



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

DHET RESPONSES TO PCHETI

2022/10/28

1. ETHICAL, INTEGRITY, FRAUD PREVENTION AND RISK MANAGEMENT PROCESSES

1. The Department of Higher Education and Training (DHET), same as any other government department has a legislative obligation to ensure that in the execution of its administrative functions there are no ethical doubts, integrity speculation, vacillation and recklessness in dealing with fraud reports. These considerations ensure that litigation against the State is minimized.
2. It is in this context that the Ministry has to date handled the NSF forensic report since its receipt from the investigators.
3. The report has been read, cross referenced, determination of official investigation made and external legal, law and order consultations done.
4. There is a sense of administrative satisfaction that these prudent considerations have been complied with in the sense that the DHET handled the forensic report digently to limit unintended fallouts and consequences.

2. LEGAL PROCESSES

1. The Ethics, Integrity, Fraud Prevention and Risk Management unit received the report in April 2022 and finalized its process in July 2022. These processes involved the cross referencing of the report with the internal audit report, the 2019/20 AG report and 2021/22 AG report.
2. The report was received by Legal and Legislative Service on 19 July 2022 (507pages).
3. During the period when the report was handled by Legal and Risk units they were working in alignment with the NSF in order to create synergy in the processes.
4. Due to the internal Legal capacity limitations took the decision to go the Supply Chain Management route to seek legal experts services that will assist in the implementation of the recommendations of the forensic report which include opening of criminal charges and also taking implicated staff members through disciplinary processes. SCM processes are not the quickest.
5. Paragraph 16A of the Treasury Regulations (PFMA) was invoked to permit the Accounting Officer or Accounting Authority to department, participate in any contract arrangement means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state and the relevant contractors.
6. Letters of request for extended participation were sent to other entities that fall under the Department to request access to their database.

2. LEGAL PROCESSES

6. The State Attorney has also appointed a team to assist DHET legal team.
7. 3 Briefing meetings (16/5/2022, 30/09/2022 and 19/10/2022) evidential documents were assessed, reconciled with the forensic report and cases opened with the SAPS (case number CAS48/10/2022), following which letters of suspension were distributed to the implicated staff members.
8. The convening of disciplinary proceedings is earmarked to begin in 60 days time within the prescribed period of suspension.
9. The independent panel State Attorney h assisted to identify legal capacity in the formulation of charges which range from negligence, dereliction of duty, failure to act in the interest of the department thereby allowing fruitless and wasteful expenditure (proper due diligence), failure to prevent acts of calculated misinformation intended to abet criminality and any other related offence. The independent panel has formulated

3. NSF INTERNAL PROCESS

1. On the legislative framework for the governance structure of the NSF: The Minister has received the report and is considering it. Indeed, this will require the amendment of the Skills Development Act sections 28 and 29. The implementation of the recommendations of the MTT report will consider the fit for purpose option for the NSF, noting that it is not unique in the NSF only, that a DG is also an Accounting Officer of an entity attached to a given State department.
2. On NSF due diligence processes: The NSF due diligence process produce a Technical and an Administrative report related to an SDP. It largely forms the basis on which a decision is made on an application for funding. Amongst other things, it determines the capacity levels an SDP displays to reasonably deliver the outcomes of a proposed project in terms of administrative ability, resource necessary and other considerations based on the nature of the project. On the downside of things this is a ripe area for acts of corruption were unscrupulous official may solicit bribes to sell a positive due diligence report. In the effort to rebuild the values of the NSF, a second layer of due diligence as a check and balance mechanism is necessary. Official operating at this level are usually SR 9 -10 officials to which processes of lifestyle audits need to be carried out periodically.

3. On SARS sensitization in respect of these flagged companies pertaining to tax offences: The currently unfolding internal process will pursue this advice.
4. On the criteria for the selection of the 10 project given to NEXUS: NSF will follow up within the Ministry because it was not involved in the sampling process.
5. On the provision of list of suspended officials, charges proffered and nature of suspension: 3 officials are based at the NSF (1) Director level (2) Senior Practitioner level and 2 officials based at EW TVET College. Precautionary suspensions with pay have been served.
6. On the implementation of NSF funding SOPs and Memorandum of Agreement drafting: The process for unsolicited proposal primarily involves the following steps: (1) application (2) application processing (3) due diligence (4) Funding Recommendation Committee (5) Funding Adjudication Committee (5) Director General approval (6) Ministerial approval (7) Contracting processes, registering and disbursement (8) Project monitoring, reporting and tranches (9) Annual Report. The NSF has an in-house legal unit headed by an Advocate who is responsible, amongst other things, for contracts management activities.

