



# **Technology Innovation Agency**

**Report: Forensic investigation into various  
allegations**

21 October 2013

Risk Advisory

## CONFIDENTIAL

21 October 2013

The Chairperson – Audit and Risk Committee  
Technology Innovation Agency  
83 Lois Avenue  
Menlyn  
Pretoria

For Attention: Dr. Steve Lennon

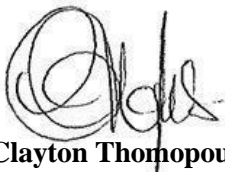
## Forensic investigation into various allegations

Please find attached our report in respect of the above investigation. The purpose of this report is to set out our findings in relation to the above investigation.

This report should not be circulated to any other party without the prior written consent of Deloitte.

Please do not hesitate to contact me on 082 749 4638 or Gerhard Scholtz (Project Manager) on 082 781 2619 should you need clarification regarding any aspect in this report.

Yours faithfully



**Clayton Thomopoulos**  
Director



**Marius Alberts**  
Director

## Content

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
<b>2</b>	<b>Scope and limitations .....</b>	<b>2</b>
	Scope of our investigation	2
	Allegations pertaining to nepotism	2
	Limitations	3
	Our work did not constitute an audit	3
	Corroboration of information	3
	We do not express a legal opinion	3
	Outstanding Submissions	3
<b>3</b>	<b>Our investigation methodology.....</b>	<b>4</b>
	We conducted interviews to obtain a better understanding of the allegations	4
	We obtained relevant supporting documentation	5
<b>4</b>	<b>We summarise our key findings.....</b>	<b>7</b>
	Alleged Nepotism	7
	Alleged irregular investment transactions	8
	Alleged irregular procurement transactions	12
	Mr Duma's expense claims	15
<b>5</b>	<b>Detailed Findings .....</b>	<b>18</b>
	Alleged irregular procurement transactions	77
	Alleged irregular procurement transactions	87
	Mr Duma's expense claims	119

## Role Players

Name	Designation	Reference in report
Alvero Mpofu	Management Accountant	Mr Mpofu
Arthur Maisela	Former Company Secretariat	Adv Maisela
Barbara Kortjass	TIA Chief Financial Officer	Ms Kortjass
Bonginkosi Gumede	Senior General Manager: Business Development and Strategic Partnerships	Mr Gumede
Cedric Mojaelo	Limpopo Department of Agriculture	Mr Mojaelo
Brigitte Binneman	Project Analyst: Special Projects	Ms Binneman
Corlette Mamabolo	Manager Human Resources	Ms Mamabolo
Dumisane Mangwane	TIA General Manager: Investment Finance	Mr Mangwane
James (Jim) Parker	Member of Lezmin t/a Jim Parker Agricultural Services	Mr Parker
Jolanda Hechter	TIA General Manager: Finance	Ms Hechter
Joy Sixholo	Business Strategy Manager in the CEO's office	Ms Sixholo
Kefiloe Monageng	TIA Project Manager	Ms Monageng
Kgomotso Matjila	TIA General Manager: Marketing and Branding	Ms Matjila
Lindela Mzobi	PA to the CEO	Ms Mzobi
Makgopelo Mkhwanazi	General Manager: Human Resources	Ms Mkhwanazi
Mamphela Ramphele	Former Chairperson of the Board of TIA	Dr Ramphele
Mandisa Pitso	Supply Chain Manager	Ms Pitso
Margaret Mkhosi	General Manager: Special Projects	Dr Mkhosi
Matshidiso Matlolane	General Manager: Information Technology	Ms Matlolane
Mmamose Seloane	Lead Analyst: Special Projects	Ms Seloane
Naledi Pandor	Former Minister Department of Science and Technology	Minister Pandor
Nhlanhla Nyide	Former communication specialist contracted at TIA	Mr Nyide
Nkhangweni Ndou	Head: Legal Services	Mr Ndou

Name	Designation	Reference in report
Pat Achary	Chief Risk Officer of the DST Enterprise Risk Management Division	Mr Achary
Pontsho Maruping	TIA Group Executive: Industrial Sectors	Ms Maruping
Richard Mareka	TIA Network Administrator	Mr Mareka
Safroadu Yeboah-Amankwah	Partner at McKinsey	Mr Yeboah-Amankwah
Sibongile Gumbi	General Executive: Biotechnology Sectors	Dr Gumbi
Simphiwe Duma	TIA Chief Executive Officer	Mr Duma
Siyabulela Ntutela	Former Senior General Manager: Operations	Mr Ntutela
Thando Gobe	Trustee of TCT Trust	Mr Gobe
Vuyo Mthethwa	Acting Chief People and Culture	Ms Mthethwa
Werner van der Merwe	TIA Senior General Manager: Finance	Mr Van der Merwe

## Entities

Name	Reference in report
Agricultural Research Council	ARC
Department of Public Service and Administration	DPSA
Department of Science and Technology	DST
Ilizwi Industrial Holdings (Pty) Ltd	Ilizwi
Industrial Development Agency	IDC
Lebone Engineering (Pty) Ltd	Lebone
Massachusetts Institute of Technology	MIT
McKinsey & Co	McKinsey
PriceWaterhouseCoopers	PWC
Psidot Engineering	Psidot
Citizens Movement for Social Change Trust	CMSC Trust
Technology Innovation Agency	TIA
Terbrugge Community Trust	TCT

## Abbreviations

Abbreviation	Detail
AI	Artificial Insemination
ARC	Agricultural Research Council
ART	Assisted Reproductive Technology
AVCA	African Venture Capital Association
BDM/O's	Business Development Managers/Officers
BIS	Business Intelligence Services
BPP	Beef Profit Partnerships
CEO	Chief Executive Officer
CFO	Chief Financial officer
CRO	Chief Risk Officer
ET	Embryo Transfer
EXCO	Executive Committee
GE	Group Executive
GL	General Ledger
GM	General Manager
GMTS	General Manager: Technology Stations
HEIs	Higher Education Institutions
HR	Human Resources
InvestCo	TIA Investment Committee
MSP	Manager of Special Projects
PFMA	Public Finance Management Act 1 of 1999
RFP	Request for Proposal
SABS	South African Bureau of Standards
SGM	Senior General Manager
SOP	Standard Operating Procedures
TCT	Terbrugge Community Trust
TIA Act	Technology Innovation Agency Act
TSM	Technology Station Manager
VIP	TIA Payroll System
YTIF	Youth Technology Innovation Fund

## Annexures

Annexure	Detail
A1	Fact Finding report dated 9 July 2013
A2	Transcription of interview with Mr Duma on 10 September 2013
A3	Transcription of interview with Mr Duma and Ms Kortjass on 20 September 2013
A4	Submission by Dr Ramphele dated 8 October 2013
A5	Submission by Mr Duma dated 15 October 2013
B1	PriceWaterhouseCoopers signed report with Annexures dated 12 August 2011
B2	Email from Mr Ndou to Dr Ramphele dated 12 August 2011
B3	Email dated 15 August 2011 from Dr Ramphele's personal assistant, Ms du Plessis, to Minister Pandor
B4	Ms Matjila's appointment letter as TIA's Marketing Manager with effect from 1 June 2010
B5	Ms Matjila's appointment letter as the Acting General Manager: Marketing signed by Mr Duma on 20 October
B6	Ms Matjila's application (containing her qualifications and curriculum vitae) for the vacant position of General Manager: Marketing and Branding dated 9 December 2010
B7	Ms Matjila's appointment letter as the General Manager: Marketing and Branding signed by Mr Duma on 10 January 2011
B8	Recruitment Policy approved by the TIA Board on 8 December 2009
B9	TIA Board pack for the TIA Board meeting held on Tuesday, 8 December 2009. The Board pack includes the minutes of the Board meeting held on 26 October 2009
B10	Minutes of TIA Board meeting dated 8 December 2009
B11	First signed statement of Ms Mamabolo dated 9 September 2013
B12	Email from Ms Mamabolo dated 25 September 2013
B13	Ms Kortjass's statement dated 30 September 2013
B14	Email correspondence from Ms Mthethwa to PWC dated 21 July 2011
B15	Email correspondence from Ms Mthethwa to Deloitte dated 26 September 2013
B16	Ms Maruping's Curriculum Vitae and qualifications
B17	Advert for the position of GE: Industrial Sectors
B18	Interview score sheets dated 6 January 2011
B19	Ms Matjila's contract of employment as Group Executive: Industrial Sectors signed by Mr Duma on 1 February 2011
B20	Disclosure of conflict of interest form for Ms Maruping
B21	Ms Hechter's statement
C1	Memorandum of Agreement between TIA and ARC dated 27 May 2012
C2	Selection Criteria for communal farmers to participate in the ART Project



C3	Email from Mr Maisela to Board Members dated 3 February 2012
C4	"The Nguni: A case study" Article
C5	TIA Board Minutes dated 21 May 2012
C6	Minutes of the Chairperson's Committee, dated 27 June 2012
C7	Email from Mr Parker to Mr Duma dated 30 June 2012
C8	The proposal prepared for Dr Mamphela Ramphele for the Re-Indeginisation of Registered Nguni Cattle at the Terbrugge Farm dated June 2012
C9	Extracts from minutes of the Terbrugge community meetings dated 3 July 2012, 12 July 2012 and 15 July 2012
C10	Email correspondence between Messrs Parker, Duma and Dr Ramphele dated 3 July 2012
C11	Update on original proposal
C12	Email from Mr Duma to Ms Monageng dated 10 July 2012
C13	Email correspondence between Dr Ramphele and Mr Duma dated 13 July 2012
C14	Email from Dr Mkhosi to Prof Nedambale dated 22 July 2012
C15	Email correspondence between Mr Parker to Mr Duma dated 22 July 2012 and 23 July 2012
C16	Email from Ms Binneman with motivation to reject project dated 23 July 2012
C17	Email from Prof Nedambale to Dr Mkhosi dated 25 July 2012
C18	Email from Dr Mkhosi to Messrs Parker and Duma dated 26 July 2012
C19	Email from Mr Parker to Dr Mkhosi dated 28 July 2012
C20	Meeting minutes dated 2 August 2012
C21	Email correspondence between Dr Nengovhela and Dr Mkhosi dated 7 August 2012
C22	Memorandum re Re-Indeginisation dated 28 October 2012
C23	Email correspondence between Mr Parker and Dr Mkhosi dated 2 October 2012
C24	Email from Dr Mkhosi to Ms Seloane dated 17 October 2012
C25	Email from Ms Seloane to Dr Mkhosi dated 22 October 2012
C26	Email from Dr Mkhosi to Mr Duma with memorandum attached dated 23 October 2012
C27	Email from Mr Parker to Dr Mkhosi dated 24 October 2012
C28	Email from Dr Mkhosi to Mr Duma dated 7 November 2012

C29	Minutes of the Chairperson Committee meeting dated 12 November 2012
C30	Letter from Dr Mkhosi to Limpopo Department of Agriculture dated 21 November 2012
C31	Email from Mr Duma to Dr Mkhosi dated 23 November 2012
C32	Memorandum dated 4 December 2012
C33	Amended Memorandum dated 4 December 2012
C34	Email from Dr Mkhosi to Ms Binneman dated 5 December 2012
C35	Memorandum for the motivation of approval for the Terbrugge Project dated 10 December 2012
C36	Email correspondence between Mr Duma and Dr Ramphele dated 9 December 2012
C37	Minutes of EXCO meeting dated 10 December 2012
C38	Veld and Pasture Assessment/Grazing Capacity dated 11 December 2012
C39	Email correspondence between Ms Binneman and Dr Nengovhela dated 19 December 2012
C40	Email correspondence between Dr Nengovhela and Ms Binneman dated 21 December 2012
C41	Email correspondence between Messrs Parker, Gobe and Ms Rinquest dated 20 December 2012
C42	Memorandum for the motivation of approval of the Terbrugge Project dated 9 January 2013
C43	Minutes of the Exco meeting dated 14 January 2013
C44	Memorandum for the motivation of approval of the Terbrugge Project dated 24 January 2012
C45	Minutes of InvestCo meeting 24 January 2013
C46	Memorandum to provide feedback on issues deliberated on by InvestCo dated 7 February 2013
C47	TCT Trust Deed
C48	Agreement between TIA and TCT dated 28 March 2013
C49	Minutes of Site Meeting dated 4 June 2013
C50	Proposal for Youth in Farming Project dated 24 June 2013
C51	Correspondence between Mr Gobe and Dr Mkhosi dated 11 July 2013
C52	Business Plan for the Terbrugge Project dated August 2013

