



AUDITOR - GENERAL
SOUTH AFRICA



Report of the Auditor-General

of South Africa to Parliament on an
investigation at the Commission for
Gender Equality

October 2010

Published by authority

RP 268/2010

ISBN 978-0-621-39781-9



AUDITOR - GENERAL
SOUTH AFRICA

Report of the Auditor-General of South Africa to Parliament on an investigation at the Commission for Gender Equality

October 2010

CONTENTS

No.	Title	Page
1.	Executive summary	3
2.	Introduction	8
3.	Responsibilities of management and those charged with governance	9
4.	Scope of the assignment	10
5.	Purpose, objectives and approach of the investigation	11
6.	Regulatory framework	11
7.	Limitations of the report	12
	Detailed findings and recommendations	12
8.	Bank and cash management	12
9	Corporate credit accounts	15
10.	Expenditure management	16
11.	Supply chain management	18
12.	Claims and allowances	33
13.	Air travel, accommodation and car hire	35
14.	Human resources	41
15.	Other matters that came to our attention but were not investigated further	43
16.	Reports issued in respect of the operations of the Commission for Gender Equality	43
17.	Excerpt from the response from the management of the Commission for Gender Equality	44
18.	Appreciation	44

REPORT OF THE AUDITOR-GENERAL OF SOUTH AFRICA TO PARLIAMENT ON AN INVESTIGATION AT THE COMMISSION FOR GENDER EQUALITY

1. EXECUTIVE SUMMARY

1.1 Background

1.1.1 In a letter dated 5 March 2009, the former Deputy Speaker of Parliament requested a joint investigation by the Auditor-General of South Africa (AGSA) and the Public Protector (PP). The request was based on complaints and allegations of improper conduct at the Commission for Gender Equality (CGE). The AGSA reviewed the allegations, in consultation with the PP, and the allegations were considered with due regard to the respective mandates of the AGSA and the PP. In a meeting held on 26 March 2009 between the AGSA and the PP, consensus was reached that a joint investigation would not be performed but rather that the AGSA and the PP would conduct separate investigations which would cover distinct issues raised in the allegations. It was agreed that the AGSA and the PP would closely collaborate during the course of the respective investigations, assist each other where appropriate and endeavour to finalise their respective reports at approximately the same time.

1.1.2 A meeting was held on 4 June 2009 with the Speaker and Deputy Speaker of Parliament to discuss the proposed investigation and the AGSA received confirmation to continue with the investigation.

1.1.3 The scope of the AGSA investigation was based on the following allegations:

1.1.3.1 Deviations from laws and regulations

1.1.3.2 Irregularities in the call account of the CGE

1.1.3.3 Irregularities with claims and travelling of commissioners, deputy chairperson and the former chairperson

1.1.3.4 Irregularities with financial lease contracts

1.1.3.5 Fraudulent activities in the CGE payroll system

1.1.3.6 Unjustified refunds and/or back pay to CGE employees

1.1.4 This report accordingly provides the AGSA's conclusions on the allegations investigated.

1.1.5 In line with the Auditor-General's *Policy, standards and guidelines for investigations*, due care was taken to confirm the factual accuracy of the findings in this report. This included discussions with management and staff of the CGE as well as the plenary of the CGE. The former chairperson of the CGE was also given an opportunity to respond formally on specific findings.

1.1.6 In order to conduct the investigation as efficiently as possible, every reasonable attempt was made to avoid a duplication of work and costs by way of reflecting on other investigations, reviews or audits previously conducted to the extent that they were relevant to the allegations made.

1.2 Findings

- 1.2.1 The findings are predominately due to the non-adherence to the internal policies and procedures of the CGE, the Public Finance Management Act, 1999 (Act No. 29 of 1999) (PFMA), the Treasury Regulations (March 2005) (TR) and the practice notes (PN) issued by the National Treasury (NT). These deficiencies were further compounded by poor record management. These findings also point to inadequate planning, monitoring and oversight by the leadership of the CGE to ensure performance, compliance and ethical behaviour.
- 1.2.2 The deficiencies and irregularities identified during the investigation are further amplified by the fact that the leadership did not ensure that the necessary organisational structures were in place to ensure compliance and to prevent irregularities. The leadership did not ensure that a formal set of delegations was implemented and that a supply chain management (SCM) unit and formal bid committees were established to ensure a proper SCM system that is fair, equitable, transparent, competitive and cost-effective. Furthermore, the accounting officer was suspended in April 2008 and the chief financial officer (CFO) resigned in September 2007; since then, various acting accounting officers and CFOs were appointed which had an effect on the adequacy of financial management at the CGE.
- 1.2.3 Although investigations were previously conducted and reports issued to the leadership contained serious concerns similar to the findings in this report, they did not act on these issues timeously and decisively, as the corrective measures recommended in these reports were not implemented in most instances.
- 1.2.4 The findings of the investigation cover the 2007-08 and 2008-09 financial years unless indicated otherwise. The findings in this report are indicative of an environment at the CGE at the time, which presented a high risk and susceptibility to fraud. Due to the non-compliance with SCM policies and procedures, various instances of irregular expenditure were identified. These are set out in annexure A to the report.

1.2.4.1 Bank and cash management

- (a) The CGE did not comply with section 7(2) of the PFMA and TR 15.10.3.1, as 11 bank accounts, which included a call account, were opened without prior written approval of the NT and without following the prescribed tender procedures (par. 8.2.1.1).
- (b) Bank overdrafts were noted in all 10 cheque accounts of the CGE in contravention of section 66 of the PFMA (par. 8.2.1.6).
- (c) Transfers amounting to R250 026 made to and from the main bank account could not be verified (par. 8.2.1.7).
- (d) No formal set of delegations for the approval of payments was implemented at the CGE as required in terms of TR 15.12 and thus the accounting officer had to sign all the cheques and approve all the electronic payments. However, the AGSA identified

cheques amounting to approximately R7,6 million that were issued and processed on the bank statements without the approval of the accounting officer (par. 8.3.1.1).

- (e) The CGE made payments above R2 000 per cheque amounting to approximately R58,7 million, in contravention of TR 15.12, which provides that payments in excess of R2 000 must be effected electronically (par. 8.3.1.3).
- (f) Discrepancies amounting to approximately R80 846 were noted between the information stated in the cheque register, on the cheque stubs and on the original cheques processed by the bank, which included differences in the cheque amounts and beneficiaries on cheques (par. 8.3.1.5).

1.2.4.2 Corporate credit accounts

The CGE did not comply with the requirements set by the circular of the Department of State Expenditure (now the NT) and the resolution taken by the plenary of the CGE with regard to the opening and managing of the corporate credit cards of the CGE. As a result, the corporate credit cards were not utilised properly (par. 9.2).

1.2.4.3 Expenditure management

- (a) Payments amounting to approximately R19,8 million were made without the approval of the accounting officer, acting accounting officer or any other delegated official (par. 10.2.1(a)).
- (b) Payments amounting to approximately R1,5 million were not recommended by the CFO or acting CFO or any other delegated official. In the absence of a formal set of delegations, all expenditure had to be recommended by the CFO and approved by the accounting officer. However, payments amounting to approximately R36,2 million were recommended and/or approved by officials that did not have the delegation of authority to recommend and/or approve payments (par. 10.2.1(a - b)).
- (c) Payments amounting to approximately R8,9 million were made to service providers which included payments that were made without invoices and/or original supporting documentation and invoices that did not comply with legislative requirements (par. 10.2.2).
- (d) Payments amounting to approximately R7,2 million were made in respect of invoices that were not certified as correct that goods and/or services had been delivered satisfactorily (par. 10.2.3).
- (e) Invoices and contractual obligations to service providers amounting to approximately R4,7 million were not settled within the prescribed time as required in terms of section 38(1)(f) of the PFMA and TR 8.2.3, which resulted in service providers issuing letters of demand to the CGE (par. 10.2.3 & 10.2.4).

1.2.4.4 Supply chain management

The following findings relating to SCM are predominantly due to non-adherence to the CGE's principles, policies, rules and regulations (PPR & R), the PFMA, the TR and the PNs issued by the NT from time to time.

- (a) In contravention of PN No. 2 of 2005 and PN No. 8 of 2007-08, no list of prospective suppliers was compiled for the period under review and quotations were requested without consulting any list of approved or prospective suppliers (par. 11.4.1.1).
- (b) In contravention of TR 16A6.2, no formal bid committees were established for the compilation of bid specifications, evaluation of bids and adjudication of bids (par. 11.5.1).
- (c) In contravention of PN No. 2 of 2005 and PN No. 8 of 2007-08, the required number of quotations were not always requested and considered in the procurement of goods and/or services. Furthermore, competitive bids were not invited for the procurement of goods and/or services above the threshold values set by the NT. This resulted in irregular expenditure estimated at R23,4 million (par 11.6, 11.7, Annexure A).
- (d) In cases where the prescribed SCM processes were not followed, the deviations were not recorded and approved by the accounting officer as required in terms of PN No. 2 of 2005 and PN No. 8 of 2007-08 or reported to the NT and the AGSA as required in terms of PN No. 6 of 2007-08 (par. 11.6 & 11.7).
- (e) The CGE entered into a financial lease transaction amounting to R912 000 for the procurement of laptops in contravention of TR 13.2.5 (par. 11.7.1.4(f)).
- (f) Non-compliance with contract management principles resulted in invalid contracts being concluded, payments being made that exceeded the approved contract amounts, payments being made after contracts had already expired and payments being made whilst valid contracts were not in place (par. 11.8.1).
- (g) The AGSA identified 35 instances where the CGE made use of service providers on a recurring basis without entering into valid business agreements to regulate payments and goods and/or services to be delivered. Payments amounting to approximately R16,9 million were made to these service providers for the period under review (par. 11.8.1(e)).
- (h) A lack of monitoring and communication between the CGE and service providers during contract periods resulted in contract amounts and periods being exceeded, which had material financial implications for the CGE amounting to approximately R13,9 million for the period under review (par. 11.8.1).

1.2.4.5 Claims and allowances

- (a) Non-compliance with the PFMA, TR and PPR & R by the commissioners, the deputy chairperson and the former chairperson of the CGE relating to subsistence, travel and cellular phone claims was noted, which resulted in possible irregular payments amounting to approximately R2,9 million (par. 12.2.1).
- (b) No cellular phone policy was developed and implemented to regulate the use of cellular phones and cellular phone expenditure, which resulted in the former chairperson of the CGE incurring cellular phone expenditure amounting to R46 401 in March 2009 (par. 12.3.1).