3. NSF INTERNAL PROCESSES

7. On project Management function of the NSF: there is general admission in the NSF that there must be more recruitment in this area, as is clear that it is lacking, the AGSA also raised this. It is the 4 year since the NSF established regional offices which to date have not yet been sufficiently capacitated. This will be a priority in the remaining vacancies to be filled by end of the current financial year of first quarter of 2023/24 FY.
8. On the cost for Special Investigative Unit, Directorate for Priority Crime Investigation, State Attorney: These costs once determined will be presented to the Committee.
9. On time frames of MTT Report and Forensic Investigation Implementation plans: Time lines will be attached on the comprehensive plan which will be submitted to the Committee.

3. NSF INTERNAL PROCESSES

10. The suspension of the implicated officials will to some degree affect certain functions in the NSF however, replacement officials within the DHET who are familiar with the skills development environment will be drawn in to assist without compromising the DHET activities (example DHET Finance unit PMU personnel).
11. On moving skills development project funding to TVET and SETAs: SETAs by their nature fund SDPs to promote skills development, this will be tantamount to decommissioning the NSF which will need legislation. The NSF may collaboratively work with SETAs to scale up/massify projects that are government driven. The SDPs as SMMEs will always have a role to play in the nation's skills development agenda, though only SDPs who have demonstrated professionalism may be used deployed from such database.
12. On AGSA strained relations with the NSF : At the completion of the 2021/22 audit the NSF held 17 sessions with the Auditor-General wherein all AGSA RFIs and COAFs were attended to. Further meeting were held with the Director-General to update him on challenges and progress on the audit.

3. NSF INTERNAL PROCESSES

13. Post audit activities have been undertaken by the NSF where an Audit debrief session involving all the NSF staff was held wherein challenges and successes of the 2021/22 audit process were discussed as well as expectations in preparation of the next findings. These preparations include business continuity and improvement plans per NSF unit which speak to the findings of the Auditor General and the revision of the Audit Action Plan.
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3. NSF INTERNAL PROCESSES

16. On the NSF Risk Register: A comprehensive risk register has been developed through the assistance of a competent service provider. NSF has its own Risk Register and Risk Committee now. Each NSF unit is expected to report progress and update the register on quarterly basis.
17. On the work of the NSF Internal Audit: The Audit Action Plan arose from the NSF business continuity and improvement workshop held in 14 September 2022 is being consolidated by the Internal Audit Unit and will be presented to the NSF Audit Committee for endorsement.
18. To further maintain the momentum created with the AGSA an Internal Audit driven Audit Steering Committee has been established where on monthly basis all the previous AG findings progress reports will be tabled.
19. Internal Audit is also assessing previous Audit Reports (2019/20 and 2020/21) to determine consequence management actions as contained in the Management Report.

3. NSF INTERNAL PROCESSES

20. On full details of all funded projects to date; The NSF will provide the Committee with this information. The request though is 30 days, noting the staff capacity at the NSF.
21. On the implementation plan of the MTT report as of 01/07/2022: The mention of the “low hanging fruits” relates to those this that can be achieved before a formal implementation plan is finalised. This relates to the go-ahead directive the Director-General has given with respect to the NSF addressing the rapid filling of vacancies in that it may proceed to make use its own processes in staff recruitment. This will also address the AGSA’s finding on NSF’s slow vacant posts fillings.

4. PRAYERS AND NOTES

1. Provide the Committee with the MTT Report Implementation Plan in a time to be determined by the Committee (Proposal is 30 days).
2. Internal Panel of Attorneys Plan to manage consequence management issues (Proposal 30 days).
3. Broadening of investigation to include other projects (A determination will be made subject to Ministerial engagement).
4. On quarterly engagements with the NSF (the proposal is noted and accepted).
5. Blacklisting of companies together with the associated directors noted and legal advice will be sought to give effect to the advice.

THANK YOU