C53	Email correspondence between Mr Parker and Prof Nedambale
C54	TCT Request for additional funds dated 28 August 2013
C55	Proposal for the establishment of farmlets on Terbrugge Farm dated August 2013
C56	TCT funding report dated 19 July 2013
C57	TCT funding report dated 26 August 2013
C58	TCT statement from inception to 16 September 2013
C59	Supporting documentation for fund expenditure
C60	TCT invoices
C61	TCT cost breakdown for fund expenditure
C62	TCT statement of deposits
C63	Original invoices from Mr Parker to CMSC Trust
C64	Minutes of meeting dated
C65	Minutes of November 2012 Board meeting
C66	Special Projects Standard Operating Procedure
D1	Protected Disclosure Report – Joy Sixholo dated June 2013
D2 to D21	Annexure to Protected disclosure report
D22	Email correspondence between Mr Yeboah-Amankwah and Mr Duma dated from 24 February 2011 to 8 March 2011
D23	Email from Mr Yeboah-Amankwah to Mr Reed Hundt (Mr Hundt) and Mr Duma dated 8 May 2013
D24	A meeting request from Mr Duma to Ms Kortjass for 13 March 2012
D25	An email from Ms Portia Selebalo (Selebalo), PA to Ms Kortjass dated 27 March 2012
D26	Written explanation by Ms Kortjass dated 21 October 2013
D27	Written explanation by Ms Kortjass dated 19 October 2013
D28	Affidavit Dr Gumbi dated 17 October 2013
D29	Affidavit Ms Pitso dated 17 October 2013
E1	Memorandum dated 10 February 2011
E2	Memorandum dated 17 February 2011
E3	Services Agreement between TIA and Ilizwi signed on respectively 24 March 2011 and 25 March 2011
E4	Clarification of Roles and Delegations of Authority

E5	Mr Duma's Curriculum Vitae
E6	Memorandum of Agreement between Psidot and Lebone Engineering
E7	Company Profile: Lebone Engineering dated 2008
E8	Signed statement of Dr Ntutela dated 23 September 2013
E9	Signed statement of Ms Kortjass dated 30 September 2013
E10	Signed statement Adv Maisela dated 9 September 2013
E11	Internal memorandum titled "End of the year update"
E12	First draft version of the memorandum dated 4 February 2011
E13	Mr Radebe's proposal dated 4 February 2011
E14	Draft memorandum dated 4 February 2011
E15	Updated timeframe and payment schedule
E16	Email correspondence from Ms Sixholo to Mr Radebe dated 7 July 2011
E17	Memorandum dated 6 January 2011
E18	Email correspondence from Ms Heydenreich to Deloitte dated 27 September 2013
E19	A fixed term employment contract between TIA and Mr Nyide signed by Mr Duma and Mr Nyide respectively on 22 September 2011 and 23 September 2011
E20	A fixed term employment contract between TIA and Mr Nyide dated 8 May 2012
E21	Authorisation for Employment form dated 18 April 2012
E22	Signed statement of Mr Gumede dated 9 September 2013
E23	Signed statement of Ms Mkhwanazi dated 9 September 2013
E24	Second signed statement of Ms Mamabolo dated 9 September 2013
F1	The Travel and Subsistence policy included in the TIA Finance policies
F2	Minutes of the TIA Board meeting dated 8 December 2009
F3	TIA's Guidelines on Travelling and Subsistence as sent to all TIA Staff on 7 July 2010
F4	Updated version of the Guidelines on Travelling and Subsistence as sent to all TIA Staff on 11 February 2011
F5	Email, dated 11 February 2010 from a former employee, Ms Tonette Gouws to Mr Sipho Hlalethwa regarding the Travel and Subsistence Policy
F6	Email correspondence between Deloitte and Mr Patrick Krappie dated 2 September 2013 regarding the last version of the Financial Policies
F7	Detailed listing and purpose of Mr Duma's trips
F8	Supporting documentation pertaining to the AVCA Conference
F9	Email correspondence dated 16 August 2013, between Deloitte and the AVCA Conference organisers confirming that Mr Duma did not attend the conference
F10	Acknowledgement of debt dated 15 August 2013 signed by Mr Duma in respect of the repayment of R21 295.47

F11	Signed explanation from one witness, Ms Lindela Mzobe regarding the AVCA Conference
F12	Signed explanation from one witness, Mr Dumisane Mangwane regarding the AVCA Conference
F13	Reimbursive claim form for R2 093.95 in respect of Mr Duma's Netherlands trip
F14	Reimbursive claim form which includes an amount of R1 670.78 in respect of Mr Duma's Netherlands trip
F15	Email correspondence was between Mr Duma and Mr Roger Urlings (Mr Urlings) from Rendamax Netherlands dated 18 and 19 October 2011
F16	Parktravel invoice number 00A5285 dated 31 October 2011 for Mr Duma's flight costs from Switzerland to Germany to the amount of R19 812
F17	Email correspondence and invoice amounting to R12 826 related to Mr Duma's shuttle to be transferred from Germany to Netherlands
F18	Detail of Mr Duma's total amount of R1 744.12 claimed in respect of local travel
F19	eNatis report on vehicle with registration number BL19BDGP
F20	Detail of Mr Duma's total amount of R57 158.13 claimed in respect of incidental cost: foreign travel
F21	Roaming cost of R17 016.10 dated 23 January 2013 including a claim of R2 710.11
F22	Roaming cost claim totalling R6 474.37 dated October 2012. Including a claim of R2 710.11
F23	Detail of Mr Duma's subsistence claims in respect of his 17 foreign trips amounting to R93 773.10
F24	Subsistence claim form dated 4 June 2012 for the amount of R13 405.85
F25	Detail of Mr Duma's 10 entertainment claims amounting to a total of R20 745.51
G1	Board approved the TIA Electronic Communication and Acceptable Use Policy
G2	TIA Electronic Communication and Acceptable Use Policy
G3	Bundle of documents containing images with the corresponding internet history log file details

# 1 Introduction

- 1.1 The Technology Innovation Agency (TIA) is a public entity that falls under the governance of the Department of Science and Technology (DST).
- 1.2 The Chief Risk Officer of the DST Enterprise Risk Management division, Mr Pat Achary (Mr Achary) conducted a preliminary investigation based on allegations reported and presented his findings in a Fact Finding report dated 9 July 2013 (**Annexure A1**).
- 1.3 The Fact Finding report contains details relating to various allegations involving the former Chairperson of the Board of TIA, Dr Mamphela Ramphele (Dr Ramphele), the Chief Executive Officer of TIA who is on special leave, Mr Simphiwe Duma (Mr Duma) and other TIA officials.
- 1.4 TIA requested Deloitte to further investigate these allegations.

## 2 Scope and limitations

### Scope of our investigation

- 2.1 Following our review of Mr Achary's Fact Finding report and its annexures we investigated the following allegations:

#### **Allegations pertaining to nepotism**

- 2.2 Allegations of nepotism allegations were raised against Mr Duma when he acted as follows:

- Mr Duma appointed his former wife to the position of General Manager (GM): Marketing and Branding
- Mr Duma appointed his sister in law as the Group Executive (GE): Industrial Sectors.

#### **Allegations pertaining to intimidation**

- 2.3 It is alleged that Mr Duma threatened KPMG, the external auditors of TIA, with the termination of its services, if certain findings were raised.

#### **Allegations pertaining to irregular investment transactions**

- 2.4 Concerns were raised in respect of the investment decision process. The Fact Finding report specifically referred to the investment process followed in respect of the Terbrugge Community Trust. These concerns included the following allegations:

- Gross violation of the investment decision process, the value chain and the non-disclosure of interests
- Lack of transparency
- Concern about special projects with links to friends
- The CEO favoured special projects Managed by the Group Executive: Industrial Sector and General Manager Special Projects. The CEO directly approved these projects that were in his approval limit
- The CEO did not respect the decisions made by the Investment Management Committee – he would override the decision depending on whether he liked or disliked the projects
- The CEO made a significant “*donation*” to the Chairperson of the previous Board.

#### **Allegations pertaining to procurement of Goods and Services**

- 2.5 It is alleged that procurement processes were not followed when the following consultants were appointed:

- McKinsey & Co to conduct a benchmarking exercise

- Ilizwi Industrial Holdings to conduct a benchmarking study apparently at the request of the then Minister
- Mr Nhlanhla Nyide, a communications specialist.

#### **Mr Duma's expense claims**

- 2.6 From the Fact Finding report it appears that discrepancies were identified in respect of expense claims submitted by Mr Duma. We were requested to review Mr Duma's expense claims for the period October 2010 to August 2013.

### **Limitations**

#### **Our work did not constitute an audit**

- 2.7 The scope of our work was limited by your instructions and the information made available to us. The work performed as per our brief did not constitute a statutory audit and we do not express an audit opinion in accordance with International Standards of Auditing.

#### **Corroboration of information**

- 2.8 In the circumstances where we could not find the relevant corroboration for evidence, you should not rely on our work and our report as being comprehensive as we may not have become aware of all facts or information that you may regard as relevant. Any assumptions made during our investigation have been set out under the appropriate points of this document and are designed to be prudent and objective.

#### **We do not express a legal opinion**

- 2.9 Although the work performed incorporates our understanding of the law as it stands, we do not express a legal opinion on the issue, but merely state the facts as they have come to our attention. Our discussion of the relevant laws and legal agreements is intended solely to serve as a backdrop for the discussion and application of the relevant facts of the matter. It should be noted that where we comment on matters of law any interpretation should be referred to your legal advisors.
- 2.10 We do not comment on the innocence or guilt of any person, but merely report on the facts at our disposal. It is the prerogative of a duly constituted tribunal to pronounce upon the guilt or innocence of an individual.



## 3 Our investigation methodology

**We conducted interviews to obtain a better understanding of the allegations**

3.1 We list below the additional individuals we interviewed during the course of our investigation.

Name	Position
Adv Maisela	Former Company Secretary
Dr Gumbi	General Executive: Biotechnology Sectors
Dr Mkhosi	General Manager: Special Projects
Dr Ramphele	Former Chairperson of the Board of TIA
Mr Achary	Chief Risk Officer of the DST Enterprise Risk Management Division
Mr Binneman	Project Analyst: Special Projects
Mr Duma	TIA Chief Executive Officer
Mr Gumede	Senior General Manager: Business Development and Strategic Partnerships
Mr Gobe	Trustee at TCT
Mr Hlaethwa	Supply Chain Manager
Mr Mangwane	TIA General Manager: Investment Finance
Mr Mpofu	Management Accountant
Mr Ndou	Head: Legal Services
Mr Ntutela	Former Senior General Manager: Operations
Mr Parker	Member of Jim Parker Agricultural Services
Mr Van der Merwe	TIA Senior General Manager: Finance
Mr Yeboah-Amankwah	Partner at McKinsey
Ms Hechter	TIA General Manager: Finance
Ms K Njobe	Chairperson of the Board
Ms Kortjass	TIA CFO
Ms Mamabolo	GM Human Resources
Ms Mkhwanazi	General Executive: Human Resources
Ms Monageng	TIA Project Manager
Ms Mthethwa	Acting Chief People and Culture
Ms Mzobe	PA to the CEO

Name	Position
Ms Pitso	Supply Chain Manager
Ms Selobalo	PA to Ms Kortjass
Ms Seloane	Lead Analyst: Special Projects
Ms Sixholo	Business Strategy Manager in the CEO's office

### We obtained relevant supporting documentation

3.2 We obtained documentation relevant to the investigation including:

- Policies and procedures
- Payment packs for transaction testing
- Correspondence
- Breakdown reports
- Minutes of various committee meetings.