1.2.4.6 Air travel, accommodation and car hire

- (a) Non-compliance with the PFMA, TR and PPR & R by the commissioners, the deputy chairperson and the former chairperson of the CGE relating to air travel, accommodation and car hire was noted, which resulted in possible irregular payments of approximately R5 million (par. 13.2.1).
- (b) Bookings and travel arrangements were made for the relatives of the former chairperson by the CGE. The CGE also subsequently paid for these trips which took place between July 2008 and February 2009. The CGE had not been reimbursed for these personal trips amounting to approximately R34 000 by July 2010 (par. 13.3.2.1).
- (c) The CGE paid an amount of R25 000 to the former chairperson for an upgrade of her air ticket from economy to business class when she travelled to Geneva in October 2008. However, the total costs for the upgrade amounted to R23 279 and the CGE had to be reimbursed for an amount of R1 721, which was still outstanding by July 2010 (par. 13.3.2.2).
- (c) The former chairperson travelled to New York in March 2009 to attend a conference for which she had indicated that she had secured funds for the trip from a sponsor. However, the CGE subsequently paid an amount of R220 414 for the trip. The CGE had not been reimbursed for this trip by either the entity that agreed to sponsor the trip or the former chairperson by July 2010 (par. 13.4.1).

1.2.4.7 Human resources

The CGE did not develop and implement an overtime policy as required in terms of the Public Service Regulations, 2001, part V, section D.5. This resulted in excessive overtime payments amounting to R622 881 and employees claiming overtime in excess of the prescribed hours in terms of the Basic Conditions of Employment Amendment Act, 2002 (par. 14.4.1).

1.3 Recommendations

- 1.3.1 The accounting officer and plenary of the CGE should compile and implement a proper corrective plan to:
- (a) address the irregularities identified, as well as the findings/issues raised in other reports, which highlighted non-compliance and inefficiencies at the CGE
 - (b) strengthen the effectiveness of the CGE by implementing internal control measures and strengthen leadership oversight to prevent similar irregularities in the future
 - (c) reform, develop and implement policies and practices in key areas in the CGE to ensure compliance with legislative requirements and to enhance the effectiveness of the CGE.
- 1.3.2 General and specific recommendations are made in the report to consider disciplinary actions against individuals still in the employment of the CGE, to address the deficiencies found and to obtain legal advice to proceed against individuals who are no longer employed at the CGE.
- 1.4 The management of the CGE in their response dated 11 June 2010 noted all the recommendations in the AGSA report and stated their intention to implement internal controls and management systems to ensure compliance with the applicable laws, regulations and the CGE policies. The CGE indicated that these recommendations have been included in the CGE's turnaround plan, which is envisaged to be implemented during the 2010-11 financial year.

2. INTRODUCTION

- 2.1 The functions of the AGSA in supporting constitutional democracy in South Africa are described in section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (Constitution) as well as the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA). Section 5(1)(d) of the PAA specifically gives the AGSA the authority to carry out an appropriate investigation if the AGSA considers it to be in the public interest or upon the receipt of a complaint or request. In this context, the AGSA investigates allegations in order to facilitate public accountability by reporting the findings emanating from the investigation to management and those charged with governance. Ultimately, the findings and recommendations in this report are intended to enable management and those charged with governance to implement measures that will ensure effective governance.
- 2.2 In a letter dated 5 March 2009, the former Deputy Speaker of Parliament requested a joint investigation by the AGSA and the PP. The request was based on complaints and allegations of improper conduct at the CGE.
- 2.3 The AGSA reviewed the allegations, in consultation with the PP, and the allegations were considered with due regard to the respective mandates of the AGSA and the PP. In a meeting held on 26 March 2009 between the AGSA and the PP, consensus was reached that a joint

investigation would not be performed but rather that the AGSA and the PP would conduct separate investigations, which would cover distinct issues raised in the allegations. It was agreed that the AGSA and the PP would closely collaborate during the course of the respective investigations, assist each other where appropriate and endeavour to finalise their respective reports at approximately the same time.

2.4 A meeting was held on 4 June 2009 between the Auditor-General, the Deputy Auditor-General and one of the corporate executives of the AGSA with the Speaker and the Deputy Speaker of Parliament to discuss the proposed investigation and the AGSA received confirmation to continue with the investigation.

3. RESPONSIBILITIES OF MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE

3.1 The primary responsibility for the prevention and detection of fraud and error rests with the management of the entity and those charged with its governance. Management needs to set the proper tone as well as create and maintain a culture of honesty and a high standard of professional ethics. Furthermore, management must establish a control environment and maintain policies and procedures to assist in achieving the objective of ensuring the orderly and efficient conduct of the entity's business.

3.2 On the other hand, those charged with the governance of an entity must ensure, through the oversight of management, the integrity of an entity's accounting and financial reporting system and that appropriate controls are in place, including those for monitoring risk, financial control and compliance with the law.

3.3 The CGE is a constitutional institution established in terms of section 181(d) read with section 187 of the Constitution and the Commission for Gender Equality Act, 1996 (Act No. 39 of 1996) (CGE Act).

3.4 The powers and functions of the CGE include the following:

- Monitoring and evaluating the policies and practices of government, the private sector and other organisations to ensure that they promote and protect gender equality
- Public education and information
- Reviewing existing and upcoming legislation from a gender perspective
- Investigating inequality
- Commissioning research and making recommendations to Parliament or other authorities
- Investigating complaints on any gender-related issues
- Monitoring and reporting on compliance with international conventions

3.5 The CGE consists of a chairperson and commissioners who are responsible for performing the functions in terms of the CGE Act. The CGE Act further provides for the appointment of a chief executive officer (CEO) and staff to assist the CGE in the performance of its financial, administrative and clerical functions. In terms of the CGE Act and the PFMA, the CEO is the accounting officer of the CGE and the head of the secretariat; is responsible for the management,

administration (day-to-day operations) and accounting of money received and paid on behalf of the CGE; and is accountable to the CGE and Parliament. The plenary of the CGE consists of the chairperson, deputy chairperson and all the commissioners of the CGE as well as the executive management. The plenary is responsible for the strategic management of the CGE.

3.6 Since the establishment of the CGE, the CGE's administration, powers and functions in terms of the CGE Act were entrusted to the Minister of Justice and Constitutional Development. The CGE's budget was allocated through the budget vote of the Department of Justice and Constitutional Development (DoJ & CD) and in terms of the Appropriation Bill, the DoJ & CD was responsible for transferring the budget of the CGE annually by effecting monthly transfer payments to the CGE.

3.7 In a Presidential Proclamation (No. 44) in July 2009, the CGE's administration, powers and functions in terms of the CGE Act were entrusted in terms of section 97 of the Constitution to a new department, namely the Department of Women, Children and Persons with Disabilities with effect from 1 July 2009. A handover report was prepared by the Minister of Justice and Constitutional Development and forwarded to the Minister of the Department of Women, Children and Persons with Disabilities on 2 September 2009.

4. SCOPE OF INVESTIGATION

4.1 The scope of the AGSA investigation was based on the following allegations:

4.1.1 Deviations from laws and regulations

4.1.2 Irregularities in the call account of the CGE

4.1.3 Irregularities with claims and travelling of commissioners, deputy chairperson and the former chairperson

4.1.4 Irregularities with financial lease contracts

4.1.5 Fraudulent activities in the CGE payroll system

4.1.6 Unjustified refunds and/or back pay to CGE employees.

4.2 The investigation focused on the 2007-08 and 2008-09 financial years, unless indicated otherwise. The conclusions are based on the facts established from documentation provided and/or information obtained during the course of the investigation.

4.3 Some documentation and/or information requested during the investigation, such as payment records, bank statements and credit card statements, could not be provided due to deficient record keeping by the CGE. The deficient record keeping also resulted in the AGSA issuing disclaimers of opinion for the 2007-08 and 2008-09 financial years and a qualified opinion for the 2009-10 financial year. Where possible, alternative procedures were performed to obtain the necessary information. Furthermore, the CGE did not keep backups of the data on the computer systems (VIP and Pastel) and only limited information from the systems was available. This resulted in delays in the investigation process and had a material impact on the costs of the investigation.

5. PURPOSE, OBJECTIVES AND APPROACH OF THE INVESTIGATION

- 5.1 The purpose of the investigation was to verify and pronounce on the veracity of the allegations made and to inform the relevant stakeholders of the outcome. The report with the findings and recommendations is aimed at enabling the management and the plenary of the CGE to implement measures to strengthen governance and prevent further occurrences of irregular, fruitless and wasteful expenditure.
- 5.2 The investigation was performed in terms of the AGSA's *Policy, standards and guidelines for investigations* and commenced on 1 May 2009. The investigation was delayed due to a lack of documentation and/or information and the availability of staff to assist the investigation team. In addition, there were various changes in the management structure of the CGE during the course of the investigation.
- 5.3 The investigation covered the period during which the suspended accounting officer was actively involved in the operations of the CGE (1 April 2007 to 21 April 2008). Different acting accounting officers were appointed to fulfil the duties and take responsibility for the accounting officer's portfolio during the period under review.
- 5.4 The procedures performed were based on documentation provided and/or information obtained during meetings and interviews. Conclusions were based on facts that were supported by documents and/or information made available to and obtained by the AGSA up to 30 June 2010.
- 5.5 A management report on the outcome of the investigation was issued to the management of the CGE on 21 April 2010 for comments and/or inputs. A copy of the report was also issued to the plenary of the CGE for comments and/or inputs on 12 May 2010. The specific findings in the report that related to the former chairperson of the CGE were discussed and provided to her on 4 June 2010 for comments and/or inputs. A final response was received from the CGE management and the commissioners on 11 June 2010 and from the former chairperson on 30 June 2010. The responses of these role players are included in the report where applicable.

6. REGULATORY FRAMEWORK

The following prescripts were utilised as references in performing the investigation:

- Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
- Commission for Gender Equality Act, 1996 (Act No. 39 of 1996)
- Public Finance Management Act, 1999 (Act No. 29 of 1999)
- Treasury Regulations for departments, trading entities, constitutional institutions and public entities issued in terms of the PFMA, March 2005
- Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) (PPPF Act) and its associated regulations
- Supply chain management: A guide for accounting officers/authorities, February 2004 (SCM guide)

- SCM practice notes issued by the NT
- Public Service Regulations, 2001 (PSR)
- CGE's principles, policies, rules and regulations effective from 1 August 2006
- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) (BCE Act)
- Basic Conditions of Employment Amendment Act, 2002 (BCE Amendment Act).

7. LIMITATIONS OF THE REPORT

- 7.1 Although the work performed incorporates our understanding of the relevant prescripts and the law as it stands, we do not express an opinion on the legal effect of the facts or the guilt or innocence of any person(s) or party, but merely state the facts as they have come to our attention. In case of disciplinary hearings or civil and criminal litigation, this report may only be used as a reference document.
- 7.2 The report is based on the facts established from documentation and/or information provided and/or obtained during the course of the investigation. Should any further documentation and/or information be obtained, it may influence the findings and conclusions made.
- 7.3 The validity or authenticity of the relevant records and information subjected to analysis was not verified. This information was accepted at face value unless stated otherwise.
- 7.4 The procedures applied were designed to enable the identification of irregular and unlawful acts, but the AGSA cannot provide assurance that the procedures applied have detected all such acts, if any.

