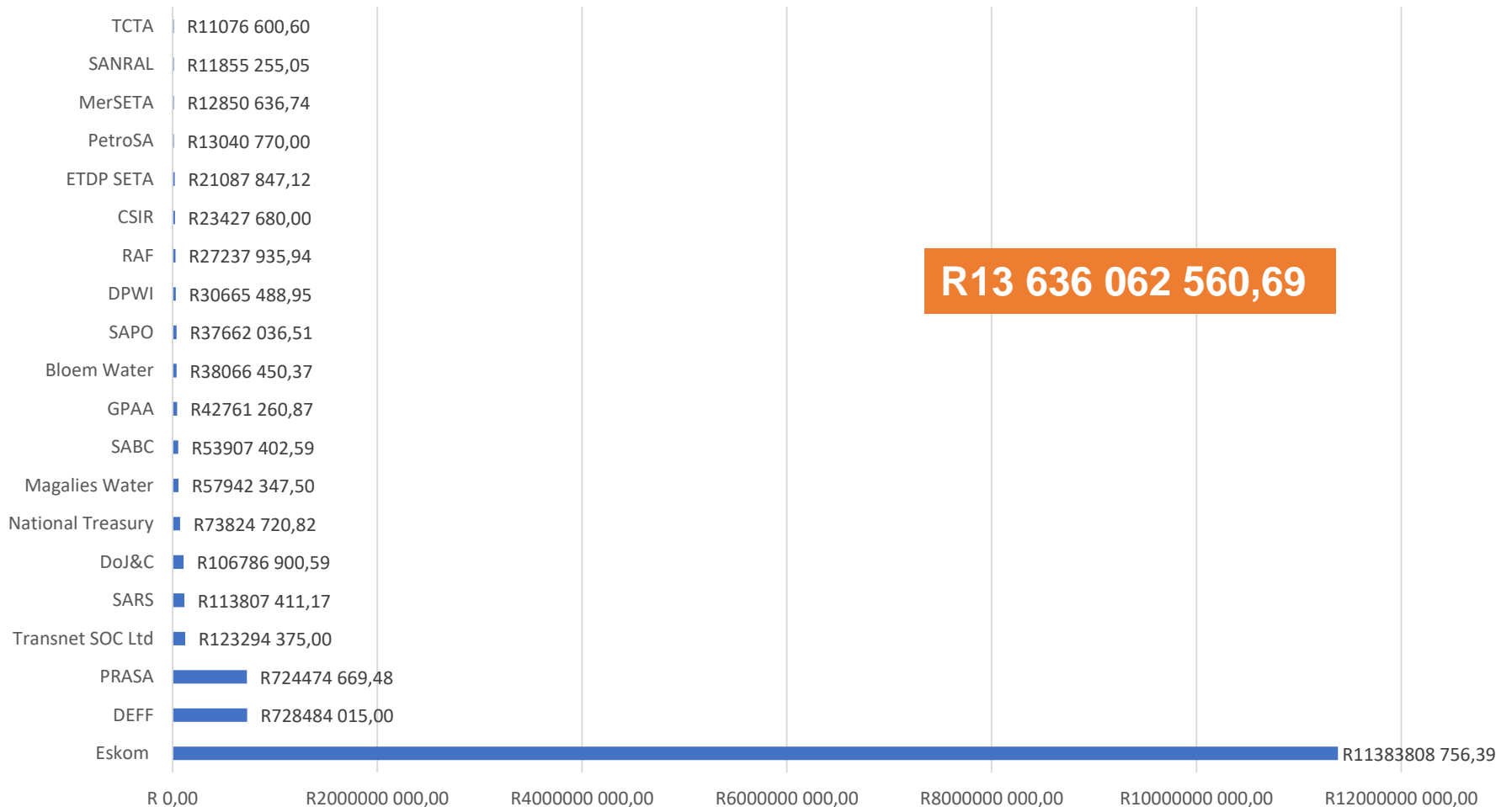


Number of Applications Summary



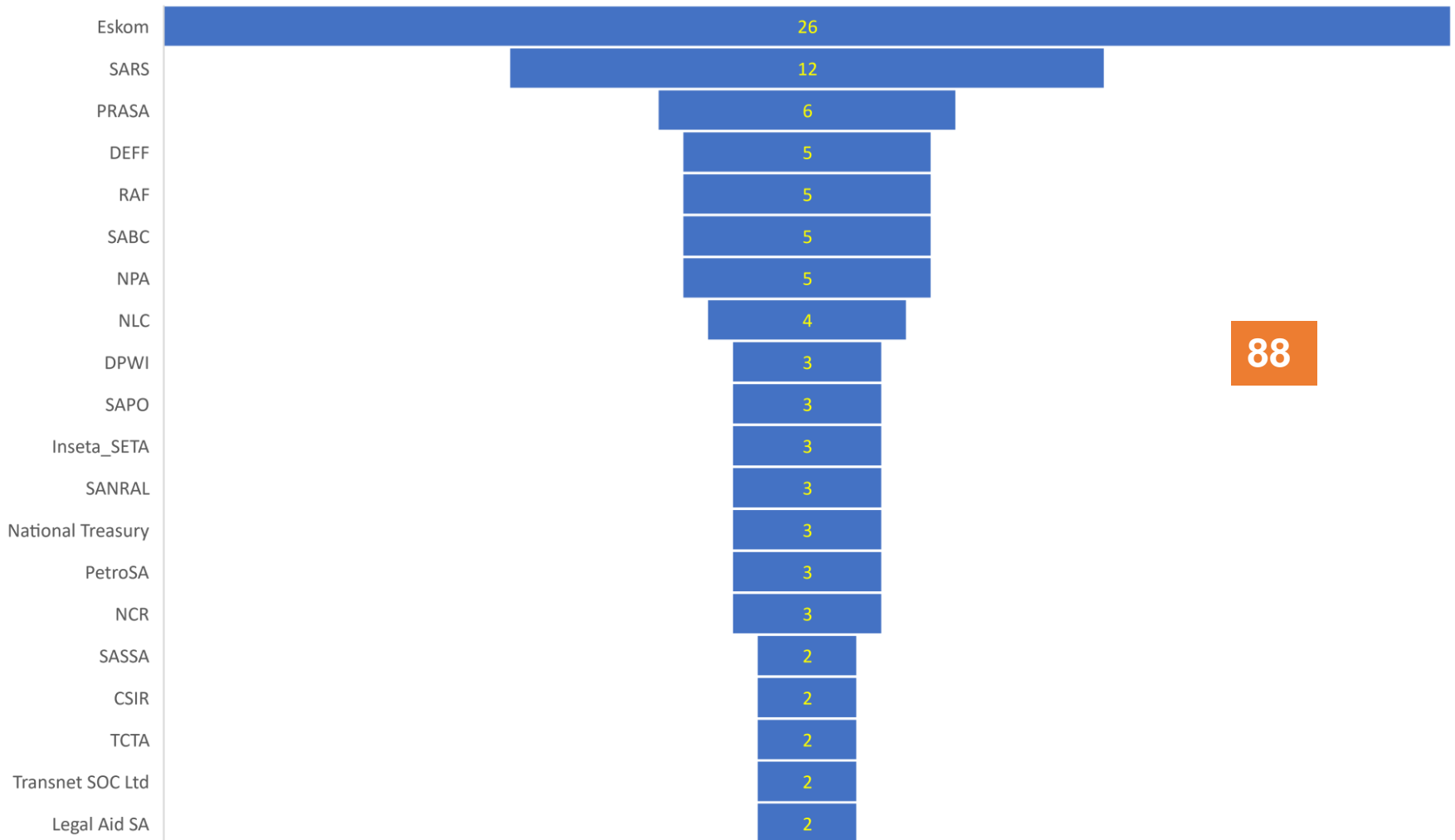
Q3 Top 20 CONTRACT MODIFICATIONS APPLICATION IN VALUES