### Searches for electronic evidence

3.3 In the table below, we list the details of official electronic assets and seized hard disk drives which we obtained from the laptops and computers of TIA employees.

3.4 We obtained these TIA assets and hard disk drives for the gathering of electronic evidence.

	Description	TIA Asset number	Laptop number	Serial	Hard disk drive serial number
Mr Duma	Dell Latitude laptop	13823	F7494R1		WX91CC1K2145
	Dell Latitude laptop ( <i>formerly used by Mr Duma and given to personal assistant Ms Ophelia Mbatha</i> )	10458	HM86XP1		W0Q38TD4
	iPad	14301	n/a		n/a
	Acer Tablet	10017	n/a		n/a
Adv Tlotliso Polaki	Dell Latitude laptop	14536	B70NDS1		WXL1E91WAFX3
Ms Sixholo	Dell Latitude laptop	14834	6Y3FZW1		130311TF655AW GG7V3L

3.5 Mr Richard Mareka (Mr Mareka), the TIA Network Administrator provided us with a Dell Latitude laptop with serial number 4TFSXW1. On this laptop Mr Mareka copied the email data extracted from TIA's email server in respect of the following TIA employees:

- Mr Duma
- Adv Maisela
- Adv Polaki
- Ms Kortjass
- Ms Binneman
- Ms Sixholo
- Ms Monageng
- Ms Mkhwanazi
- Dr Ramphele
- Dr Mkhosi
- Ms Seloane
- Mr Ndou
- Ms Maruping
- Dr Gumbi
- Ms Letuku.

## 4 We summarise our key findings

### Alleged Nepotism

#### Appointment of Ms Matjila

##### Issues raised

- 4.1 Mr Duma allegedly appointed his ex-wife, Ms Matjila as the General Manager: Marketing and Branding at TIA without following due process.

##### Key findings

- 4.2 We found that:
- During March 2010, Ms Matjila applied for both the positions of General Manager (GM): Strategic Partnerships and General Manager: Marketing and Communications
  - The interview panel rated Ms Matjila as the preferred candidate for position GM Strategic Partnerships, but another candidate was appointed in this position
  - The interview panel concluded that Ms Matjila was not a suitable candidate for the position of GM: Marketing and Communications
  - TIA appointed Ms Matjila as Marketing Manager with effect from 1 June 2010
  - TIA split the Communications and Marketing portfolios to form a Marketing and Branding division
  - In December 2010, Ms Matjila applied for the internally advertised position of GM: Marketing and Branding
  - In a Board meeting held on 8 December 2009, the Board had adopted and approved the HR Policies including the Recruitment Policy
  - TIA did not follow any interview process as is required in terms of the Recruitment Policy and Ms Matjila was not appropriately evaluated
  - It therefore appears that Ms Matjila's appointment as the GM: Marketing and Branding on 11 January 2011 was irregular
  - It appears from the evidence that Mr Duma had been aware that Ms Matjila had not been interviewed as was required in terms of the Recruitment Policy

##### Recommendations

- 4.3 We recommend that the Board consider instituting disciplinary action against Mr Duma for signing an employment contract with Ms Matjila without ensuring adherence to the Recruitment Policy.

## **Appointment of Ms Pontsho Maruping**

### **Issues raised**

- 4.4 Mr Duma allegedly appointed Ms Maruping, his sister in law, as Group Executive (GE): Industrial Sectors without following due process.

### **Key Findings**

- 4.5 We found that due process was followed in the appointment of Ms Maruping.
- 4.6 Based on the information available and provided to us we found no substance to the allegation that Ms Maruping is related to Mr Duma.

## **Alleged Intimidation of KPMG**

### **Issues raised**

- 4.7 It is alleged that Mr Duma threatened KPMG with the termination of its services, if certain findings were raised.

### **Key Findings**

- 4.8 Based on the information available and provided to us we found no substance to the allegation that Mr Duma intimidated representatives from KPMG.

## **Alleged irregular investment transactions**

### **The Nguni Re-indigenisation Project (Terbrugge Project)**

#### **Issues raised**

- 4.9 Concerns were raised that Dr Ramphela allegedly received preferential treatment in respect of the approval of the Terbrugge Project.

#### **Key Findings**

- TIA committed R24 Million to investing in an Assisted Reproductive Technology (ART) Project which it launched in the Limpopo Province on 1 February 2012
- During or in about May 2012, Dr Ramphela requested a consultant, Mr Parker, to research the possibility of, inter alia, reviving cattle farming at the village she originally came from
- Mr Parker had doubts regarding the merits of the ART Project that TIA was already funding and made an alternative proposal for the establishment of an agricultural business at the Terbrugge farm with pure bred Nguni cattle(The Terbrugge Project)
- A Trust (later to become known as the Terbrugge Community Trust (TCT)) would be established to administer the assets to the benefit of other community projects. The Proposal sought an investment of approximately R4.5 million in order to establish the project. The funds would be used for infrastructure, purchasing of cattle and monthly running costs of the farm

- The Proposal did not fall within TIA's mandate. The proposed project similarly did not meet the selection criteria for the ART project or a project from the IDC involving Nguni cattle
- TIA initially (June 2012) offered to assist the project with the amount of R246 000 from the ART Project if TCT secured funds from other institutions (IDC) for the infrastructure costs and the community made the land available for the project
- Mr Duma made a decision to link the Terbrugge Project with the current ART Project. The apparent intention being to establish a controlled environment to conduct a pilot project in order to complete the ART project. The key outcome of the pilot project (the Terbrugge Project) would be to create a sustainable business plan to roll out nationally
- Exco initially (December 2012) declined approval of the project as the Proposal for the Terbrugge Project was outside of TIA's mandate and did not demonstrate any link to the ART project
- Subsequently Mr Duma and Dr Mkhosi changed the motivation for the Terbrugge project in order to bring it under the auspices of the ART Project
- InvestCo approved the project on the basis that the Terbrugge Project entails a slight change in scope of ART Project and that the funds used (R4 001 600) for the project were a re-allocation from the ART Project
- The agreement between TIA and TCT does not demonstrate any link to the ART project suffice to state that TIA would make available an amount of R265 000 for ART from the ART Project
- The funds paid in respect of the Terbrugge Project were additional funds over and above the funds committed to the ART Project.

4.10 In respect of the allegation that Dr Ramphela received preferential treatment in the approval of the Terbrugge Project we found that:

- The Proposal initially received on behalf of TCT was not in the mandate of TIA
- Both in the Proposal and in subsequent interactions with Mr Parker on behalf of the Trust it was made clear that TCT was not interested in the Assisted Reproductive Technology and was seeking an alternative to these projects
- Several role players, including Exco members and representatives from ARC and other third parties expressed reservations about the viability of the project for various reasons including:
  - Relevance to the TIA mandate
  - Suitability of the community for the envisaged project
  - Suitability of the land for the envisaged project
  - The community did not meet the selection criteria for the existing ART project or the IDC programme
- Mr Duma instructed, in November 2012, that TIA fund the project before the above issues were satisfactorily addressed and before the relevant committees had considered the approval

- Mr Duma communicated his decision to Dr Ramphele before it was approved by the relevant committees
- Mr Duma requested bank details and the Trust Deed from TCT before the project was approved
- The approval of the project was motivated without a clear business case and project deliverables being in place prior to signing the agreement

4.11 In respect of Dr Ramphele's involvement in the Terbrugge Project we found that

- Dr Ramphele is the founder of TCT
- The Citizens Movement for Social Change Trust (CMSC Trust) managed the project and incurred expenses prior to TIA approving funds for the Project. Dr Ramphele is the founder of SMSC and until December 2012, was also a Trustee
- Dr Ramphele disclosed her interest in the ART project at a Chairpersons' Committee meeting during November 2012 and it was noted that she had no financial interest in the project.
- Dr Ramphele was not part of the committees that considered and approved the Terbrugge Project, however she communicated and enquired regarding approval of the project.

4.12 In respect of payments made by TCT for the project we found that:

- In terms of the Proposal for the Terbrugge Project, an amount of R611 000 per annum was to be used in respect of monthly running cost of the farm. This amount included payment of the project consultant (Mr Parker) in the amount of R25 000 per month
- According to Mr Parker, he has an arrangement with Dr Ramphele in respect of his fees for R100 000 plus expenses per month for all projects that SMSC is involved in. He invoices CMSC Trust on a monthly basis
- Prior to TIA approving the Project SMSC Trust incurred expenses, including expenses in relation to invoices for Mr Parker's services
- All of Mr Parker's invoices were made out to CMSC Trust, both prior to and after TIA approving the project. CMSC Trust paid Mr Parker and other expenses incurred prior to TIA approving the project with the funds paid by TIA. It is not clear from the available documentation if TCT have reallocated the funds
- It appears that the monthly invoices (R100 000 plus expenses) Mr Parker submitted were altered after the project commenced to reflect that it was made out to TCT and these invoice were presented to TIA as project expenses (running cost).
- The MoA between TIA and TCT stipulate that TIA funds should be used for start-up cost and management team, and procurement of stock owned by the Trust. It is not clear from the MoA which amounts should be spent on these aspects as envisaged from the motivations for approvals. It appears that the funds earmarked for running cost (including the project consultant) over the two year period have already been spent in the first five months of the project. TCT would therefore have to raise additional funds to keep the consultant involved in the project.

### **Recommendations**

4.13 We recommend that

- The Board consider appropriate disciplinary action against Mr Duma and Dr Mkhosi
- Management review the agreement between TIA and TCT with a view to re-negotiate the terms of the agreement to ensure that TIA achieves its objectives in respect of the project
- The Board review the mandate of the Special Projects unit to ensure that it is aligned to TIA's vision and strategic objectives
- The Board ensure that Standard Operating Procedures are approved and monitored in respect of Special Projects.

### **Other Special Projects**

#### **Issues raised**

4.14 It was alleged that:

- Mr Duma favoured certain projects relating to the Youth Technology Innovation Fund (YTIF)
- Irregularities existed in the Youth Technology Innovation Fund processes and awarding of vouchers.

#### **Key Findings**

- We found no evidence supporting the allegation that Mr Duma exercised undue influence and/or favoured certain YTIF projects
- We reviewed the YTIF funding process in respect of four sample projects and compared it to the documentation and information provided to us
- Based on the information and documentation available and provided to us we found that due process was followed in respect of the sample projects.



## **Alleged irregular procurement transactions**

### **Appointment of McKinsey**

#### **Issues raised:**

- 4.15 It was alleged that Mr Duma exercised undue influence in the Benchmarking and Best Practice Implementation tender (the Benchmarking tender) process that was awarded to McKinsey.