DETAILED FINDINGS AND RECOMMENDATIONS

8. BANK AND CASH MANAGEMENT

8.1 Context

The following allegations made in respect of the bank and cash management system of the CGE were probed during the investigation:

- 8.1.1 The CGE has 11 different bank accounts. These accounts were allegedly opened without the approval of the NT as required in terms of the TR and were operational.
- 8.1.2 The call account of the CGE had a balance of R7 million at the beginning of the 2008-09 financial year and only R2,5 million could be traced as having been transferred to the CGE's main account.
- 8.1.3 The CGE has unauthorised overdrafts on its bank accounts in contravention of the TR.
- 8.1.4 Debts in excess of R2 000 were consistently settled via cheques and not electronically in contravention of the TR.

8.2 Bank accounts and call account

8.2.1 Findings

- 8.2.1.1 The AGSA established that the CGE had 10 business cheque accounts and a call account held with a banking institution (the bank). The NT confirmed on 12 June 2009 that no approvals were granted to the CGE for the opening of these bank accounts. The CGE confirmed on 3 July 2010 that no approval was obtained from the NT for the opening of the bank accounts and that no tender process was followed as required in terms of section 7(2) of the PFMA and the PPR & R, annexure K, section 27.
- 8.2.1.2 In terms of the PPR & R, annexure K, section 27, banking services procured may not be for a period of more than five years. Bank confirmations received from the bank on 20 and 23 November 2009 indicated that the CGE had 11 bank accounts and that all of these accounts were still active. All the bank accounts have been active for a period longer than the prescribed five-year period in contravention of the PPR & R.
- 8.2.1.3 In January 2009, the CGE closed the nine provincial business cheque accounts and applied to the NT in a letter dated 20 March 2009, for approval to open nine petty cash accounts for the provincial CGE offices and one account for the national CGE office. Approval was granted on 25 May 2009 by the NT to open the requested accounts subject to the conditions as set out in Accountant-General PN No. 22 of 2001. The bank confirmed on 24 November 2009 that they received an instruction on 1 July 2009 to open petty cash accounts for each provincial office of the CGE, but that these accounts are currently dormant and had only attracted bank charges from the time they were opened. The CGE in their response dated 11 June 2010 indicated that the provincial accounts are now operational but evidence to substantiate the response was not provided to the AGSA.
- 8.2.1.4 The call account was opened on 31 March 1998. The AGSA could not establish the purpose of opening the call account from the bank or the CGE management. However, according to another investigation report, the former CFO indicated that the call account was opened by the former accounting officer to obtain a higher rate of interest for the money of the CGE.
- 8.2.1.5 All the bank statements of the call account from inception were requested from the CGE. However, the CGE only submitted statements from 31 August 1998 with the statement of 31 August 1998 having an opening balance of R425 182. The AGSA could not confirm any amounts in the call account for the period 1 April 1998 to 31 July 1998. All the statements submitted for the call account from 1 August 1998 to 30 September 2009 were reviewed. Except for the non-compliance with the PFMA and TR during the opening of the call account, no discrepancies were found by the AGSA in the call account and all the transfers made from and to the account from 1 August 1998 to 30 September 2009 could be verified. Therefore, the allegation of irregularities in the call account was found to be unsubstantiated.

8.2.1.6 During the review of the bank statements of the 10 business cheque accounts, it was noted that all the accounts had debit balances (i.e. bank overdrafts) at some stage during the period under review. No approval for the temporary bank overdrafts by the Minister of Finance as required in terms of section 66 of the PFMA could be submitted. Furthermore, the bank confirmation received on 23 November 2009 indicated that no overdraft facilities were granted on any of these accounts.

8.2.1.7 All the transfers that were made to and from the main bank account were followed through to the transferring or receiving bank account. Transfers totalling R250 027 to and from the main account could not be verified as transfers to or from the CGE provincial accounts.

8.2.2 Recommendations

8.2.2.1 The CGE should ensure compliance with the relevant laws, regulations and PPR & R in the opening and managing of the bank accounts of the CGE.

8.2.2.2 The CGE should ensure that it manages the bank accounts and expenditure effectively to prevent accounts from going into debit balances.

8.2.2.3 The CGE should further address the transfers made which could not be verified by the AGSA in order to hold officials accountable.

8.3 Cheques and electronic payments

8.3.1 Findings

8.3.1.1 In terms of TR 15.12, the accounting officer must assign authority in writing to officials to approve warrant vouchers, cheques or electronic payments. The CGE confirmed on 30 October 2009 that no formal set of delegations was implemented in the CGE and therefore the accounting officer had to sign all the cheques drawn on the accounts of the CGE and approve all the electronic fund transfers (EFTs). Of the 1 456 cheques drawn for amounts above R2 000 and processed on the main bank account, 127 cheques amounting to R7 649 335 were issued and processed on the bank statements without the accounting officer's signature.

8.3.1.2 The AGSA identified four cases amounting to R39 227 where cheques were processed on the main bank account, although the cheques were not countersigned by the authorised signatories.

8.3.1.3 The review of the main and provincial bank account statements and the cheque stubs indicated that 3 659 cheques were made out during the period under review, of which 1 715 amounting to R58 679 312 were above R2 000. These cheques were issued in contravention of TR 15.12, which states that all payments above R2 000 must be effected electronically.

8.3.1.4 The CGE entered into an electronic services agreement with the bank on 19 January 2009 and since then payments above R2 000 have been effected via EFT and cheques are only issued in exceptional cases.

8.3.1.5 Various discrepancies amounting to approximately R80 846 were identified during the review of the cheque register, cheque stubs and original cheques processed by the bank. These discrepancies included that amounts on the original cheques, cheque stubs and the cheque register differed from amounts on the bank statements. Furthermore, cheques amounting to R15 098 that were cancelled on the cheque stubs and/or in the cheque register were processed by the bank and reflected on the bank statements. Scrutiny of cheques also indicated that payments amounting to R172 487 were made to signatories of the cheques.

8.3.2 Recommendations

8.3.2.1 The CGE should establish a proper delegation of authority framework, including assigning authority to officials to approve warrant vouchers, cheques and electronic payments.

8.3.2.2 Internal controls should be implemented to ensure that only authorised signatories sign cheques.

8.3.2.3 The bank should be informed timeously of any changes in the status of signatories.

8.3.2.4 The discrepancies identified between the cheque register, cheque stubs and original cheques should be addressed by the CGE to ensure that the discrepancies identified do not relate to fraudulent activities and to hold officials accountable.

8.3.2.5 Internal controls should include segregation of duties in approving EFT payments and signing of cheques to prevent officials from approving EFT payments to themselves and/or signing cheques for which they are the beneficiaries.

9. CORPORATE CREDIT ACCOUNTS

9.1 Context

The allegation that bank accounts were opened without the approval of the NT was discussed with the CGE management during the investigation and it was established that the CGE had three credit accounts with a banking institution.

9.2 Findings

9.2.1 According to a circular dated 29 October 1999 from the Department of State Expenditure (now the NT), institutions may implement corporate credit card schemes in line with guidelines set by the circular. The circular provides for institutions to implement a credit card scheme for official transport, accommodation and subsistence after following the normal tender procedures. The circular also provides that the accounting officer must notify the card issuing

company of any changes in the status of individuals utilising the corporate credit cards. The CGE did not comply with the requirements of the circular and the resolutions taken during a plenary meeting of 27-28 September 2005 in view of the following:

- 9.2.1.1 The chairperson of the CGE at that time and the former accounting officer nominated themselves to be issued with credit cards with a credit limit of R25 000 each, which was not approved by the plenary.
- 9.2.1.2 The normal tender process was not complied with in arranging the corporate credit card scheme. Furthermore, the credit cards were not allocated to the travel agent used by the CGE as resolved during the plenary meeting and as required by the circular.
- 9.2.1.3 The credit card statements indicate that credit cards were used for purposes that did not relate to official transport, accommodation and subsistence.
- 9.2.1.4 Although the cards were not used after the departure of the card holders, the CGE did not notify the bank that both the credit card holders were no longer in the service of the CGE and that the credit cards should be cancelled and the credit card accounts closed. The CGE in their response dated 11 June 2010 indicated that both credit card accounts have subsequently been closed, but no evidence to substantiate this response was provided to the AGSA.
- 9.2.1.5 According to the circular, institutions should implement the necessary internal procedures to ensure that proper authorisation takes place and credit cards are utilised in line with the circular. No internal policy was developed, approved and implemented to regulate the use of the credit cards and no supporting documentation was submitted to the finance administration department to verify the transactions processed on the respective credit accounts.

9.3 Recommendations

- 9.3.1 Should the CGE decide to implement a new corporate credit card scheme for official transport, accommodation and subsistence, it must comply with all the requirements of the NT circular and develop and implement an internal policy to regulate the use of the credit cards.
- 9.3.2 The CGE should undertake a complete review of all the expenditure on the credit card statements that is not in line with the prevailing prescripts and recover the expenditure from the relevant parties.

10. EXPENDITURE MANAGEMENT

10.1 Context

The following allegations made in respect of the expenditure management system of the CGE were probed during the investigation:

- 10.1.1 The CGE had a lack of financial controls as management information and records were not kept as required by the PFMA and TR.
- 10.1.2 Payments were approved and effected on faxed or copied invoices exposing the CGE to possible double payments.
- 10.1.3 The CGE had to pay interest on monies owing to service providers due to obligations not being settled within the prescribed or agreed period.
- 10.1.4 The CGE officials in the finance administration department had no accounting or financial qualifications, resulting in officials not being able to perform the required functions as stipulated in the TR and PFMA. Furthermore, there was no evidence that any training had been provided to officials to perform their functions effectively.
- 10.1.5 CGE officials negligently or wilfully ignored due processes as prescribed by the PFMA and PPR & R and as such exposed the CGE to possible financial losses.

10.2 Findings

- 10.2.1 The CGE confirmed on 30 October 2009 that no formal set of delegations was implemented in the CGE as required in terms of section 44 of the PFMA; therefore, the accounting officer had to approve all the payments. During the review of the cheques, cheque requisitions and supporting documentation for payments above R2 000 via cheque, the following were found:
- (a) Payments amounting to R19 866 109 relating to expenses (such as claims and creditors) were not approved by the accounting officer or acting accounting officer or any other official, while payments amounting to R3 315 365 were approved by officials who did not have the delegation of authority to approve the payments.
 - (b) Payments amounting to R1 489 529 relating to expenses (such as claims and creditors) were not recommended by the CFO or acting CFO or any other official, while payments amounting to R32 963 836 were recommended by officials that did not have the delegation of authority to recommend the payments.
- 10.2.2 In terms of section 45 of the PFMA, officials in a constitutional institution must ensure that the system of financial management and internal control is implemented within the area of responsibility of that official. During the review of the cheques, cheque requisitions and supporting documentation for payments above R2 000 via cheque, the following were found:
- (a) Payments amounting to R1 193 034 were made without an invoice and/or supporting documentation.
 - (b) Payments amounting to R6 647 372 were not made on original invoices and/or supporting documentation.
 - (c) Payments amounting to R366 046 were made on quotations.