Q3 2021/2022_Exp_Top 20 Amounts



Q3 Top 20 CONTRACT MODIFICATIONS APPLICATION IN NUMBERS

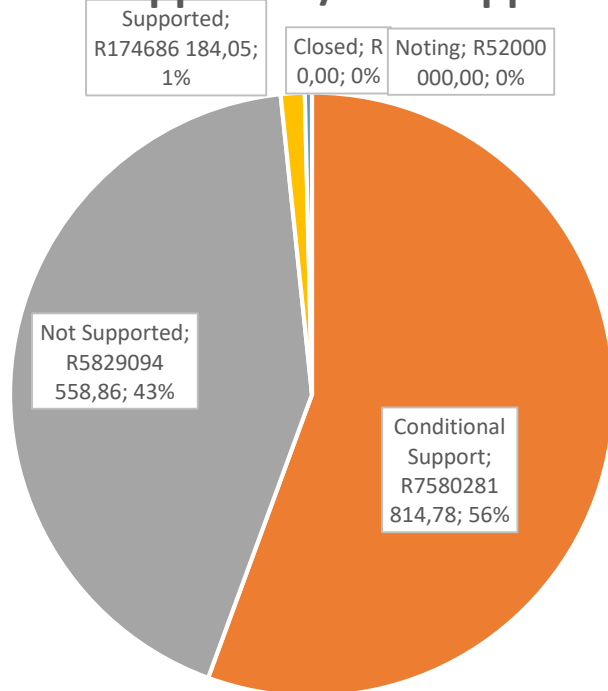
Q3 2021/2022_Expansions_Top 20 Applications