#### **Key Findings**

- 4.16 We found that:
- Mr Duma had a pre-existing relationship with Mr Safroadu Yeboah-Amankwah who is a partner at McKinsey
  - According to Ms Sixholo Mr Duma instructed her, prior to the Benchmarking tender being advertised by TIA, to engage with Mr Safroadu Yeboah-Amankwah regarding the Benchmarking and Best Practice Implementation process at TIA
  - Ms Sixholo assumed the project lead role to ensure that it came to fruition and according to Ms Sixholo, Mr Duma instructed her to ensure that the tender process appeared to follow the correct procurement process
  - Mr Duma instructed Ms Sixholo to request Mr Safroadu Yeboah-Amankwah and McKinsey's assistance in drafting the tender specifications for the Benchmarking tender. Mr Safroadu Yeboah-Amankwah and his McKinsey colleagues, Messrs Tarik Alatovic and Muhammad Simjee drafted the tender specifications for the Benchmarking tender
  - Mr Duma requested the General Executive: Biotechnology Sectors, Doctor Gumbi, to act as the Chairperson of the Bid Evaluation Committee that was to evaluate the Benchmarking tender submissions
  - According to Dr Gumbi, Mr Duma had conveyed his preference to Dr Gumbi towards McKinsey as his preferred service provider to conduct the Benchmarking tender
  - Mr Duma denies these allegations.
  - Irregularities took place during the Evaluation and Adjudication stages of the tender process, which included:
    - Evaluation Committee members amended their individual scoring after collectively discussing the bid submissions
    - A member of the Bid Adjudication Committee, Mr Sipho Hlaethwa, calculated the 90/10 bid scoring system on behalf of a member of the Bid Evaluation Committee, Ms Pitso
    - In a Board meeting held on 8 December 2009, the Board had adopted and approved the Financial Policies including the Supply Chain Management Policy
    - TIA's Supply Chain Management Policy required the Bid Adjudication Committee to comprise of at least four Senior Managers, however the Adjudication Committee comprised of only three members.

- 4.17 As an organ of State (defined in section 239 of the Constitution), TIA must comply with section 217 of the Constitution. TIA's procurement system must accordingly be fair, equitable, transparent, competitive and cost-effective. In terms of the PFMA, TIA is listed as a Schedule 3A National Public Entity. Treasury regulation 16A3.2 A is applicable to TIA and also requires that the Supply chain management system must be fair, equitable, transparent, competitive and cost effective.
- 4.18 The equability requirement entails that all tenderers and suppliers must be treated equally throughout the entire procurement process, and must be given access to the same information.
- 4.19 The fact that McKinsey played a significant role in preparing the terms of reference for the tender and subsequently participated in the tender process raises doubt about the equitability of the process. It may be argued that through McKinsey's interactions with TIA prior to the tender publication they may have gained an unfair advantage.
- 4.20 In addition, the Supply Chain Management Policy prohibits the sub-delegation of any supply chain Management powers and duties to an advisor or consultant, a person who is not an official of TIA or to a committee which is not exclusively composed of TIA officials. TIA should seek legal opinion in this regard.

#### **Recommendations**

- 4.21 We recommend that The Board consider:
- Appropriate disciplinary action against Mr Duma. Ms Sixholo has since resigned from TIA
  - Obtaining legal advice in respect of the legality of the tender process and to consider the provisions of Section 34 of the Prevention and Combatting of Corrupt Activities Act.

#### **Appointment of Ilizwi Industrial Holdings**

##### **Issues raised**

- 4.22 It was alleged that Mr Duma appointed Ilizwi without following procurement processes.

##### **Key findings**

- Mr Duma was the former CEO of Psidot Engineering and became the Non-Executive Chairman after his appointment at TIA
- Ilizwi is a subsidiary of Lebone Engineering (Lebone), a company with close ties to Psidot. Psidot and Lebone had a co-operation agreement in place
- Mr Kelvin Radebe is a Director of both Lebone and Ilizwi
- It appears that during discussion with Minister Pandor in December 2010 a need to conduct a study of all the innovation tools that are available within the different government departments was identified
- Mr Duma misrepresented to several of his sub-ordinates that the Minister requested this study to be conducted within three months and that a service provider had to be appointed on an urgent basis

- According to Dr Ntutela, who was responsible for commissioning the study, Mr Duma instructed him to appoint Ilizwi to conduct the study
- After instructing Dr Ntutela to appoint Ilizwi, Mr Duma declared his conflict relating to Ilizwi and delegated the commercial matters in respect of the appointment to Ms Kortjass
- Based on the misrepresentation from Mr Duma, Ms Sixholo and Dr Ntutela prepared a motivation to deviate from the normal procurement policy which required that an open tender process had to be followed
- The memorandum indicated that the projected costs for the study would amount to R1.3 Million
- Ms Kortjass approved the deviation despite the fact that neither she nor Mr Duma had the authority to do so
- In terms of the Clarification of Roles and Delegations of Authority Mr Duma:
  - Did not have the authority to approve expenditure for the appointment of consultants above R1 million
  - Did not have the authority to approve a request to deviate from the procurement process, as this was a Board prerogative
- The expenditure was irregular in terms of the PFMA
- In the absence of a reasonable explanation, the possibility that Mr Duma manipulated the procurement process in order to unduly benefit Ilizwi and a related company cannot be excluded although Mr Duma denied this.

### **Recommendations**

4.23 We recommend that the Board:

- Consider appropriate disciplinary action against Mr Duma and Ms Kortjass
- Report the matter to the SAPS in terms of Section 34 of the Prevention and Combatting of Corrupt Activities Act for further investigation.

### **Appointment of Mr Nhlanhla Nyide**

#### **Issues raised**

4.24 Mr Duma appointed Mr Nyide without following the required procurement processes.

#### **Key findings**

- During a Board meeting in August 2011 the Board approved the CEO's request to increase his delegation of authority to approve the procurement of services of consultants up to the value to R2 million rand. In terms of the Clarification of Roles and Delegations of Authority it is required that three quotes be obtained for the procurement of consultants below R2 million
- Mr Duma did not follow the procurement process when he instructed the General Manager: Human Resources, Ms Makgopelo Mkhwanazi (Ms Mkhwanazi) to appoint Mr Nyide without the adhering to the requirement that three quotes be obtained

- It therefore appears that Mr Duma irregularly appointed Mr Nyide as a communications specialist
- It appears from the evidence that Mr Duma failed to:
  - Ensure that the system of financial management and internal control established for TIA was exercised within his responsibility
  - Be responsible for the effective, efficient, economical and transparent use of financial and other resources within his responsibility
  - Take effective and appropriate steps to prevent, within his area of responsibility, any irregular expenditure
  - Comply with the delegations to him by the Board to the extent applicable.

### **Recommendations**

- 4.25 We recommend that the Board consider appropriate disciplinary action against Mr Duma.

### **Mr Duma's expense claims**

- 4.26 Our key findings pertaining to Mr Duma's expense claims and trips undertaken, are summarised below:

#### **African Venture Capital Association (AVCA) conference**

- Mr Duma was scheduled to attend an AVCA conference from 8 to 10 April 2013
- TIA could not make payment in time for the conference due to the fact that a Euro amount had to be paid and the bank would not have cleared the amount in time
- Two witnesses maintain that Mr Duma approved the payment of R21 295.47 (conference attendance fee) into his personal bank account in order for him to make the payment at the conference
- Mr Duma did not attend the conference
- Mr Duma maintains that he was not aware of the arrangement and only realised on the Saturday before the conference that the money had been paid into his account and that he then did not attend the conference
- He maintains that he refused to incur expenses to transfer the money back to TIA due to his annoyance at the fact that his personal bank account was used in this manner and without his knowledge
- The money was eventually deducted from his salary with his consent.

#### **Subsistence claim**

- Mr Duma submitted a subsistence claim to TIA for the amount of R13 405.85. TIA Finance made a calculation error and paid an amount of R26 811.70 into Mr Duma's bank account TIA Finance only became aware of this overpayment during our investigation. Mr Duma did not question or take any steps to inform TIA of this overpayment
- Mr Duma claims that he was not aware of this duplicate payment into his bank account

- On two separate occasions, Mr Duma undertook to investigate this on his part and committed to refunding TIA if he was satisfied that he had indeed received a duplicate payment in error
- As of the date of this report, Mr Duma has not reverted back to us on this matter
- Ms Kortjass and Ms Roos (Former TIA finance employee) signed off on the claims form which included the incorrect amount for payment. They contradict each other as to whether Ms Kortjass approved the payment before or after the calculation error was made. Ms Roos contends that she made the error before Ms Kortjass approved the payment
- The amount of R13 405.85 is fruitless and wasteful expenditure that could have been avoided if reasonable care was taken.

#### **Recommendation**

4.27 We recommend that the Board:

- Recover the amount of R13 405.85 from Mr Duma
- Consider appropriate disciplinary action against Ms Kortjass for negligently permitting a payment that constitutes fruitless and wasteful expenditure. .

#### **Incorrect subsistence rates**

- Our review of Mr Duma's subsistence claims revealed that the incorrect rates as per the DPSA website were used in some instances. The total amount of fruitless and wasteful expenditure in this regard is R7 502.19
- Mr Duma's response was that he "does not get too involved in the numbers". He is of the opinion that the CFO would have disapproved anything that was incorrectly claimed.
- We could not obtain an explanation from finance personnel as to why the incorrect rates were used. Ms Kortjass ultimately approved the claims including the incorrect rates.

#### **Recommendation**

4.28 We recommend that the Board recover the amount from Mr Duma and consider appropriate disciplinary action against Ms Kortjass for permitting a payment that constitutes fruitless and wasteful expenditure.

#### **Incidental Claims**

- Our review of Mr Duma's incidental claims revealed that Mr Duma claimed R2 263.23 in respect of roaming costs incurred whilst in Europe for TIA business. Mr Duma however submitted another claim for the same amount for roaming costs and received both payments
- Mr Duma's stated that he would follow up on this and revert back to us. He agreed to refund TIA (at their cost), if this was an error on his part. As of the date of this draft report Mr Duma has not provided us with any response in this regard

- According to the Travel and Subsistence Policy dated 8 December 2009 and related guidelines, employees can either claim incidental costs or a daily subsistence allowance whilst travelling. Mr Duma claimed a total amount of R57 158.13 in incidental costs. Mr Duma already claimed a subsistence allowance prior to travelling in all these instances and was therefore not allowed to also claim incidentals based on the policy and guidelines
- Mr Duma's response was that he was aware of the policy but he again stated that if he had claimed expenses which were not allowed, he expected the CFO not to approve these.

#### **Recommendation**

- 4.29 It is recommended that the Board consider initiating appropriate disciplinary action against both Mr Duma and Ms Kortjass and that the above amount be recovered from Mr Duma.