- (d) Payments amounting to R392 482 were made on handwritten invoices, which did not contain the business detail of service providers.
- (e) In one case amounting to R19 999, an order was issued to a supplier for the purchase of a laptop for the deputy chairperson, but the invoice was from another supplier and the amount differed from the amount on the order.
- (f) Payments amounting to R239 669 were made on invoices, which did not comply with legislative requirements.

10.2.3 During the review of a sample of 58 invoices, it was found that 31 invoices amounting to R7 184 763 were paid without being certified or signed off as correct and that goods and/or services were delivered satisfactorily. Furthermore, 23 invoices in the sample amounting to R4 708 221 were not paid within 30 days after receipt of the invoice as required in terms of TR 8.2.3.

10.2.4 Contractual obligations amounting to approximately R26 870 to service providers were not settled as per contracts and/or agreements as required in terms of section 38(1)(f) of the PFMA, resulting in service providers issuing letters of demand to the CGE.

10.3 Recommendations

10.3.1 Delegations of authority should be compiled, approved and implemented for the management of expenditure with specific reference to the threshold values for each category of expenditure.

10.3.2 A proper system of segregation of duties should be implemented for the recommendation and/or approval of EFT payment requisitions and cheque requisitions.

10.3.3 The CGE should develop and implement an effective financial management system with built-in internal controls to ensure that the basic principles of the expenditure management cycle are complied with in effecting payments. Payments should only be made on original invoices with supporting documentation and on invoices that comply with legislative requirements.

10.3.4 The CGE should implement management measures to ensure that no payments are made to service providers before the invoices are signed off by a delegated official to indicate that goods and/or services were delivered satisfactorily.

10.3.5 The CGE should settle all invoices and/or contractual obligations within the prescribed or agreed period as required in terms of section 38(1)(f) of the PFMA and TR 8.2.3.

11. SUPPLY CHAIN MANAGEMENT

11.1 Context

The following allegations made in respect of the SCM system of the CGE were probed during the investigation:

- 11.1.1 No SCM unit was established as required in terms of the TR.
- 11.1.2 Irregularities in the SCM system where prescribed SCM processes were not always followed in the procurement of goods and/or services. The procurement process was not always competitive and transparent.
- 11.1.3 CGE officials negligently or wilfully ignored due processes and procurement procedures as prescribed by the PFMA and PPR & R and as such exposed the CGE to possible financial losses.
- 11.1.4 Various service providers were paid on contracts well past their expiry dates and on contracts that were invalid.

11.2 Development and implementation of a supply chain management policy

11.2.1 Findings

TR 16A.6(a) states that an accounting officer of an institution to which these regulations apply must develop and implement an effective and efficient SCM system in his/her institution for the acquisition of goods and services. No approved version of the PPR & R could be submitted to the AGSA on request. Furthermore, the PPR & R was not annually reviewed, resulting in the 'draft' policy not being in line with the relevant SCM prescripts.

11.2.2 Recommendations

- 11.2.2.1 The PPR & R should be updated in line with the provisions of the TR and relevant PNs issued by the NT as and when these prescripts are amended to ensure that there are no contradictions between the SCM prescripts of the NT and the PPR & R.
- 11.2.2.2 The updated PPR & R should be approved after a proper consultation process and distributed to the relevant CGE officials for implementation and compliance.

11.3 Establishment of a supply chain management system and unit

11.3.1 Finding

The CGE confirmed on 30 October 2009 that no SCM unit was established as required in terms of TR 16A.4 and that the finance administration department within the CGE was responsible for procuring goods and/or services.

11.3.2 Recommendations

- 11.3.2.1 The CGE should establish a separate unit within the finance administration department for the procurement of goods and/or services and to implement the CGE's SCM system.

11.3.2.2 The CGE should ensure that the officials within the SCM unit receive the required training as required in terms of TR 16A5 to ensure that the CGE complies with the SCM prescripts of the NT at all times as well as the provisions as set out in the PPR & R.

11.4 Compilation of a list of prospective suppliers per commodity

11.4.1 Findings

11.4.1.1 PN No. 2 of 2005 and PN No. 8 of 2007-08 (applicable from 1 December 2007) state that the accounting officer should compile a list of prospective suppliers to be used to procure requirements under R200 000 before 1 December 2007 and R500 000 after 1 December 2007. The CGE confirmed on 7 December 2009 that no list of prospective suppliers was compiled and that quotations were sourced without consulting any list of approved or prospective suppliers.

11.4.1.2 The CGE further indicated that a supplier database has since been created from which goods and services are now being sourced. However, the procurement in provinces, especially for catering services, does not fully comply, as there was evidence that some of the quotations were not sourced from the established database.

11.4.2 Recommendations

11.4.2.1 The supplier database that was established should be utilised by all the CGE offices to ensure that the SCM process is fair, equitable, transparent, competitive and cost-effective. The CGE should consider instituting disciplinary actions against officials who are not sourcing quotations from the established database.

11.4.2.2 The CGE should ensure that the supplier database is updated quarterly to ensure compliance with PN No. 8 of 2007-08.

11.5 Establishment of bid committees

11.5.1 Finding

In contravention of TR 16A.6.2, the CGE did not establish formal bid committees for the compilation of bid specifications, the evaluation of bids or the adjudication of bids. The CGE confirmed on 7 December 2009 that committees were established per individual cases, if necessary.

11.5.2 Recommendations

11.5.2.1 The CGE should ensure that a bid adjudication committee is established through which bids are adjudicated to ensure compliance with TR 16A6.2(a).

- 11.5.2.2 The CGE should consistently adhere to the SCM prescripts regarding the establishment, composition, duties and responsibilities of bid committees as required in terms of TR 16A6.2 to ensure that bid specifications are clear and that bids are evaluated and adjudicated through a process that is fair, equitable, transparent, competitive and cost-effective.
- 11.5.2.3 The CGE should ensure that a formal set of delegations is issued to the bid committees as required in terms of section 1.6.1.2 of the SCM guide to ensure that they perform their duties and responsibilities within an approved framework.

11.6 Procurement of goods and services by inviting and accepting price quotations

TR 16A.6.1 states that procurement of goods and services, either by way of quotations or through a bidding process, must be within the threshold values as determined by the NT.

11.6.1 Procurement of goods and services above R2 000 but not exceeding R10 000 (including VAT)

11.6.1.1 Finding

Goods and/or services above R2 000 but not exceeding R10 000 (including VAT), amounting R1 070 838, were procured without obtaining at least three verbal or written quotations as required in terms of PN No. 2 of 2005 and PN No. 8 of 2007-08 (applicable from 1 December 2007).

11.6.2 Procurement of goods and services above R10 000 but not exceeding R200 000/R500 000 (including VAT)

11.6.2.1 Findings

- (a) Goods and/or services above R10 000 but not exceeding R200 000 (including VAT), amounting to R1 673 824, were procured without obtaining at least three written quotations as required in terms of PN No. 2 of 2005.
- (b) Goods and/or services above R10 000 but not exceeding R500 000 (including VAT), amounting to R2 426 473, were procured without obtaining at least three written quotations as required in terms of PN No. 8 of 2007-08 (applicable from 1 December 2007).
- (c) Reasons for not obtaining the required number of quotations were not recorded in any of the cases and the accounting officer did not approve the deviations as required in terms of PN No. 2 of 2005 and PN No. 8 of 2007-08.

The following case was investigated further:

(i) Appointment of a service provider for the installation and implementation of an asset management system

- A service provider was appointed for the installation and implementation of an asset management system at the CGE head office and the relevant provincial offices. A service level agreement (SLA) was signed between the CGE and the service provider on 30 May 2007 with an estimated duration of 10 to 21 working days (end of June 2007) and a contract value of R127 900 (excluding VAT). No evidence could be provided that three quotations were obtained before the service provider was appointed or that the deviation was recorded and approved by the accounting officer as required in terms of PN No. 2 of 2005.
- Furthermore, an amount of R206 432 was paid to the service provider and all the payments were effected after the contract had already expired.

11.6.2.2 Recommendations

- (a) The CGE should consistently adhere to the relevant SCM prescripts in sourcing quotations and must in all cases first consult the approved supplier database to ensure that the SCM process is fair, equitable, transparent, competitive and cost-effective. If it is not possible to obtain the required quotations or to utilise the service providers on the approved supplier database, the reasons should be recorded and approved by the accounting officer.
- (b) The CGE should determine the total value of the irregular expenditure resulting from the non-compliance with the SCM prescripts and regularise accordingly.
- (c) The CGE should consider taking appropriate action against officials of the CGE for contravening SCM prescripts in the procurement of goods and/or services. Other actions should be considered against ex-officials, where appropriate.

11.6.3 Tax clearance certificates

11.6.3.1 Finding

PN No. 2 of 2005 and PN No. 8 of 2007-08 (applicable from 1 December 2007) state that the accounting officer must be in possession of a valid tax clearance certificate from the service provider for all price quotations over R15 000 (including VAT) before 1 December 2007 and over R30 000 (including VAT) after 1 December 2007. The AGSA reviewed 935 quotations and none of these price quotations had valid tax certificates attached as required.

11.6.3.2 Recommendation

The CGE should ensure that all quotations above the threshold values set by PN No. 8 of 2007-08 have valid tax clearance certificates attached.

11.6.4 Validity of quotations

11.6.4.1 Findings

- (a) PPR & R, annexure K, section 13 states that a written quotation or a bid may not be considered unless the provider who submitted the quotation or bid has furnished that provider's full name, identification number, company or other registration number, tax reference number and VAT registration number, if any.
- (b) The AGSA reviewed a sample of 199 SCM transactions above R2 000 and below the R10 000 threshold and identified some discrepancies. Discrepancies included the appointment of service providers that were not registered close corporations or companies and had no registration numbers or VAT details on their quotes or invoices, while quotations submitted were handwritten and not on formal letterheads. Furthermore, the lowest quotations were not always accepted and no reasons were provided for not accepting the lowest quotations.
- (c) Scrutiny of the quotations showed similarities, which included the following:
 - Quotations were faxed from the same fax numbers, the pages of faxes followed in sequence and the faxes were sent in short intervals.
 - Quotations were issued on exactly the same quotation forms with the only differences being the service provider's details and price.
 - Wording and handwriting or fonts on quotes were identical, except for service provider's details and price.
 - Dates and amounts on quotations were the same.

11.6.4.2 Recommendations

- (a) The CGE should implement management measures to ensure that quotations sourced and received from service providers comply with the provisions of the PPR & R and include sufficient details to ensure that the SCM process is fair, equitable, transparent, competitive and cost-effective.
- (b) The CGE should consider taking appropriate action against officials of the CGE for contravening SCM prescripts in sourcing and approving quotations that did not comply with the requirements of the PPR & R. Other action should be considered against ex-officials, where appropriate.