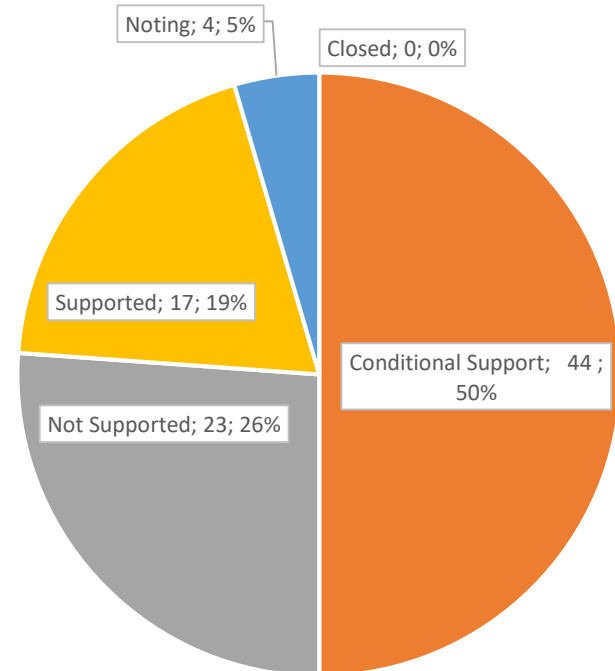
Q3 TOP 20 SUPPORTED / NOT SUPPORTED CONTRACT MODIFICATIONS

	Closed	Conditional Support	Not Supported	Supported	Noting
Value ®	R0,00	R7 580 281 814,78	R5 829 094 558,86	R174 686 184,05	R52 000 000,00
Count	0	44	23	17	4

Value supported / Not supported



Number supported / Not supported



■ Closed ■ Conditional Support ■ Not Supported ■ Supported ■ Noting

■ Closed ■ Conditional Support ■ Not Supported ■ Supported ■ Noting

Q3 Top 20 CONTRACT MODIFICATIONS - Status

Government Institutions	Closed		Conditional Support		Not Supported		Noting		Supported		Total Sum of Deviation	
	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count	Value	Count
Eskom			R6 523 328 748,01	19	R4 860 480 008,38	4	R0,00	3			R11 383 808 756,39	26
DEFF			R715 000 000,00	4	R13 484 015,00	1					R728 484 015,00	5
PRASA			R3 492 076,00	1	R720 982 593,48	5					R724 474 669,48	6
Transnet SOC Ltd			R123 294 375,00	2							R123 294 375,00	2
SARS			R79 036 207,90	7	R1 121 190,20	1			R33 650 013,07	4	R113 807 411,17	12
DoJ&C					R106 786 900,59	1					R106 786 900,59	1
National Treasury							R52 000 000,00	1	R21 824 720,82	2	R73 824 720,82	3
Magalies Water			R57 942 347,50	1							R57 942 347,50	1
SABC			R37 016 728,13	3	R15 320 119,23	1			R1 570 555,23	1	R53 907 402,59	5
GPAA					R7 129 923,81	1			R35 631 337,06	1	R42 761 260,87	2
Bloem Water					R38 066 450,37	1					R38 066 450,37	1
SAPO					R8 980 036,51	1			R28 682 000,00	2	R37 662 036,51	3
DPWI			R4 260 421,52	1					R26 405 064,43	2	R30 665 488,95	3
RAF			R4 746 463,00	3	R1 141 453,20	1			R21 350 019,74	1	R27 237 935,94	5
CSIR					R23 427 680,00	2					R23 427 680,00	2
ETDP SETA			R21 087 847,12	1							R21 087 847,12	1
PetroSA					R12 755 000,00	2			R285 770,00	1	R13 040 770,00	3
MerSETA					R10 565 490,54	1			R2 285 146,20	1	R12 850 636,74	2
SANRAL					R8 853 697,55	1			R3 001 557,50	2	R11 855 255,05	3
TCTA			R11 076 600,60	2							R11 076 600,60	2
TOP 20 GOVERNMENT INSTITUT	R0,00	0	R7 580 281 814,78	44	R5 829 094 558,86	23	R52 000 000,00	4	R174 686 184,05	17	R13 636 062 560,69	88
OTHER 51 GOVERNMENT INSTITU	R0,00	2	R40 047 886,25	26	R62 217 100,56	32	R0,00	0	-R3 968 705,88	16	R101 134 277,93	67
GRAND TOTAL 71 GOVERNMENT	R2 838 000,00	2	R7 620 329 701,03	70	R5 891 311 659,42	46	R52 000 000,00	4	R170 717 478,17	33	R13 737 196 838,62	155

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

Details of the largest deviations approved including the reasons for the deviations and the profiles of the companies that benefited from such deviations



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Companies that benefitted from deviations and expunions

- The analysis is being done based on the approved deviations
- The data will be presented when quarter four information is shared with the committee
- Delays for finalising the data was due to SITA being unavailable for interfacing

Progress report on the draft Public Procurement Bill.



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PUBLIC PROCUREMENT BILL

Status of the Draft public procurement bill

- *The draft Public Procurement Bill was gazetted for public comment in February 2020.*
- *The Bill proposes to create a single regulatory framework for public procurement which includes procurement of public private partnerships and infrastructure.*
- *Comments were considered and a revised draft Bill was prepared. The draft revised Bill is under consideration by the Minister of Finance.*
- *When approved, will be submitted to Nedlac for consultation and thereupon to Cabinet for approval to introduce the Bill in Parliament*

THANK YOU