## 5 Detailed Findings

### Alleged Nepotism

#### **Appointment of Ms Kgomotso Matjila as General Manager: Marketing and Branding**

##### **Forensic report by PWC**

- 5.1 We reviewed the files received from Mr Achary in relation to his preliminary investigation and Fact Finding report.
- 5.2 We found a signed report with annexures (**Annexure B1**) which PWC had compiled and addressed to TIA's Head: Legal Services, Mr Nkhangweni Ndou (Mr Ndou). Mr Louis Strydom, a Director in PWC's Forensic Services signed the report on 12 August 2011.
- 5.3 The PWC report stated that the Department of Science and Technology (DST) had received a hotline report from the Public Service Commission. This report alleged that Mr Duma, had appointed his former-wife, Ms Kgomotso Matjila (Ms Matjila), as the GM of Marketing.
- 5.4 We interviewed Mr Nkhangweni Ndou, Head of Legal Services, who confirmed that PWC had already investigated this allegation during July 2011 and August 2011 and submitted their report. He confirmed that he had emailed this report to the Chairperson, Dr Ramphele, on 12 August 2011 together with a letter which he had drafted on behalf of Dr Ramphele for the Minister's attention referring to the PWC investigation, the report and its findings. Mr Ndou provided us with this email which contained both the letter and PWC report (**Annexure B2**).
- 5.5 Mr Ndou provided us with the email (**Annexure B3**) which Ms Ann du Plessis (Ms du Plessis), the Personal Assistant to Dr Ramphele, had sent to Minister Pandor on 15 August 2011. Mr Ndou was also copied in on this email. In this email Ms du Plessis only attached the letter signed by Dr Ramphele addressed to Minister Pandor and not the report.
- 5.6 Mr Achary informed us that he had confirmed that Minister Pandor had received the report, but not the supporting annexures.
- 5.7 The PWC report contains the following findings:

##### **Appointment of Ms Matjila as GM: Marketing and Branding of TIA**

- *"Our review indicates that Mr Duma declared his former relationship to the Chairperson of the Board, CFO and GM: HR, although this is not required by the HR policy.*
- *Ms Matjila's appointments to the positions of Acting GM: Marketing in October 2010 and GM: Marketing and Branding in January 2011 were facilitated by Ms Kortjass and Ms Mothoa.*
- *Mr Duma signed Ms Matjila's letters of appointment as Acting GM: Marketing in October 2010 and GM: Marketing and Branding in January 2010 in his capacity as CEO and consistent with other appointments made between September 2010 and January 2011.*

- *Ms Matjila was appointed without meeting all the requirements of the job specifications for the position of GM: Marketing and Branding. We noted other instances where employees were appointed without meeting the criteria of the job specifications/profile. However, we noted 15 other GM appointments where employees met the criteria of the job specifications.*

*Ms Matjila did not have the required managerial experience of 6 years as required for the position of GM Marketing and Branding but does have the required minimum experience of 10 years.*

- *No interviews were conducted in relation to the appointment of Ms Matjila to the position of GM: Marketing and Branding. The vacancy for GM: Marketing and Branding was advertised internally in December 2010. Ms Matjila was the only candidate who submitted her application for this position.*
- *It is common practice within TIA that appointments of General Managers and above are made at the discretion of the CEO. This practice is, however, not documented in the HR policy."*

#### **Ms Matjila's remuneration and other benefits**

- *"Ms Matjila's salary package falls within the guidelines of the job evaluation report finalised in November 2010. Further, Ms Matjila receives a monthly salary that is below the average monthly salary of General Managers appointed by TIA.*
- *We could not identify any undue financial benefits that accrued to Ms Matjila in our investigation".*

#### **Ms Matjila's qualifications and previous employment**

- *"Ms Matjila has a B Com degree in Management and Economics.*
- *Ms Matjila was employed as the Marketing Manager of BioPAD before joining TIA. Further, she was employed as the Marketing Manager of TIA before her appointment as GM: Marketing and Branding."*

#### **Ms Matjila's HR file**

5.8 Ms Corlette Mamabolo (Ms Mamabolo), the Human Resources Manager, provided us with the Human Resources (HR) files for Ms Matjila.

5.9 We reviewed Ms Matjila's HR file and found the following:

- Ms Matjila's appointment letter as TIA's Marketing Manager with effect from 1 June 2010 (**Annexure B4**)
- Ms Matjila's appointment letter as the Acting General Manager: Marketing signed by Mr Duma on 20 October 2010 (**Annexure B5**)
- Ms Matjila's application (containing her qualifications and curriculum vitae) for the vacant position of General Manager: Marketing and Branding dated 9 December 2010 (**Annexure B6**)
- Ms Matjila's appointment letter as the General Manager: Marketing and Branding signed by Mr Duma on 10 January 2011 (**Annexure B7**).



### **The TIA Recruitment Policy**

- 5.10 Ms Mamabolo provided us with the Recruitment Policy (**Annexure B8**) which she explained was in effect during 2009 and until November 2011.
- 5.11 Ms Mamabolo informed us that from October 2009 to December 2009 she was part of TIA's project office responsible for the incorporation process of the seven entities into TIA.
- 5.12 At the time she was part of the team responsible for drafting various HR policies which included the Recruitment Policy.
- 5.13 We showed Ms Mamabolo a documentation bundle containing the TIA Board pack (**Annexure B9**) for the TIA Board meeting held on Tuesday, 8 December 2009 at the Intercontinental Hotel at OR Tambo Airport. In the Table of Contents under the heading "*Items for Approval*" contained Item 5 (b). Item 5 (b) dealt with "*Human Resources Policies*". A comment next to Item 5 (b) stated that the documents were previously distributed amongst Board members. The TIA Board Pack also included the minutes of the previous Board meeting held on 26 October 2009. The minutes of the Board meeting held on 8 December 2009 (**Annexure B10**) recorded that the Board had adopted and approved the HR Policies. Ms Mamabolo confirmed that the Recruitment Policy she had given us was in fact one of these policies which the Board had approved.
- 5.14 We reviewed this policy and noted the following relevant clauses:

### **3.2 Advertising of Positions**

*"TIA reserves the right to appoint internal applicants in vacant positions as guided by the employee development and succession planning processes. In cases where a decision is taken to give preference to internal candidates, the position will be advertised internally and in the event of internal applicants being unsuitable or non-existent, the vacancies will be advertised externally."*

### **3.5 Interviewing**

- *All interviews are facilitated by HR.*
- *The short-listed candidates must be contacted directly and appointments confirmed telephonically or by e-mail at least five (5) working days prior to the interview. Candidates must be approached confidentially to ensure that their current job security is not prejudiced. No undertakings may be made to any candidate regarding their prospects of success in the interview process. Candidates will be advised of the TIA's interviewing approach.*
- *Subsistence, traveling and accommodation allowances may be paid for by the TIA at management discretion in respect of short listed applicants.*
- *A panel will be convened to interview short-listed candidates for the vacant position. The panel will be comprised of at least three (3) interviewers which will include the HR manager and the direct line manager. Depending on the position concerned, a departmental/group manager or other suitable manager will be part of the panel. The HR manager will ensure that proper orientation in respect of the interview questions is given to the interviewing team. At the relevant Executive's discretion and depending on the position concerned, other members of the Executive or the Board may be called upon to*

*interview the applicant. Where possible and if applicable a Union representative may participate in the interview.*

- *Interview record should be documented and filed along with the applicant register.*
- *Should the selection process fail to identify an appropriate candidate for the position as per the targeted requirements, candidates with transferable skills may be considered for the position, alternatively the position may remain open for an extended period or the targeted requirements may need to be revised, and the position re-advertised."*

#### **Interviews conducted**

5.15 In reviewing the PWC report we noted that PWC had amongst others interviewed the following individuals:

- Ms Corlette Molefe, the Human Resources Manager. (*Ms Mamabolo confirmed that at the time her surname was still Molefe*)
- Ms Kortjass.

5.16 Ms Mamabolo provided us with a written explanation dated 9 September 2013 (**Annexure B11**) and an email dated 25 September 2013 (**Annexure B12**). Ms Mamabolo stated the following:

- Ms Matjila was appointed as TIA's Marketing Manager with effect from 1 June 2010
- As a result of the restructuring process followed at TIA in October 2010 Mr Duma split the Communications and Marketing portfolios and the post for GM: Marketing became vacant
- Mr Duma appointed Ms Matjila as the Acting GM: Marketing and Branding on 20 October 2010
- In December 2010, TIA advertised the post for GM: Marketing and Branding internally
- Ms Matjila applied for the post and submitted her CV. She was the only candidate who applied for the post
- At the time, Ms Sibusisiwe Mothoa (Ms Mothoa) was the Acting General Manager for TIA's Human Resources. Ms Mothoa acted as the General Manager: HR from 15 September 2010 to 14 January 2011
- TIA placed Ms Mothoa on special leave on 28 February 2011 pending a disciplinary hearing against her. The hearing was held on the during March 2011 and TIA dismissed Ms Mothoa with effect from the 15 April 2011
- Ms Mothoa passed away sometime between September 2011 and October 2011
- When Ms Matjila applied for the position of General Manager: Marketing and Branding in December 2010 no interview panel was constituted and Ms Matjila was not interviewed
- She recalled that at the time, Ms Mothoa only had a one on one discussion with Ms Matjila regarding her application for the post. She understood from Ms Mothoa that she then had a discussion with Mr Duma and the CFO, Ms Kortjass to recommend the appointment of Ms Matjila

- She confirmed that Ms Mothoa did not give her any document such as a memorandum or notes of her interview with Ms Matjila
- She further confirmed that there are no records in Ms Matjila's HR file containing any interview notes or motivation for Ms Matjila's appointment as GM: Marketing and Branding. She could also not find any such documents in either hard copy or electronic format such as an email from Ms Mothoa, Ms Kortjass or Mr Duma regarding the decision or motivation regarding Ms Matjila's appointment
- Mr Duma subsequently appointed Ms Matjila on 11 January 2011 as the GM: Marketing and Branding
- She understood from Ms Mothoa at the time that Mr Duma appointed Ms Matjila based on his understanding that she was satisfactorily acting in the position at the time.

5.17 Ms Kortjass stated the following in her written explanation (**Annexure B13**):

- Ms Matjila was the Marketing Manager of BioPAD at the time of the incorporation of the seven entities into TIA in March 2010
- In March 2010, Ms Matjila applied for the internally advertised positions of GM: Strategic Partnerships and GM: Marketing and Communications
- She was part of both the interview panels for interviewing candidates who applied for the advertised posts of GM: Strategic Partnerships and GM: Marketing and Communications
- Ms Matjila was one of three candidates who applied for the position of GM: Strategic Partnerships
- Ms Matjila indicated that she preferred the position of GM: Marketing and Communications over the GM: Strategic Partnerships
- The interview panel scored Ms Matjila the highest of the three candidates in respect of GM: Strategic Partnerships. She recalled that the interview panel was of the view that Ms Matjila should be appointed as the GM: Strategic Partnerships
- The Acting CEO at the time, Dr Nhlanhla Msomi (Dr Msomi) had despite the view of the panel appointed Mr Patrick Krappie (Mr Krappie) as the GM: Strategic Partnerships. She did not know why Dr Msomi had appointed Mr Krappie when he had obtained the lowest score in the interview for this position
- Ms Matjila was one of two candidates who applied for the position of GM: Marketing and Communications
- Ms Matjila had obtained the lowest score in respect of the candidates. She confirmed that the interview panel was of the view that both candidates fell short of the standard set for this position and alternative candidates needed to be recruited
- Ms Matjila was not appointed to either of the posts for GM: Strategic Partnerships and GM: Marketing and Communications, but was appointed as TIA's Marketing Manager
- The position of GM: Marketing and Communications remained vacant
- The Board appointed Mr Duma as the CEO of TIA with effect from 1 September 2010
- Mr Duma stated in his Curriculum Vitae submitted to TIA for the position of CEO that Ms Matjila was his former spouse