11.7 Procurement of goods and services by inviting competitive bids

TR 16A.6.1 states that the procurement of goods and services, either by way of quotations or through a bidding process, must be within the threshold values as determined by the NT.

11.7.1 Findings

11.7.1.1 PN No. 2 of 2005 and PN No. 8 of 2007-08 (applicable from 1 December 2007) state that accounting officers should invite competitive bids for all procurement above R200 000 before 1 December 2007 and R500 000 after 1 December 2007.

11.7.1.2 The AGSA identified 11 cases amounting to approximately R8 317 386 whereby goods and/or services above the value of R200 000 were procured before 1 December 2007 without following a competitive bidding process and 10 cases amounting to approximately R15 104 593 whereby goods and/or services above the value of R500 000 were procured after 1 December 2007 without following a competitive bidding process.

11.7.1.3 The reasons for not inviting competitive bids were not recorded and approved in any of the cases by the accounting officer or reported to the NT and the AGSA as required in terms of PN No. 6 of 2007-08 where the amount was above R1 million.

(Included in the cases above, are open-ended contracts that have no end date but in the long term have a value of R200 000/R500 000 or more for which no bids were invited. As most of the service providers were appointed without contracts/SLAs being signed, the value of the contracts was calculated based on the payments made during the period under review.)

11.7.1.4 Based on the allegations received that goods and/or services were procured without following the prescribed SCM processes, the AGSA decided to investigate the following in detail:

(a) Appointment of a service provider for the procurement of a security card access system

- (i) A service provider was appointed for the procurement of a security card access system. Although the CGE indicated that a competitive bid process was followed, no evidence could be found that the tender was advertised in the *Government Gazette* or in the local newspapers as required. Furthermore, the specifications for the contract were changed after proposals were received. No evidence was provided to indicate that the other three selected service providers submitted new proposals or that they were requested to submit new proposals.
- (ii) The total contract amount stated in the contract was R157 172 and the contract period was for 48 months. According to the procurement contract list supplied by the CGE to the AGSA on 3 July 2009, an amount of R950 663 was paid to the service provider up to 31 March 2009, which was already R793 491 more than the contracted amount.

(b) Appointment of a service provider for the re-branding of the CGE's corporate image

- (i) A service provider was appointed to perform a re-branding exercise of the CGE following a decision to change the corporate image of the CGE. The CGE indicated that the service provider was the preferred service provider following a series of presentations by institutions wanting to do the re-branding of the CGE. No evidence could be provided to the AGSA that any service providers made presentations to the CGE for the re-branding of the CGE.
- (ii) The SLA was signed with the service provider after the services had already commenced for an amount of R1 400 295 and a contract completion date of 30 September 2008.
- (iii) The CGE acknowledged in a submission to the executive director: Office of the chairperson, which was provided to the AGSA, that no SLA was compiled before utilising the services of the service provider, that the procurement procedures were not complied with and that a cost analysis was not done for the project. However, the deviation was not recorded and approved by the accounting officer as required in terms of PN No. 8 of 2007-08 or reported to the NT and the AGSA in terms of PN No. 6 of 2007-08 and section 38(1)(g) of the PFMA.
- (iv) The total amount paid to the service provider as at 22 September 2009 for the re-branding amounted to R2 266 339 with an amount of R157 857 still outstanding on that date. The total amount for services rendered amounted to R2 424 196. If the outstanding amount is paid, the contract value will be exceeded by R1 023 901. Furthermore, the AGSA noted that payments were made to the service provider for services rendered after the SLA had expired. No evidence could be provided that an amended SLA was signed with an amended contract value and completion date.

(c) Appointment of a consultant for research services

- (i) A consultant was appointed for the rendering of research services to the CGE, to develop a monitoring tool and to assess progress made by national, provincial and local government towards eradicating gender inequality and transforming gender relations. An SLA was signed between the CGE and the consultant with the last party signing the SLA on 15 February 2007. The total value of the contract was R682 900 with a completion date of 30 April 2007.
- (ii) No evidence was provided to indicate that a competitive bidding process was followed or that other consultants were requested to submit proposals before the appointment. The AGSA could not confirm how the need to appoint a consultant was identified, which approach was followed in selecting the consultant and if the stages as set out in section 5.9 of the SCM guide were followed in the selection and appointment of the consultant. In addition, no evidence could be provided that the

consultant submitted a proposal before the appointment was made. The reasons for not requesting proposals from other consultants or to invite competitive bids were not recorded and the accounting officer did not approve the deviation as required in terms of PN No. 2 of 2005.

- (iii) An amount of R682 900 was paid to the consultant for services rendered. It was noted that an amount of R382 900 was paid on 23 November 2007, after the contract had already expired.

(d) *Appointment of a service provider for the organisational diagnosis, review and change management process of the CGE*

- (i) On 13 January 2008, an advertisement was placed in the *Business Times* inviting proposals from service providers to undertake an organisational diagnosis, review and change management process project (OD process) of the CGE. The advertisement indicated that the CGE was undertaking a comprehensive review of its systems, structures, personnel and business processes in order to enable the alignment of the activities of the CGE with its mandate and strategic objectives as well as to ensure that it is better placed to meet the challenges of the new era. A budget of R1 million was made available for the OD process.
- (ii) The appointment of the service provider was done in contravention of the SCM prescripts in view of the following:
- No evidence could be provided that all the stages for selecting a consultant were followed in the appointment of the service provider as required in terms of section 5.9 of the SCM guide.
 - No formal bid committees were established for the appointment of the service provider as required in terms of TR 16A6.2 and PPR & R, part 7, section 23.
 - The tender was not advertised in the *Government Gazette* and for the required 21 days as required in terms of TR 16A6.3(c).
 - The tender advertisement did not specify if the tender would be evaluated based on functionality and/or price as required in terms of chapter 4 of the SCM guide.
 - A contract for an amount of R1 208 000 (including VAT) was signed with the service provider although it was resolved in a plenary meeting that the estimated and available budget for the OD process was between R300 000 and R1 million.
 - The CGE could not provide the evaluation score sheets of the six panel members of the procurement committee that was established and the AGSA was unable to determine the criteria on which the candidates were evaluated.

Furthermore, it is unclear how the scores were awarded to each candidate by the panel members and if the PPPF Act and its associated regulations were adhered to during the evaluation process. In addition, no evidence could be provided to indicate that the minutes of the procurement committee meeting were presented to the plenary before the final decision was made to appoint the service provider and that the accounting officer approved the appointment.

- No evidence was available to indicate that reference checks were conducted on the three preferred service providers before the appointment, as resolved during the procurement meeting.
- No evidence could be provided that an appointment letter was submitted to the service provider, that regret letters were sent out to the unsuccessful candidates or that the service provider completed and submitted the conflict of interest form as resolved during an OD team meeting.
- No evidence could be provided that the award of the tender was published in the *Government Gazette* as required in terms of TR 16A6.3(d).
- The contract that was signed between the service provider commenced on 12 March 2008 with a preliminary research and planning process. The project officially commenced on 1 April 2008 with a completion date of 30 June 2008. However, the service provider only signed the SLA on 2 April 2008 and the CGE on 7 May 2008.
- In terms of the SLA, progress meetings had to be held between the service provider and the CGE and the service provider had to provide written progress reports to the CGE on a continuous basis on the progress of the project and any problems experienced that may affect the budget and time frames of the project. No evidence could be provided that the said meetings took place and that the service provider submitted written progress reports during the project.
- After the completion of the OD process in July 2008, the service provider commenced with a new process, which was called the implementation redesign process. No procurement process was followed for this process. In addition, no new or amended SLA was compiled and signed to regulate the new process.
- The total amount paid to the service provider as at 22 September 2009 for the OD process and the implementation redesign process amounted to R4 008 000 with an amount of R850 000 still outstanding on that date. The total amount for services rendered amounted to R4 858 000. The AGSA could not confirm from which budget the additional amount was defrayed.
- The final **draft** report on the OD process was submitted to the CGE in January 2009. No final report could be provided on request and the AGSA was unable

to confirm if a final report was submitted to the CGE after January 2009.

- An employee of the service provider was appointed on 10 November 2008 as a finance consultant in the CGE to assist with the financial administration of the CGE up to 31 March 2009. The AGSA could not confirm what process was followed with the appointment of the consultant, whether a budget was available and if a delegated official approved the appointment. In addition, the consulting contract entered into between the CGE, the service provider and the consultant was invalid as the contract did not specify the scope of work to be performed and was not signed or dated by any of the parties.
- The total amount paid to the service provider in terms of the consulting contract as at 22 September 2009 was R379 848 with an amount of R80 598 still outstanding on that date. The total amount for services rendered amounted to R460 446.

(e) Appointment of a service provider for the independent investigation into the allegations against the former accounting officer and the disciplinary process

(i) Appointment of a service provider to draft the terms of reference for the independent investigators

- In terms of the PPR & R, part 7, section 15.2, every effort shall be made to seek in-house advice on legal issues from the legal department and commissioners with legal background. If the matter is referred externally, the head of department (HoD): Legal should recommend it.
- A legal firm was appointed to draft the terms of reference (ToR) for the independent investigators that were to be appointed for the investigation into the allegations against the former accounting officer. However, the CGE had a legal department and two of the commissioners had legal qualifications at the time of the appointment. In addition, no SCM process was followed in the appointment of the firm. The firm was paid an amount of R8 971 for the compilation of the ToR for the investigation.

(ii) Appointment of a service provider to represent and assist the CGE in the proceedings against the former accounting officer

- After the CGE suspended the former accounting officer, a legal firm was appointed to represent and advise the CGE in the proceedings against the former accounting officer. The decision to obtain legal advice from an external source was not recommended or approved by the HoD: Legal as required in terms of the PPR & R, part 7, section 15.2.
- No evidence could be provided that the State Attorney was approached to

assist the CGE during the process as required in terms of the State Attorney Act, 1957 (Act No. 56 of 1957).

- The total amount paid to the service provider as at 22 September 2009 amounted to R1 095 195 with an amount of R458 218 still outstanding on that date. The total amount for services rendered amounted to R1 553 513. No competitive bidding process was followed in the appointment of the service provider and the deviation was not recorded and approved by the accounting officer as required in terms of PN No. 8 of 2007-08 or reported to the NT and the AGSA as required in terms of PN No. 6 of 2007-08.

(iii) *Appointment of a service provider to establish and lead an independent commission for the investigation into the allegations against the former accounting officer*

- In a plenary meeting held on 21 April 2008 during which the former accounting officer was suspended, it was resolved that independent investigators should be appointed to investigate the allegations against the former accounting officer. It was further resolved that a preliminary investigation should be conducted to determine the scope of work to be done and that a budget should be compiled and forwarded to the DoJ & CD and the NT to finance the investigation.
- The service provider was appointed on 14 May 2008. The appointment of the service provider was done in contravention of the SCM prescripts and resolutions of the plenary in view of the following:
 - No preliminary investigation was conducted to determine the scope of the work to be done as resolved during the plenary meeting.
 - No budget was compiled for the investigation and the DoJ & CD and the NT was not approached to finance the investigation. The AGSA could not confirm from which budget the costs of the investigation were defrayed.
 - No competitive bidding process was followed in the appointment of the service provider and the deviation was not recorded and approved by the accounting officer as required in terms of PN No. 8 of 2007-08 or reported to the NT or the AGSA as required in terms of PN No. 6 of 2007-08.
 - No contract or SLA was entered into between the CGE and the service provider to regulate the terms and conditions of the appointment, the scope of services to be rendered, the period for which services are required and the fees involved as required in terms of section 4.12 of the SCM guide.

- The total amount paid to the service provider as at 22 September 2009 amounted to R1 218 915 with an amount of R300 556 still outstanding on that date. The total amount for services rendered amounted R1 519 471.

(iv) *Appointment of service provider to provide secretarial services to the independent investigation commission*

- A service provider was appointed to provide secretarial services to the independent investigation commission. No contract or SLA was entered into between the CGE and the service provider to regulate the terms and conditions of the appointment, the scope of services to be rendered, the period for which services are required and the fees involved as required in terms of section 4.12 of the SCM guide.
- The total amount paid to the service provider as per the CGE's 'Register for irregular expenditure – 2008-09 was R542 140. The AGSA could not verify payments amounting to R351 643 as the CGE was unable to provide the relevant payment documentation.
- The CGE indicated that it followed a quotation process in the appointment of the service provider but the said quotations could not be provided. However, in view of the amount involved, a competitive bidding process should have been followed and not a quotation process.

(f) **Procurement of laptops**

- (i) In an undated submission from the CGE management to the acting accounting officer, it was indicated that a meeting was held on 29 July 2008 in which it was resolved that laptops should be procured for officers in the CGE and that a decision should be taken if the laptops are going to be purchased or leased. Three quotations were obtained of which two had already expired when the order was issued. The details of the quotations are set out in the table below:

Service provider	Quotation date	Quotation amount per unit	Validity period	Comments
Service provider A	06/10/2008	R11 021,33	7 days	Quote for 56 laptops = R735 521,71 (incl. VAT and freight)
Service provider B	20/08/2008	R17 100,00	7 days	Quote for 53 laptops = R1 033 182,00 (incl. VAT)
Service provider C	18/08/2008	R14 567,00	7 days	Quote for 56 laptops = R929 957,28 (incl. VAT)

- (ii) On 10 October 2008, the CGE applied for business finance at the financial division of service provider A, for the procurement of the laptops. The facility amounting to R912 000 was granted on 15 October 2008 for the leasing of 56 laptops with a monthly instalment of R88 620 for 36 months. The commencement date of the

lease agreement was 10 November 2008.

(iii) The process followed with the procurement of the laptops was in contravention of the prescripts in view of the following:

- No approval from the plenary to purchase the laptops could be provided to the AGSA.
- No competitive bidding process was followed in the procurement of the laptops and the deviation was not recorded and approved by the accounting officer as required in terms of PN No. 8 of 2007-08 or reported to the NT or the AGSA as required in terms of PN No. 6 of 2007-08.
- The CGE entered into a finance lease transaction with the service provider to lease the 56 laptops in contravention of TR 13.2.5.

11.7.2 Recommendations

- 11.7.2.1 The CGE should, before any goods and/or services are procured, compile a cost estimate to ensure that goods and/or services that need to be procured are sourced through the correct SCM system, i.e. the requesting of quotations or the inviting of competitive bids.
- 11.7.2.2 The CGE should ensure that a competitive bidding process is followed in all cases where the goods and/or services to be procured exceed the threshold value set by the NT for the invitation of competitive bids to ensure that the SCM process is fair, equitable, transparent, competitive and cost-effective.
- 11.7.2.3 The CGE should, before any goods and/or services are procured, determine the need for the respective goods and/or services and whether money is available on the budget.
- 11.7.2.4 The CGE should ensure that it follows all the stages as set out in chapter 4 of the SCM guide when inviting bids and in chapter 5 when selecting consultants.
- 11.7.2.5 The CGE should, where it is impractical to invite competitive bids, procure the services and/or goods through other means but the deviation from the prescribed SCM procedures should be recorded and approved by the accounting officer as required in terms of TR 16A6.4.
- 11.7.2.6 The CGE should ensure compliance with PN 6 of 2007-08 if goods and/or services are procured in terms of TR 16A6.4.
- 11.7.2.7 The CGE should determine the total value of the irregular expenditure resulting from the non-compliance with the prescribed SCM prescripts and regularise accordingly.
- 11.7.2.8 The CGE should ensure that written contracts are compiled and signed between the CGE and service providers to reach consensus on the terms and conditions of the business relationships and to regulate the delivery of goods and/or services and payments to be made in terms of the contract as required in terms of section 4.12 of the SCM guide.

- 11.7.2.9 Contracts should only be extended with the necessary approval and should be limited to a minimum to prevent contract values being exceeded.
- 11.7.2.10 The CGE should implement management measures to ensure that where contracts are extended, new or amended contracts or SLAs are signed between the parties to regulate the delivery of goods and/or services and payments to be made during the extended period.
- 11.7.2.11 The CGE should take note of the services rendered by the State Attorney and in future first consult with the State Attorney before external legal firms are approached for legal services. If the services of the State Attorney are not going to be utilised, the reasons should be properly recorded and approved by a delegated official.
- 11.7.2.12 The CGE should consider taking appropriate action against officials of the CGE for contravening SCM prescripts in the procurement of goods and/or services and against the officials who entered into the finance lease transaction in contradiction with TR 13.2. Other action should be considered against ex-officials, where appropriate.

11.8 Contract management

11.8.1 Findings

- 11.8.1.1 All the available procurement contracts on which payments were made during the period under review were considered and it was noted that there was a lack in conformance with contract management principles at the CGE, which included the following:
- (a) Contracts were not signed and/or dated by both parties.
 - (b) Contracts did not state the start dates, end dates, contract periods and contract values.
 - (c) Contracts were signed by officials who did not have the delegated authority.
 - (d) Contracts did not state the scope of work to be performed and/or deliverables in terms of the contracts.
 - (e) Goods and/or services were supplied or rendered on a recurring basis to the CGE without the CGE entering into written business agreements with service providers to regulate the goods and/or services to be delivered and the terms and conditions for payments. The AGSA identified 35 instances where written business agreements were not entered into with service providers that rendered goods and/or services on a recurring basis. Based on the AGSA calculations, payments amounting to approximately R16 932 955 were made to these service providers for the period under review.
 - (f) Payments amounting to approximately R8 367 325 were made to service providers after contracts between the service providers and the CGE had already expired.
 - (g) Payments amounting to approximately R5 547 352 were made to service providers that

exceeded the contract amounts as stipulated in the contracts.

11.8.2 Recommendations

- 11.8.2.1 The CGE should ensure that written contracts are compiled and signed between the CGE and service providers to reach consensus on the terms and conditions of the business relationship and to regulate the delivery of goods and/or services and payments to be made in terms of the contract as required in terms of section 4.12 of the SCM guide.
- 11.8.2.2 The CGE should implement effective contract management principles to ensure that contracts concluded are signed and dated by the both parties to the contract and that the required information, i.e. start dates, end dates, contract values and contract periods, is included as well as the deliverables in terms of the contract.
- 11.8.2.3 The CGE should implement management measures to ensure that contracts are closely monitored for the duration of the contract and that effective communication channels are established between project managers and service providers to ensure that contract values and contract periods are not exceeded without the required approval.
- 11.8.2.4 The CGE should ensure that where contract values or contract periods are exceeded, addendums to the contracts are signed or that new contracts are entered into to regulate such extensions and payments.

12. CLAIMS AND ALLOWANCES

12.1 Context

The allegation that various claims in respect of the commissioners, the deputy chairperson and the former chairperson of the CGE were irregular was probed during the investigation.

12.2 Subsistence, travel and cellular phone allowance claims

12.2.1 Findings

12.2.1.1 During the review of 87 claims, possible irregular payments amounting to approximately R2 868 758 were identified due to non-compliance with section 45 of the PFMA, TR 8.2 and the provisions in the PPR & R, which included the following:

- (a) The required approvals were not obtained before trips were undertaken.
- (b) The prescribed documentation was not completed and submitted before and after trips were undertaken.

- (c) The commissioners and former chairperson claimed subsistence and travel allowances of \$190 or more per day during overseas travelling without submitting documentary evidence, as required.
- (d) The former chairperson claimed \$596 (R3 767) for telephone calls made during an overseas trip without certifying or declaring on the invoice that all the calls were business related, as required
- (e) Claims were processed for payment without the accounting officer or acting accounting officer approving the claim for payment.
- (f) Claims were processed for payment without the CFO or acting CFO recommending the claim for payment.
- (g) Cheques were issued before the claims were approved by the accounting officer or acting accounting officer.
- (h) Cheques were issued before the claims were recommended by the CFO or acting CFO.

12.2.2 Recommendations

- 12.2.2.1 The CGE should consider the provision in the PPR & R, part 6, section 1, which states that travelling that is not authorised prior to being undertaken constitutes unauthorised expenditure for which the commissioners, the deputy chairperson, the chairperson and CGE employees are personally liable. Based on this provision, the CGE should take the necessary action, where appropriate.
- 12.2.2.2 The CGE should implement internal controls to ensure that the commissioners, the deputy chairperson, the chairperson and all CGE employees comply with all the provisions of the PPR & R before and after travel is undertaken and when claims are submitted.
- 12.2.2.3 The CGE should consider taking appropriate action against officials of the CGE who approved and processed claims that did not comply with the provisions of the PPR & R and TR 8.2. Other action should be considered against ex-officials, where appropriate.

12.3 Cellular phone utilised by the former chairperson

12.3.1 Findings

- 12.3.1.1 A cellular phone amounting to R8 786 was purchased for the former chairperson in contravention of the PPR & R, part 6, section 7, which states that all cellular phones will be personally owned and contracted. In addition to the cellular phone that was purchased, a Bluetooth car kit amounting to R2 499 was also purchased for the former chairperson and installed in her car.