- Mr Duma informed her and Ms Mothoa at the time, about his former relationship with Ms Matjila
  - She had a discussion with Mr Duma sometime during December 2010 after Ms Matjila had submitted her application for the position of GM: Marketing and Branding. Mr Duma asked her how Ms Matjila had performed as the Marketing Manager before his appointment as CEO on 1 September 2010
  - She informed Mr Duma that Ms Matjila had performed satisfactorily as the Marketing Manager. She further informed Mr Duma that Ms Matjila had in March 2010 applied for both the positions of GM: Strategic Partnerships and GM: Marketing and Communications. She informed Mr Duma that the interview panel scored Ms Matjila the highest of the three candidates for the position of GM: Strategic Partnerships. She explained to Mr Duma that the interview panel was of the view that TIA should have appointed Ms Matjila as the GM: Strategic Partnerships. She further informed Mr Duma that Ms Matjila did not fare well in her interview for the position of GM: Marketing and Communications
  - Mr Duma had not asked her whether she would recommend or oppose Ms Matjila's appointment as GM: Marketing and Branding. She stated that she had only given her view on how Ms Matjila had performed as the Manager: Marketing
  - She confirmed that no interview panel had been constituted and Ms Matjila had not been interviewed when she applied for the position of GM: Marketing and Branding
  - She confirmed that Mr Duma had subsequently appointed Ms Matjila as the GM: Marketing and Branding on 10 January 2011.
- 5.18 In our interview with Mr Duma on 10 September 2013, (**Annexure A2**) he confirmed that he had appointed Ms Matjila as the GM: Marketing and Branding in January 2011 and signed her appointment letter.
- 5.19 We informed Mr Duma that it appeared from the records and our review that no interview panel was constituted and that Ms Matjila was not interviewed for the position of GM: Marketing and Branding. We asked Mr Duma on what basis he had decided to appoint Ms Matjila if she had not been interviewed and there was no recommendation from an interview panel.
- 5.20 Mr Duma stated the following in his interview (**Annexure A2**):
- He explained that due to his former relationship with Ms Matjila, he and Ms Kortjass agreed that all that matters related to Ms Matjila were delegated to Ms Kortjass and Ms Mothoa. He was therefore not aware of the process followed when Ms Matjila applied for the position in December 2010 and he merely signed her contract in January 2011 in his capacity as CEO. He understood that Ms Kortjass and Ms Mothoa should have dealt with the interview process
  - (*We then specifically asked Mr Duma on what basis had he decided to approve and sign Ms Matjila's letter of employment if no interview panel interviewed her and no recommendation was made to him.*)

- He recalled that he had a discussion with Ms Kortjass In December 2010 shortly after Ms Matjila had applied for the position of GM: Marketing and Branding. He further recalled that Ms Kortjass had informed him that Ms Matjila had performed satisfactorily as the Marketing Manager
- Ms Kortjass informed him that Ms Matjila had initially applied for both the positions of GM: Strategic Partnerships and GM: Marketing and Communications in March 2010. She informed him that the interview panel had scored Ms Matjila the highest of the three candidates for the position of GM: Strategic Partnerships. She explained to him that the interview panel was of the view that Ms Matjila should have been appointed as the GM: Strategic Partnerships
- He was therefore of the view that Ms Matjila was of "*General Manager material*"
- He stated that at the time Ms Vuyo Mthethwa (Ms Mthethwa) had since the incorporation process been contracted by TIA as the Acting Chief People and Culture responsible for assisting TIA in HR related matters. Ms Mthethwa had also served on TIA's EXCO. Ms Mthethwa's contract terminated on 30 September 2010
- He further explained that he seemed to recall that just before the termination of Ms Mthethwa's services at TIA in September 2010 he had asked her about Ms Matjila's performance as Manager since April 2010. Mr Duma informed us that she had apparently advised him that Ms Matjila had been performing satisfactorily since her appointment as manager and that by the end of 2010 or beginning of 2011, she would be ready to take over the role of General Manager: Marketing
- Mr Duma informed us that based on her advice he had decided that Ms Matjila was ready and fit for the position of General Manager: Marketing and Branding
- He stated that based on his discussions with Ms Kortjass and Ms Mthethwa he had decided to appoint Ms Matjila.

5.21 Following our initial interview with Mr Duma on 10 September 2013 he requested permission from the TIA Board to consult with Ms Kortjass regarding some of the aspects discussed during our interview with him. The Board agreed but requested our presence during this interview. This second interview took place on 20 September during which Ms Kortjass was also present.

5.22 The following transpired during this interview (**Annexure A3**):

- We briefly explained that from our review of the documentation and interviews it appeared as though Mr Duma had signed Ms Matjila's employment contract as GM: Marketing and Branding on 11 January 2011 without Ms Matjila being interviewed by an interview panel. We explained that we required clarification from Mr Duma and Ms Kortjass regarding the manner in which he had appointed Ms Matjila if the recruitment policy had not been adhered to. Mr Duma asked Ms Kortjass what her recollection was regarding Ms Matjila's appointment

- Ms Kortjass explained she recalled that she had a meeting with Mr Duma regarding the process of appointing Ms Matjila as the GM: Marketing and Branding. She could not recall exactly when this meeting took place but assumed it must have taken place shortly after Ms Matjila applied for the internal position during December 2010. She explained that she informed Mr Duma that before his appointment in September 2010 Ms Matjila had performed satisfactorily as a Manager. She informed Mr Duma that Ms Matjila had initially applied for the GM positions of Strategic Partnerships and Marketing and Communications, in March 2010. She did well in the interview for the GM: Strategic Partnerships but poorly in the interview for GM: Marketing. That was all she conveyed to Mr Duma
  - Mr Duma then confirmed that he had the discussion with Ms Kortjass and added that he probably would have had numerous discussions in this regard. Ms Kortjass only remembered this one meeting and added that she had not recommended or opposed Ms Matjila's appointment but merely provided her understanding of Ms Matjila's performance
  - Mr Duma was of the view that he must have had several discussions with Ms Vuyo Mthethwa (at the time the external service provider assisting with the interviews) and Ms Mothoa regarding Ms Matjila's appointment. He indicated that he would have to go and check his records to see if there is any memorandum or correspondence between him, Ms Mthethwa and Ms Mothoa which could possibly explain how Ms Matjila's appointment had been motivated
  - He further indicated that in the event that he did not find any record he would have to submit a sworn affidavit containing his version
  - He indicated that he would have either the documents or the affidavit ready by Wednesday 25 September 2010.
- 5.23 On 26 September 2013, we pointed out to Ms Mthethwa, via email that PWC indicated in its report that she was part of the interview panel that interviewed Ms Matjila in March 2010 for the vacancies of GM: Strategic Partnerships and GM Marketing and Communications. We also noted that PWC had submitted a number of questions to her in July 2011 regarding the interview processes and that she had accordingly responded. The email from Ms Mthethwa to PWC on 21 July 2011 responding to the questions is attached as **Annexure B14**.
- 5.24 We informed Ms Mthethwa that we have noted that she had apparently responded to PWC's question regarding the interview panel's view of the performance of Ms Matjila for the post of GM: Marketing and Communications as follows:
- "Ms Matjila was not recommended for that position at all by the panelists. In fact amongst the panel members, there was a specialist Marketing expert who was so shocked by her level of knowledge. Ms Matjila lacked experience, definitely had no strategic classic marketing exposure at all. In her interview she actually referred to a Photostat document that she must have copied from a text book as her response, which was extremely theoretical. This one I recall very clearly as after the interview I actually quizzed her on the response and she maintained her view, I then advised that she must be cautious as what she stated was not practical in the real marketing world at all. Subsequent to the interview, I met with her and*

*personally advised her that she was unsuccessful at which point she cried. Essentially she was very inexperienced for what was required”.*

5.25 We requested Ms Mthethwa to assist us and confirm the following:

- Whether she had submitted her responses to PWC as indicated in her email (**Annexure B14**)
- Whether she had indeed had a discussion with Mr Duma before she left TIA and advised him that Ms Matjila had been performing satisfactorily since her appointment as manager and that by the end of 2010 or beginning of 2011, she would be ready to take over the role of General Manager: Marketing.

5.26 Ms Mthethwa responded in an email to us on 26 September 2013 (**Annexure B15**) and the stated the following:

- *“The submission to PWC I indeed did make – providing them with the specific discussions I had with Ms Matjila about her unsuitability to the role, given her expressed limitations during the interview process*
- *I refute the allegation that I had a discussion with Mr Duma with respect to her performance – at the time when she was appointing (sic) in the Acting capacity, I was caretaking the Marketing portfolio, which was suddenly without consultation passed on to Ms Siwe Mothoa (who is since late) by Mr Duma. At the time, the company did not have approved performance agreements nor policy in place and therefore it would be totally erroneous to suggest that I would have made such a recommendation, after such a brief period.”*

5.27 On 15 October 2013, we received a written and signed response dated 15 October 2013 (**Annexure A5**) from Mr Duma.

5.28 Mr Duma stated the following in his response:

1. *“Nepotism regarding Ms Matjila*

*I confirm that Ms Matjila is my ex-wife. I declared this on my CV and to Dr. Ramphela in person before I undertook the appointment as CEO. TIA policies do not list ex-wives as people who may fall under the category of individuals whose appointment may result in nepotism. She joined TIA before me as part of the employee group from BIOPAD. A PwC report was commissioned by the Board when the allegations of nepotism around Ms Matjila were raised in 2011. I also confirm that the process was handled by the Board Chairperson, Dr. Ramphela. She was assisted by Mr. Ndou (Head of Legal Services). The final report itself was never shared with me.*

2. *Why did I sign off to Ms Matjila’s appointment as 6M: Marketing and Branding*

*The process of appointment of the appointment of the GM: Marketing and Branding was handled by the then acting GM: HR, Ms Siwe Mothoa. She sadly passed away the previous year. She handled the process including the salary offer and the contract to appoint Ms Matjila to the position that I then endorsed in my capacity as the CEO. I have not been able to find any memorandum that she wrote to me in terms of advice around the process. However, the following represent the issues that were prevalent in my mind:*

- *Documents available at HR show that Ms Matjila was the number one candidate for the position of GM: Strategic Partnerships. The CFO (Ms Kortjass) was a member of the interviewing team and confirmed verbally to me that panel made a decision to offer her the position. It remains a mystery why she was not offered the position formally. I took away from this information that a panel that I was not part of felt she'll be a capable GM.*
- *Ms Vuyo Mthethwa, the then Chief People and Culture, confirmed in a conversation with me that she expected Ms Matjila to be ready to assume the position GM: Marketing and Communication by November 2010. At that time, the position of GM: Marketing and Communication reported to the Chief People and Culture.*
- *The following facts were also glaring during the period from September 2010 to November 2010:*
  - o *Ms Matjila organised and executed the organisationwide 3 day teambuild (sic) in the first week of October 2010 in Drakensburg to achieve a feat that most EXCO members thought was impossible and also did not attend (except the CEO and CFO). The teambuild was executed below the budget she was allocated and all TIA employees from different provinces got to the event and went home safely (or without an incident).*
  - o *Ms Matjila commissioned her internal team to design the TIA logo which was later approved by the Minister of Science and Technology with its narrative. The logo is the one used by TIA to date (again saving the organisation money and creating a sense of ownership organisationwide).*
  - o *Ms Matjila commissioned a corporate video using TIA colleagues as actors to define the message for TIA. This video was successfully used during the launch of TIA. Whilst people asked for 3 months to commission the video, she did it in two weeks.*
  - o *Ms Matjila organised and executed the official launch of TIA in October 2010. This was attended by Minister Pandor, Dr. Ramphela and Director General Phil Mjwara. The launch was aired on SABC and also received coverage on numerous publications. By November 2010, the Eastern Cape regional office was successfully launched and attended by Board Members, the Nelson Mandela Metro Mayor and the Chief Whip of Science & Technology Parliamentary Portfolio Committee. The launch received good media coverage.*

*I again stress that I was not in charge of the process and mainly state what would have been my prevailing thoughts until I can find some minutes of recordings of our conversation with Ms Mothoa."*

## **Conclusions**

- 5.29 In terms of the Recruitment Policy, no interview procedures were followed regarding Ms Matjila prior to her appointment as the GM: Marketing and Branding in January 2011.
- 5.30 It therefore appears that Ms Matjila's appointment was irregular.