- 12.3.1.2 In an exit report from one of the acting CFOs obtained during the investigation, a summary of the total cellular phone expenditure and allowances paid per month to each commissioner for the period 1 April 2008 to 1 April 2009 was made. It was noted from the report that the total cellular phone expenditure for the former chairperson for the period amounted to R91 933, of which R46 401 was incurred in March 2009.
- 12.3.1.3 The cellular phone accounts of the former chairperson were addressed to the DoJ & CD and these accounts were forwarded to the CGE on monthly basis for payment. The CGE confirmed on 11 January 2010 that they settled all the cellular phone accounts of the former chairperson although it was stated in the PPR & R, part 6, section 7 that cellular phone accounts must be settled by the commissioners themselves and thereafter the CGE will reimburse the costs based on the monthly invoice and the approved subsidy amount.
- 12.3.1.4 In a letter dated 1 July 2009 from the CGE to the former chairperson, it was indicated that in terms of the CGE's policy on the use of cellular phones, she has a limit of R2 000 per month and that this amount was exceeded without a written motivation. Furthermore, the expenditure was incurred while she was in New York in another capacity, not as the chairperson of the CGE. Therefore, the CGE requested her to reimburse the CGE for the cellular phone account of R46 000 incurred while she was in New York.
- 12.3.1.5 The policy referred to was not provided to the AGSA for review. In addition, the limit referred to by the CGE contradicts the resolutions taken in the plenary sitting held from 24 to 26 August 2009, which specifically stated that the policy has no limits for the chairperson's cellular phone and that the policy needs to be revised to ensure that limits for the chairperson's cellular phone usage are set.
- 12.3.1.6 No confirmation could be provided by July 2010 that the former chairperson had reimbursed the CGE for the excessive cellular phone account incurred while she was in New York in her private capacity.

12.3.2 Recommendation

The State Attorney should be requested to assist the CGE to recover the R46 401 from the former chairperson in respect of her cellular phone account for March 2009.

13. AIR TRAVEL, ACCOMODATION AND CAR HIRE

13.1 Context

The allegation that trips undertaken by the commissioners, the deputy chairperson and the former chairperson of the CGE and the reimbursements relating to these trips were irregular was probed during the investigation.

13.2 Air travel undertaken by commissioners, deputy chairperson and former chairperson

13.2.1 Findings

13.2.1.1 During the review of 592 invoices from the CGE's travel agent, possible irregular payments amounting to approximately R4 953 860 were identified due to non-compliance with section 45 of the PFMA, TR 8.2 and the provisions in the PPR & R, which included the following:

- (a) The prescribed documentation was not submitted and approved before trips were undertaken.
- (b) Trips were approved after the trip had already been undertaken.
- (c) Travel arrangements were made without order numbers being provided by the CGE to the travel agent as proof that prior approval was obtained in procuring the services.
- (d) The requisitions attached to the invoices were not approved and/or verified by the accounting officer or the former chairperson.
- (e) Approvals were granted telephonically and no evidence was submitted why the approvals were granted telephonically and that the appropriate documentation was completed and approved afterwards.
- (f) The order numbers stated on the trip requisitions did not correspond to the order numbers stated on the invoices.
- (g) The return and departure dates stated on the trip requisitions did not correspond to the return and departure dates on the invoices.

13.2.2 Recommendations

13.2.2.1 The CGE should consider the provision in the PPR & R, part 6, section 1, which states that travelling that is not authorised prior to being undertaken constitutes unauthorised expenditure for which the commissioners, the deputy chairperson, the chairperson and CGE employees are personally liable. Based on this provision, the CGE should take the necessary action, where appropriate.

13.2.2.2 The CGE should implement management measures to ensure that the commissioners, the deputy chairperson, the chairperson and all CGE employees comply with all the provisions of the PPR & R before travel arrangements are made.

13.2.2.3 The CGE should consider taking appropriate action against officials of the CGE who approved and processed invoices that did not comply with the provisions of the PPR & R and TR 8.2. Other action should be considered against ex-officials, where appropriate.

13.2.2.4 The CGE should collaborate with the CGE's travel agent to ensure that no travel arrangements are made before the approved requisite travel and accommodation forms are provided and that only the delegated administrative officers in the CGE may make arrangements.

13.3 Allegations against the former chairperson

13.3.1 Context

13.3.1.1 During the course of the investigation, the AGSA received a call case report of allegations that were reported to the National Anti-Corruption Hotline managed by the Public Service Commission on 21 February 2009. In the call case report it was alleged that the former chairperson misappropriated state funds by authorising her secretary to arrange air travel for her relatives who are not employees of the CGE.

13.3.1.2 It was further alleged that the former chairperson claimed that she had paid for a business class trip when she travelled to Geneva during October 2008. The caller mentioned that the former chairperson stated that she had paid an amount of R38 000 from her own pocket to upgrade from economic to business class. However, the chairperson allegedly failed to furnish proof of the payment that she had supposedly made, but was reimbursed by the CGE.

13.3.2 Findings

13.3.2.1 Private trips undertaken by relatives of the former chairperson

- (a) During the investigation, all the invoices related to the trips in the call case report were requested as well as the approved requisite travel and accommodation forms for the trips. All the trips that were booked for the former chairperson's relatives were done by the former chairperson's secretary. For two of the 16 trips undertaken by the former chairperson's relatives, requisition for official travel forms were completed by the secretary and approved by the executive director in the office of the chairperson. On the trip requisitions it was stated that the purpose of the trips was 'business', which was incorrect as none of the persons who travelled were employees of the CGE. No evidence could be provided that the accounting officer or the CFO at that time were informed of the trips arranged through the CGE's travel account and that they had approved the arrangement.
- (b) In the former chairperson's response in the *Dispatch* newspaper on 27 May 2009, she indicated that her secretary did arrange flights through the CGE's travel agents for her relatives and parents but that her secretary arranged with the travel agents that she should be billed and not the CGE.
- (c) The private trips by the former chairperson's relatives were undertaken between July 2008 and February 2009 and amounted to R49 749 according to the AGSA's calculations based on the supporting documentation provided. No evidence could be provided to the AGSA that the travel agent was instructed to bill the trips of the former chairperson's relatives separately at the time when the said bookings were made. Only in February

2009 after the trips had already been billed and some paid by the CGE, the one travel agent was informed that certain trips should be billed to the former chairperson's personal account and not to the CGE's. No correspondence to the other travel agent through which bookings were made could be provided to the AGSA.

- (d) The AGSA received confirmation on 19 November 2009 from one of the travel agents that was used indicating that the former chairperson settled an amount of R15 792 on 8 April 2009 in respect of the trips undertaken by her relatives and parents. The total amount due to the CGE after the former chairperson settled the R15 792 amounted to R33 957.
- (e) In a letter dated 1 July 2009 from the CGE to the former chairperson, it was indicated that she utilised CGE funds to purchase air tickets for non-CGE officials and that it was acknowledged that she had already paid an amount of R15 000 to the CGE, but that an amount of R33 000 was still outstanding and must be paid to the CGE. However, it was found that R15 792 was not paid to the CGE but was paid by the former chairperson to the travel agent.
- (f) No confirmation could be provided by July 2010 that the former chairperson had paid the outstanding amount of R33 957 to the CGE.

13.3.2.2 Upgrade of air ticket

- (a) The former chairperson was invited by the Graduate Institute of Geneva to attend the International Gender Colloquium on 16 and 17 October 2008 organised by the Gender Centre of the Graduate Institute of Geneva. The Gender Centre were to cover the costs of the flight at the most economical fare, the hotel room, meals during the conference and the ground transportation from the airport to the conference hotel.
- (b) In terms of the PPR & R, part 6, section 5.1, the former chairperson was entitled to travel business class internationally and therefore the former chairperson's secretary requested approval in an undated submission that the former chairperson's air ticket be upgraded from economy class to business class. It was indicated that the cost of the upgrade amounted to R25 000 and that it was recommended that the R25 000 be reimbursed by the CGE to the Graduate Institute as per the attached travel invoice. These travel invoices were not provided to the AGSA for review. Approval was granted by the deputy chairperson for the upgrade of the air ticket and payment of the R25 000.
- (c) However, the R25 000 was not paid to the Graduate Institute directly but was paid to the former chairperson with a cheque on 16 October 2008, together with her subsistence allowance of R13 387 for the trip. No evidence was attached to the cheque requisition provided to the AGSA to indicate that she did upgrade her ticket to business class.
- (d) In a response dated 30 June 2010 from the former chairperson, a letter dated 29 June 2010 was provided from the Graduate Institute confirming that the former chairperson settled the difference of CHF 3,301, being the reimbursement for the upgrade of the

ticket from economy to business class. The former chairperson also provided a BOP statement indicating that she applied to purchase foreign currency amounting to CHF 3,301. If converted to the local currency at that time, the former chairperson paid R23 279 for the upgrade of the ticket, resulting in a difference of R1 721 that must be reimbursed to the CGE.

- (e) In terms of the PPR & R, annexure H, section C, if more than \$180 subsistence per day is claimed on overseas travel, documentary evidence should be provided by the claimant. However, the former chairperson claimed the maximum amount stipulated in the PPR & R of \$190 per day for eight days without submitting documentary evidence.

13.3.3 Recommendations

- (a) The State Attorney should be requested to assist the CGE to recover the amount of R35 678 from the former chairperson for the travel of the former chairperson's relatives and the difference between the amount claimed for the upgrade of the ticket to Geneva and the amount paid by the CGE.
- (b) The CGE should consider taking appropriate action against the relevant CGE officials involved in the travel booking of the former chairperson's relatives and approving a subsistence allowance in contravention of the PPR & R. Other action should be considered against ex-officials, where appropriate.

13.4 Overseas trips undertaken by the former chairperson to New York – 2009

13.4.1 Findings

- 13.4.1.1 In an extract from the plenary meeting held on 18 February 2009, the former chairperson indicated her intention of going to the Commission of Status of Women (CSW) consultation for 2009 and that she was aware that the CGE had no funds to sponsor her. The former chairperson further indicated that she will be going in another capacity and that she had secured private funds for this trip.
- 13.4.1.2 However, the former chairperson's secretary requested the CGE's travel agent on 20 February 2009 to make a booking for a flight and accommodation for the former chairperson going to New York. On the requisition for official travel form completed by the secretary and approved by the executive director: Office of the chairperson on 24 February 2009 it was certified that the trip was official and that funds were available to cover the expenditure.
- 13.4.1.3 In a memo dated 23 February 2009 to the acting accounting officer from the executive director in the office of the chairperson, it was indicated that the former chairperson will be travelling to New York for the 'Consultation of Commonwealth National Women's Machineries' from 27 February 2009 to 13 March 2009. The resources needed for the trip were indicated as a subsistence allowance of R25 120 and R63 421 for the flight. Subsequently, on 26 February

2009, the subsistence allowance of R25 120 was paid via EFT into the bank account of the former chairperson.

- 13.4.1.4 Two invoices dated 10 and 17 March 2009 by the CGE's travel agent in respect of the former chairperson's travel to New York amounted to R195 294, of which R87 763 was for the flight and R107 531 for the accommodation. Both invoices were paid by the CGE on 13 and 17 March 2009. The total financial implication of the trip for the CGE amounted to R220 414, including the subsistence allowance of R25 120 paid to the former chairperson.
- 13.4.1.5 The CGE subsequently requested the former chairperson to reimburse the CGE for the costs of the trip. In addition, it was indicated to the former chairperson that it was her responsibility to obtain the amount from the entity that sponsored her and reimburse the CGE.
- 13.4.1.6 Confirmation obtained from the entity that had agreed to sponsor the former chairperson indicates that the former chairperson was requested by their chief executive to attend the conference as a board member and that they agreed to carry the costs of the trip.
- 13.4.1.7 The entity further confirmed that they had received a claim from the CGE during July 2009 for the amount of R220 414 for the trip, but on examination could not process the claim due to missing information. Such information included the verification of the length of the conference, details of how the subsistence allowance was calculated and certain invoices underlying the invoices from the CGE's travel agent. The documents were requested from the CGE but were not received and therefore the claim was not processed by the entity.
- 13.4.1.8 The entity further indicated that if their policy were to be applied to the claim, they would reimburse the CGE for approximately R160 563. Therefore, the CGE will need to account for the difference of approximately R59 851. Furthermore, the reimbursement amount is only an estimate and may be increased or decreased based on the outstanding information that they still require and that needs to be examined.

13.4.2 Conclusion

- 13.4.2.1 The former chairperson did not attend the CSW consultation on behalf of the CGE and thus the CGE had no obligation to bear the costs of the trip.
- 13.4.2.2 No confirmation could be provided by July 2010 that the entity that agreed to sponsor her or the former chairperson had reimbursed the CGE for the R220 414.

13.4.3 Recommendations

- 13.4.3.1 The CGE should consider taking appropriate action against officials of the CGE who certified on the requisite travel form that the trip was for official purposes and that funds were available. Other action should be considered against ex-officials, where appropriate.
- 13.4.3.2 The State Attorney should be requested to assist the CGE to recover the R220 414 from the former chairperson in respect of her trip to New York.

14. HUMAN RESOURCES

14.1 Context

The following allegations made in respect of human resources were probed during the investigation:

- 14.1.1 Possible fraudulent activities in the CGE payroll, including cases where amounts debited to the CGE main bank account exceeded the amounts in the payroll records.
- 14.1.2 Refunds and/or back payments to selected CGE employees in May 2007, which appear to be incorrect and unjustifiable.
- 14.1.3 After review of the payroll records and subsequent discussion with the acting CFO and the CGE management, it was decided to also review the overtime payments made to CGE employees.

14.2 Payroll

14.2.1 Findings

- 14.2.1.1 The AGSA reviewed the 24 payroll months in our scope and the allegation of irregularities within the payroll was unsubstantiated.
- 14.2.1.2 However, it was noted that the payroll was not approved every month before payments were made to employees and commissioners of the CGE and the monthly payroll was in some cases approved by officials who did not have the delegated authority.

14.3 Back payments

14.3.1 Findings

- 14.3.1.1 In an open plenary meeting held on 7 and 8 May 2008, it was resolved that middle managers should be paid their 17% contributions that they have paid towards the provident fund, as per their employee contracts. The request for payment of the employer contributions was approved by the acting accounting officer on 15 May 2008.
- 14.3.1.2 The AGSA reviewed the payments and supporting documentation relating to these payments and the allegation of irregularities with these payments was unsubstantiated.

14.4 Overtime

14.4.1 Findings

- 14.4.1.1 The CGE did not develop and implement an overtime policy as required in terms of the PSR, part V, section D.5.
- 14.4.1.2 During the review of the 74 overtime transactions, possible irregular overtime payments amounting to R622 881 were identified due to non-compliance with overtime prescripts, which included the following:
- (a) Overtime claims were not authorised by the accounting officer or acting accounting officer or any other official and claims were not recommended and/or verified by the CFO or acting CFO or any other official. Furthermore, claims were in some instances approved and/or recommended by officials who did not have the delegation of authority to approve/recommend such claims.
 - (b) No request to work overtime forms, motivations or approvals to work overtime were attached to the overtime claims and in some instances the dates on which overtime was worked did not agree with pre-approval documents.
 - (c) The detail on the claim forms indicated that overtime claimed were for time worked during normal business hours and did not constitute overtime.
 - (d) Overtime worked and claimed by employees exceeded the hours permitted in terms of the section 10.1 of the BCE Amendment Act.
- 14.4.1.3 It was noted from the payslips of the deputy director: Finance that he received R217 203 for overtime worked from 1 October 2007 to 31 December 2008. A summary was compiled from the overtime claim forms submitted and the AGSA found that overtime hours were claimed that exceeded the hours permitted in terms of section 10.1 of the BCE Amendment Act. In total, overtime of 610,3 hours was claimed for the mentioned period, of which 391,3 hours exceeded the overtime hours permitted.

14.4.2 Recommendations

- 14.4.2.1 The CGE should develop and implement an overtime policy in line with the provisions of the PSR, BCE Act and BCE Amendment Act to regulate the overtime system in the CGE and to ensure compliance with legislative requirements.
- 14.4.2.2 The CGE should undertake a complete review of all the overtime expenditure that is not in line with the prevailing prescripts and recover the expenditure from the relevant officials.

15. OTHER MATTERS THAT CAME TO OUR ATTENTION BUT WERE NOT INVESTIGATED FURTHER

15.1 Suspension of the former accounting officer of the CGE

15.1.1 On 21 April 2008, the accounting officer of the CGE was suspended following allegations that were levelled against her. Various service providers were appointed by the CGE to assist and advise them during the proceedings against the former accounting officer. The AGSA did not investigate the proceedings against the former accounting officer but performed an analysis of the costs to determine the approximate financial implication for the CGE with regard to the proceedings against the former accounting officer.

15.1.2 The process was not properly planned and monitored and the proceedings took approximately 19 months to be finalised and had a financial implication of approximately R5 477 778 for the CGE.

15.1.3 The accounting officer resigned on 4 November 2009 after a settlement was reached and the CGE paid her a settlement amount of R1 827 830, which included nine and a half months' salary, a leave payout and a contribution to her legal costs.

15.2 Appointments of acting chief executive officers for the CGE

15.2.1 After the suspension of the accounting officer, various accounting officers were appointed. The following were noted with regard to the appointments of the acting accounting officers:

15.2.1.1 The CGE did not comply with section 7 of the CGE Act, as no evidence could be provided to the AGSA that the Minister of the DoJ & CD, the NT, the Presidency and Parliament were informed of the appointments and remuneration of the acting accounting officers.

15.2.1.2 No acting letters were issued to the two commissioners that acted jointly as accounting officers or to the official that was seconded from the DoJ & CD to act for the period 23 April 2009 to 31 May 2009.

15.2.1.3 Various expenses had to be incurred for the two commissioners who acted jointly, although it was only a temporary arrangement and the expenses that had to be incurred could not in all instances be linked to the acting arrangement.

16. REPORTS ISSUED IN RESPECT OF THE OPERATIONS OF THE COMMISSION FOR GENDER EQUALITY

16.1 During the investigation, it was established that reports on the operations of the CGE were issued previously and that the findings and/or comments in these reports were similar to the findings raised in this report in some instances. The following reports were issued:

16.1.1 Status report to the Minister of Justice and Constitutional Development dated 12 June 2009

- 16.1.2 Handover report by the Minister of Justice and Constitutional Development to the Minister of Women, Children and Persons with Disabilities dated 2 September 2009
- 16.1.3 Report of the *ad hoc* committee on the review of chapter 9 and associated institutions issued on 31 July 2007 and tabled in Parliament
- 16.1.4 Draft organisational diagnoses report issued in January 2009
- 16.2 In most instances, the corrective measures recommended in these reports were not timeously implemented by the CGE.

17. EXCERPT OF THE RESPONSE FROM THE MANAGEMENT OF THE COMMISSION FOR GENDER EQUALITY

The management of the CGE indicated in their response dated 11 June 2010 that they have noted all the recommendations in the report. It is their intention to implement internal controls and management systems as well as to ensure compliance with the applicable laws, regulations and the CGE policies. These recommendations have been included into the CGE's turnaround plan, envisaged to be implemented during the 2010-11 financial year.

18. APPRECIATION

The assistance rendered by the CGE during the investigation is appreciated.

Auditor-General

Auditor-General

Pretoria

1 October 2010

Annexure A: Irregular expenditure

1. Procurement of goods and/or services without obtaining the required number of quotations

Description of goods and/or services	Known irregular expenditure	Estimated irregular expenditure	Reference to paragraph in report
Various goods and/or services	R5 171 135		11.6.1.1 11.6.2.1 (a-b)

2. Procurement of goods and services without following a competitive bid process (before 1 December 2007)

Description of goods and/or services	Known irregular expenditure	Estimated irregular expenditure	Reference to paragraph in report
Appointment of a service provider for the support and maintenance of videoconferencing facilities and desktop support		R1 628 385	11.7.1.2
Appointment of a consultant for research services	R682 900		11.7.1.4 (c)
Provision of integrated information technology services		R1 004 616	11.7.1.2
Handling of conference audit calls		R485 036	11.7.1.2
Courier services		R519 220	11.7.1.2
Internal audit services		R680 009	11.7.1.2
Travel and accommodation services		R1 754 164	11.7.1.2
Transport services		R375 759	11.7.1.2
Advertising		R532 354	11.7.1.2
Supply and support – 3G cards		R296 163	11.7.1.2
Printing works		R358 780	11.7.1.2
Total	R682 900	R7 634 486	

3. Procurement of goods and services without following a competitive bid process (after 1 December 2007)

Description of goods and/or services	Known irregular expenditure	Estimated irregular expenditure	Reference to paragraph in report
Appointment of a service provider for the re-branding of the CGE's corporate image	R2 424 196		11.7.1.4 (b)
Travel and accommodation services		R2 955 124	11.7.1.2
Appointment of a service provider to assist and represent the CGE in the proceedings against the former accounting officer	R1 553 513		11.7.1.4 (e)(ii)

Appointment of a service provider to establish and lead an independent commission for the investigation into the allegations against the former accounting officer	R1 519 471		11.7.1.4 (e)(iii)
Appointment of a service provider to provide secretarial services to the independent investigation commission	R542 140		11.7.1.4 (e)(iv)
Procurement of promotional items	R492 410		11.7.1.2
Recruitment services		R661 257	11.7.1.2
Appointment of interim chief executive officer	R520 000		11.7.1.2
Appointment of interim human resources manager	R385 605		11.7.1.2
Travel and accommodation services		R3 138 877	11.7.1.2
Procurement of laptops	R912 000		11.7.1.4 (f)
Total	R8 349 335	R6 755 258	

4. Procurement of goods and/or services where the bid process contravened the SCM prescripts

Description of goods and/or services	Known irregular expenditure	Estimated irregular expenditure	Reference to paragraph in report
Appointment of a service provider for the procurement of a security card access system		R950 663	11.7.1.4 (a)
Appointment of a service provider for the OD process and a consultant of the service provider for financial support to the CGE	R5 318 446		11.7.1.4 (d)
Total	R5 318 446	R950 663	



Accountability

Integrity

Independence

Impartiality