- 5.31 At the time, Ms Mothoa was the Acting General Manager for TIA's Human Resources and in terms of the Recruitment Policy, it appears that she would have been responsible to manage the interview process for the internally advertised position for GM: Manager and Branding. However, TIA dismissed Ms Mothoa was on 15 April 2011 and she subsequently passed away.
- 5.32 It appears from the evidence available and provided to us, that Mr Duma was aware that Ms Matjila was not interviewed as part of the recruitment process, as was required in terms of the Recruitment Policy.
- 5.33 It further appears that Mr Duma was aware that the interview panel interviewing Ms Matjila for the position of GM: Marketing and Communications had based its decision not to appoint Ms Matjila on the fact that she was not suitable for the position.
- 5.34 Mr Duma stated that Ms Mthethwa had advised him that Ms Matjila would be ready by the end of 2010 to be appointed as a General Manager however, Ms Mthethwa denied this assertion by Mr Duma.
- 5.35 We are of the view that in light of the initial interview panel's decision not to appoint Ms Matjila for the position of GM: Marketing and Communications in March 2010, Mr Duma should have not have appointed Ms Matjila without due process.

### **Recommendations**

- 5.36 We recommend that the Board consider appropriate disciplinary action against Mr Duma for signing an employment contract with Ms Matjila whilst he was aware that the recruitment policy was not followed. .
- 5.37 We recommend that TIA conduct a review of appointments completed during Mr Duma's tenure in order to determine whether there may be further instances of non-compliance.
- 5.38 We recommend that TIA assess the recruitment process in order to determine whether there are control enhancements required.

### **Appointment of Ms Pontsho Maruping**

#### **Ms Maruping's HR file**

- 5.39 Ms Mamabolo provided us with the HR files for Ms Maruping.
- 5.40 We reviewed Ms Maruping's HR file and found the following:
- Ms Maruping's Curriculum Vitae and qualifications (**Annexure B16**)
  - The advert for the position of GE: Industrial Sectors (**Annexure B17**). Candidates were required to submit their application before 20 December 2010
  - The interview score sheets dated 6 January 2011 (**Annexure B18**)
  - Ms Maruping's contract of employment as Group Executive: Industrial Sectors signed by Mr Duma on 1 February 2011 (**Annexure B19**)
  - Disclosure of conflict of interest form for Ms Maruping (**Annexure B20**).

### Conclusions

- 5.41 We reviewed Ms Maruping's HR file and the documentation relating to her appointment and found the following:
- Ms Maruping's qualifications adequately met the requirements
  - The interview panel was constituted in terms of the Recruitment Policy
  - The interview panel adequately interviewed Ms Maruping and Ms Maruping obtained the highest score of all the candidates interviewed
  - We found no irregularities in the interview and appointment process.
- 5.42 Mr Duma denied that he and Ms Maruping are related in any way.
- 5.43 Based on the documentation and information obtained during this investigation we found no evidence that she and Mr Duma are related.

### Recommendations

- 5.44 We recommend that no further investigation is required.

### Alleged Intimidation of KPMG

- 5.45 We conducted several interviews with Mr Dumisane Mangwane (GM: Investment Finance), Mr Alvero Mpofu (Management Accountant) and Mr Werner van der Merwe (SGM: Finance) respectively regarding all the allegations. We specifically enquired regarding this matter as part of these interviews. These individuals were unable to provide us with any indication as to whether this allegation held any substance or to provide us with substantive evidence in support of this allegation.
- 5.46 We interviewed Ms Hechter on 16 August 2013, as she was the Audit Manager at KPMG who was part of the Financial Statements Audit of TIA for the 2011 financial year-end. We obtained a statement (**Annexure B21**) from Ms Hechter regarding any possible intimidation. We include below extracts from her statement:

*"In the 2010/2011 financial year, there was an adverse opinion on the investments due to all the irregularities. The adverse opinion was based on accounting treatment in terms of GRAP 6 and 7 and loans. However, there was specific mention of the irregular expenses in the audit report under Compliance with laws and regulations."*

*"The partner responsible for the external audit engagement (Ms Masemola) wanted to include this in the report to the financial statements and release a report on the 31 July 2011 but the CEO (Mr Duma) disagreed with the adverse opinion and wanted the report to be released on 31 August 2011 to allow some time to rectify the irregularities."*

*"Mr Duma and Ms Masemola had an argument about the irregularities as Mr Duma mentioned the reputational risks it may hold for TIA."*

*"I do not think that Ms Masemola was intimidated by Mr Duma as it was alleged. She handled the matter maturely and ensured proper documentation was submitted for all conclusions reached. The irregularities were not corrected and the accounting issues mentioned lead to an*

*adverse opinion on the financial statements. Matters relating to compliance with laws and regulations were also reported in the audit report.”*

- 5.47 Based on the above, it appears that Mr Duma indicated his need to rectify the irregularities to protect TIA’s reputation. The irregularities were however never rectified and still reported on by KPMG as is evident from the 2011 Annual Report.

### **Alleged irregular investment transactions**

#### **The Nguni Re-indigenisation Project (The Terbrugge Project)**

##### **The TIA Act**

- 5.48 In terms of section 3 of the TIA Act the object of TIA is *“to support the State in stimulating and intensifying technological innovation in order to improve economic growth and quality of life of all South Africans by developing and exploiting technological innovations”*.
- 5.49 Technological innovation are defined as *“the application in practice of creative new ideas, which includes inventions, discoveries and the process by which new products and services enter the market and the creation of new businesses”*
- 5.50 Section 4(1) prescribes the powers and duties of TIA and stipulate that the agency may “on such conditions as the Board may determine
- a *provide financial and any other assistance to any person, for the purpose of enabling that person to develop any technological innovation”*

##### **TIA Investment Framework Policy**

- 5.51 Section 5 of the TIA Act requires TIA to prepare an Investment Framework Policy to be reviewed annually.
- 5.52 We have been provided with an Investment Framework Policy approved by the Board in January 2011.
- 5.53 We set out below the material aspects of the policy relevant to the Terbrugge project.

##### **Clause 1- Definitions and terms**

<b>Innovation Value Chain.</b>	A series of steps that transform ideas in the research domain into goods and services actively traded in society
<b>Investment</b>	Provision of funding with an expectation of certain outcomes with a degree of risk
<b>Grant</b>	Funding provided without expectation of financial return, but still an investment in that there is an expectation of certain outputs and benefits
<b>Technology</b>	Technology is the practical application of know-how/expertise, processes and intellectual property to enable products and services which improve economic growth and quality of life
<b>Technological innovation</b>	As per TIA Act

#### **Clause 4 – Investment Context**

4.1.1 *TIA straddles the gap between scientific research and established business. Subject to the restrictions within this Policy, TIA will provide funding to, and other support, to a wide range of entities engaged in activities that fall into the innovation value chain...*

*TIA will achieve its vision through focus on Technology Innovation by companies in key strategic industries to improve the economic competitiveness of South Africa”*

4.1.2 *TIA seek to support technological ideas moving along the innovation Value Chain, reducing risk and increasing the likelihood that products and services will enter social and economic markets”*

#### **Clause 5 – Risk Management**

“5.1 *TIA engages in a domain of significant uncertainty and unquantifiable risk. Risk management is central to all of TIA’s activities in order to achieve its objectives. The framework for risk management comprises the overall operating model of TIA enabled by this Policy. This framework includes:*

5.1.1.1 *the PFMA*

5.1.1.2 *anti-bribery and corruption provisions*

5.2 *identifying, selecting and managing priority economic sectors for investment”.*

#### **Clause 6 – Investment performance objectives**

“6.1 *TIA’s performance objectives are drawn from the TIA Act. TIA will invest in Technological Innovation opportunities to maximise benefits (or outcomes for South Africa, including the long term impact on the South African economy and the quality of life enjoyed by South Africans.*

6.2 *TIA will ensure that each individual investment supports TIA’s performance objectives, including financial returns.*

6.3 *For each individual investment TIA will negotiate and structure the transaction in terms of Investment Structure and other parameters so that there is an appropriate blend of:*

6.3.1 *a reasonable financial return of at least the funds TIA has invested (in real terms) from the economic success of each specific opportunity*

*And;*

6.3.2 *a sustainable social impact aligned with national benefit and strategic priorities.*

6.4 *TIA may elect to provide funding without a financial return expectation by exception, where appropriate.*

#### **Clause 7 - Investment Philosophy**

“7.1 *TIA’s core role is to support, through funding and other interventions, development and exploration of Technological Innovations that lead to economic growth and improved quality of life for all South Africans. Hence TIA will seek out and catalyse opportunities for investment funding where:*

7.1.1 *there exist creative new technology based ideas for either new or improved products, processes or services; or*

- 7.1.2 *there are existing technology based ideas for new or improved products, processes or services that can be further improved products, processes or services that can be further improved, developed, exploited by South Africans or in collaboration with foreigners where a win-win partnership can be forged; or*
- 7.1.3 *there is opportunity for the development of infrastructure and capacity in order to reduce the barriers to technological innovation in South Africa;*  
*and*
- 7.1.4 *the stage of the development of the idea is beyond Basic Research and before production expansion; and*
- 7.1.5 *where there are insufficient other resources available to progress the opportunity.”*

#### **Conflict of Interest Policy**

- 5.54 TIA's Conflict of Interest policy dated 21 February 2013 state the following with respect to the general policy

##### *“General Policy*

*Avoiding actual, potential and perceived conflicts of interest is fundamental to ensuring the highest levels of integrity and public trust in the TIA. Board Members subject to this policy must:*

- 2.1 *take reasonable steps to restrict the extent to which a private interest could reasonably be seen to compromise, their impartiality when carrying out their board duties*
- 2.2 *abstain from involvement in board decisions and actions that could reasonably be seen to be compromised by their private interest and affiliations;*
- 2.3 *avoid private action in which they could be seen to have an improper advantage from inside information they might have access to because of their board duties or activities*
- 2.4 *not use their board position for private gain ; and*
- 2.5 *ensure that there can be no perception that they received an improper benefit that may influence the performance of their board duties,*

- 5.55 The policy defines various interests as follows:

**Conflict of Interest** *as conflicts between Board Roles, duties and private interest and that these can be actual, potential or perceived*

**A perceived Conflict of Interest** *as an interest that can exist where a third party could reasonably form the view that a Board Member's private interest could improperly influence the performance of their duties, now or in future*

**Private Interest** *is an interest in this context means anything that can have an impact on the ability of the TIA or any of its Board Members to fulfil its role as a public entity. The term “private interest” includes not only the Board Member's own personal, professional or business interest of individuals or groups with whom they are closely associated. This can include relatives, friends or even rivals and enemies.*

5.56 The duties of Board members are described as follows:

*“3.3.1 All TIA Board members have a duty always to put the interests of the TIA above their private interests when carrying out their board duties.*

*3.3.2 Determining the TIA’s interests in a particular situation can be complex, even problematic, but on a practical level, Board members can best fulfil their duty to put TIA interest first by:*

*3.3.2.1 carrying out their prescribed board duties fully and effectively in accordance with relevant legislation and policy;*

*3.3.2.2 identifying any actual, potential or perceived conflicts of interest that they have, declaring the conflicts to ensure transparency and ensuring these are managed effectively.”*

5.57 Clause 3.4 deals with “reasonable steps to manage conflicts” and states that

*3.4.1 Acting in a reasonable way means exercising sound judgement and taking a sensible approach. The reasonable person test can be applied with regards to managing conflict of interest in the same way as it is applied to any other action or decision.*

*3.4.2 The proper management of conflicts of interest does not require the wholesale avoidance or relinquishment of private interest that might give rise to a conflict of interest issue. What is does require is the appropriate management of the interaction between private interest and board roles and duties*

*3.4.3 There are a number of options available for managing conflict of interest. These must begin with disclosing relevant details. The Board Member and the Board must agree on mutually acceptable ways of managing the conflict, these may even extend to relinquishing the private interest or stepping down from office”*

### **The Special Projects Unit**

5.58 Mr Duma informed us that:

- The Special Projects Unit was established during the transition of TIA
- There were projects that could not fit in certain areas and also projects that DST had asked to TIA to manage on their behalf
- It was not clear, in terms of the TIA business and the TIA mandate where it would fit
- They were also looking at nuclear technologies, which are very sensitive, so they put it under Special Projects
- The projects typically cut over various disciplines
- Part of the Special Projects Unit portfolio includes Special High Impact Projects (SHIPs)
- These are projects that would make a major impact nationally from a technology innovation point of view. It can assist in skills development at a bigger scale and creation of SMMEs that are technology driven and creates jobs. It gives TIA the kind of national footprint and coverage that it wants.

5.59 The Terbrugge Project is part of the SHIPs portfolio. In the Special Project Operational Plan the SHIPs portfolio is summarised as follows

- *“High potential for socio-economic impact*
  - ✓ *Job creation; quality of life impact; GDP growth*
- *Deliver value to the South African public through technology innovation that impacts national priorities*
- *Serve as a statement to the*
  - ✓ *Public - on what the meaning of technology innovation is in changing people's lives; and*
  - ✓ *Political Principals - on the value of investing public funds in science, technology & engineering innovation.”*

5.60 In various documents the SHIPs portfolio are described as follows:

*“The Special High Impact Programmes (SHIPs) portfolio is to deliver value through technology innovation that impact on national priorities and provide significant potential for socioeconomic impact in South Africa. The technologies of these projects has undergone preceding research and are therefore mature and do not require any further technology development within any of the existing TIA sectors. These projects showcase the potential of technology innovation and are currently being linked with community projects that ultimately will involve youth participation. The SHIPs are therefore linked with the Youth Technology Innovation Programmes (YTIP) since the products/services developed by the youth will create a pipeline for the Youth Technology Innovation Fund (YTIF). The outcome of these opportunities must be new products/services launched onto the market that are delivering immediate and recognisable socio-economic impact, and in particular delivering into South Africa's national imperatives.”*

5.61 Ms Binneman provided us with draft Standard Operating Procedure (SOP) for SHIPs. To date Exco have not approved the SOP.

## **Background to the Terbrugge Project**

### **The ART Nguni Cattle project (The ART Project)**

5.62 We have reviewed the agreement between the Agricultural Research Counsel (ARC) and TIA in respect of the Assisted Reproductive Technology (ART) project as well as the business plan attached to the agreement (**Annexure C1**). We note the following material terms from the business plan:

- TIA funded the ART pilot project that focused on addressing low reproductive rates
- The pilot project reached 18 farmers
- The ART project will supplement the pilot project with:
  - Animal Health
  - DNA technology
  - BPP model
- The ART project is intended to reach 2125 cattle and 600 farmers per Province
- The ART project is expected to leave at least 400 bull calves per year per province and these calves can be used for 9 years
- The proposal requested R24 Million to achieve the objectives over a period of three years

- The objective is to continue to address low reproductive rates and to:
  - Introduce genetically superior cattle
  - Introduce the BPP model meant to empower individual rural farmers to participate existing modern beef industry value chain
  - Support rural farmers with animal health
  - Use DNA to verify parentage and identification to deter stock theft
  - To build capacity and skills of farmers, and professionals who support emerging farmers.

5.63 The selection criteria for farmers that would participate in the project are not set out in the business plan. Professor Lucky Nedambale, ARC Programme Manager, provided us with a document setting out the criteria as follows (**Annexure C2**):

- *“Limpopo citizen Group or individuals owing Nguni type cattle or interested on Nguni breed.*
- *Project open to all districts and municipalities of the Limpopo Province.*
- *Previously disadvantaged organised small scale and or emerging farmers in communal grazing areas.*
- *Must have at least 30 cows in the herd or cumulatively as a group and ready to participate in the project.*
- *Interest in participating in ART project.*
- *The herd must have a clean bill of health.*
- *Affiliating to local livestock commodity group.*
- *In case of groups there should be agreement, no conflicts and constitution.*
- *Demonstrate willingness to adhere to the conditions of the agreement of the project.”*

5.64 Prof Nedambale advised us that the Limpopo Department of Agriculture selects the farmers who participate in the project and not ARC or TIA.

### **Proposal for the Re-indigenisation of Nguni Cattle (The Terbrugge project)**

5.65 The ART Project was launched on 1 February 2012. On 3 February 2012, Mr Arthur Maisela (Mr Maisela), former TIA Company Secretary forwarded an article covering the launch which appeared in the Business Day to the (then) TIA Board Members (**Annexure C3**). Ms Marjorie Pyoos, former Board Member, responded with a document entitled *“The Nguni: A case study”* seemingly published in 2001 by amongst others Ms Jenny Bester (Ms Bester). The document appears to comment on the results of (at that stage), of an on-going Nguni project in the Northern Province (Limpopo) and Eastern Cape (**Annexure C4**). For purposes of this report we will refer to the document as the Bester et al study. Ms Pyoos suggested that the Board obtain an explanation as to the difference between the 2001/2002 project and the current ART Project.

5.66 The Board discussed the launch of ART Project at its meeting on 21 May 2012. The minutes (**Annexure C5**) reflect that

- *“Members of the Board asked what the difference is between the current Nguni cattle project and the project funded in 2002*



- *Management responded that a document is being prepared which will deal with the differences but in a nutshell, the current project involves embryo-transfer whilst the 2002 project involved only artificial insemination*
- *The latter project did not give much control over the genetics of the cattle whilst the current one does*
- *The involvement of farmers in the current project has proven to be advantageous to the success of the project."*

5.67 The Chairpersons Committee discussed the ART Project on 27 June 2012. The minutes of the meeting (**Annexure C6**) reflect that:

- "Concern was raised that the ARC Nguni Cattle pilot study was not conducted properly as the Nguni cattle bulls were not separated from the exotic bulls;*
- Furthermore that there was a concern around the genetic contamination and management support offered to the farmers;*
- It was indicated that Mr Jim Parker, a farmer, had raised concerns around the state of the ARC Nguni cattle laboratory facilities which were not in a good condition for usage;"*

5.68 It was resolved that *"The CEO to engage Mr Jim Parker with a view of creating synergies around the ARC Nguni Cattle activities."*

5.69 We obtained the recording of the meeting. We note that Dr Ramphela raised the matter and stated that:

- She had taken upon herself, through the Citizens Movement, to promote Nguni Cattle
- TIA had been *"fed a story"* that is not happening on the ground
- She had a Zimbabwean consultant (Mr Jim Parker) working on a project in her village which they were going to present to the IDC on behalf of the people of Uit-Kyk.
- She was not going to personally gain, so she could discuss it and she was not touting it
- Pilot projects in this regard had been badly run in the past
- Bulls have not been properly isolated from exotics
- What TIA thought was happening to propagate the species was in fact not happening
- There is a problem with management and on-going support on the projects
- They are responding to IDC's call for proposals and they want to do it the *"proper way"*
- When Mr Jim Parker (Mr Parker) went to investigate the research station at ARC it was in a bad state
- There was reputational risk for TIA

5.70 Mr Duma responded as follows:

- He suggested that Mr Parker must come to TIA in order to “link” him up with the ARC in Limpopo.

5.71 We received a written submission (**Annexure A4**) from Dr Ramphele, dated 8 October 2013, wherein she explains her involvement in the Terbrugge Project. On page 5 to page 7 of the submission Dr Ramphele sets out the background to her involvement in the project as follows:

- Over a period of approximately 10 years TIA have unsuccessfully supported various projects involving breeding of Nguni cattle, including the ART Project
- Between 2010 and 2011, she worked with Letsema Circle Trust on a health project in the Eastern Cape
- She met Mr Parker who was involved in a project with Letsema Circle to revive cattle farming in the Cofimvaba Municipality
- In addition she had been involved in various upliftment efforts in her village, Bochum, situated in Polokwane
- Through these projects she established a professional relationship with Mr Parker
- They discussed reviving cattle farming in the area along the lines the Letsema Circle had attempted in the Eastern Cape
- She mentioned to Mr Parker that TIA was funding a project that focused on embryo transfers to breed Nguni cattle
- Mr Parker explained that based on his experience he doubted the merits of the ART project
- Mr Parker explained that he could propose an alternative solution and drew up the Proposal (the Proposal and **Annexure C8** to this report)
- The Proposal involved the breeding and rearing of Nguni cattle on open natural bushveld
- One of the objects of the project was to create wealth for the local community
- The Proposal envisaged that this objective would be achieved through the reward of ownership of the Nguni cattle to the community, resulting in job creation
- It was proposed that the community own the project from inception by means of a trust, which was later formed as the Terbrugge Community Trust (TCT)
- In addition Mr Parker suggested that land, situated at Terbrugge Farm, on which her grandfather had farmed would be ideal for the project
- Mr Parker stated that he could get funding from the IDC and if the pilot project was successful, the entire rural economy could be revived
- It was on this basis that she had agreed to assist Mr Parker in obtaining funding

- Her role was to
  - Connect the farm owners with professional expertise to set up the Trust
  - To persuade her family to cede their rights to the land to be used for the project without expecting any financial benefits
  - She continued to pay Mr Parker's consultancy fees out of her own pocket while he was working on the Proposal
- She shared the development with Mr Duma and also the fact that they wanted take the Proposal to the IDC
- Mr Duma expressed an interest in discussing the alternative with Mr Parker and she connected them
- There had been no suggestion from her that the project should be funded by TIA
- It is her understanding that discussions between Mr Duma, Mr Parker and the IDC then ensued, to which discussion she was not party to.

5.72 In a written submission (**Annexure A5**) dated 15 October 2013, Mr Duma stated that:

- Before a Board meeting in May 2012, Dr Ramphele informally told him that her family was donating land in Limpopo to the surrounding community to support farming enterprises
- She then shared the contents of the report prepared on her behalf that was going to be presented to IDC
- After the meeting, he requested Dr Ramphele to grant him the opportunity to read the application to IDC
- He had in his mind spotted an opportunity for TIA to design a "living lab" for the roll-out of the ART project
- He subsequently proposed to Dr Ramphele if TIA could explore a working relationship with the community and its land for the purpose of deploying the ART to the local community
- Dr Ramphele agreed to link TIA with Mr Parker
- The Proposal was written for the IDC and not TIA
- He indicated that his TIA colleagues took some time before they understood the purpose beyond the technology proof of concept
- The funds for the project were approved under the existing R24 Million ART allocation
- As far as he is aware this is the first opportunity to produce a model for the sustainable deployment of such a technology, including a business plan that can be taken to other funding institutions for assistance
- He never felt any pressure from Dr Ramphele, in her capacity as Chairperson of the Board, to have the project funded by any means necessary.

- 5.73 On 30 June 2012, Parker sent an email (**Annexure C7**) to Mr Duma and Dr Ramphele attaching a proposal (**Annexure C8**) for “*The proposed re-indigenisation of registered Nguni cattle at Terbrugge farm near Senwabarwana, Limpopo Province*” (*the Proposal*). It is dated June 2013.
- 5.74 On the cover of the Proposal it is indicated that the document was prepared for Dr Ramphele. Mr Parker confirmed that he had prepared the document.
- 5.75 We interviewed Mr Parker on 30 September 2013. He explained that:
- He had previously worked for Dr Ramphele on an irrigation scheme in the Eastern Cape
  - In May 2012, Dr Ramphele requested him to inspect her family set-up at Uit-Kyk to determine if it would be viable to start agriculture in the area
  - He started building a vegetable project that Dr Ramphele personally funded during or about May 2012
  - He identified together with Dr Ramphele’s brother that each household has a private plot to available for their personal use
  - Dr Ramphele explained the history of the area to him and requested him to research it further
  - He established that Dr Ramphele’s grandfather, with two other individuals, purchased the land in 1941
  - He established that although her (Dr Ramphele’s) homestead is in Uit-Kyk it actually fell inside the Terbrugge farm
  - He suggested to Dr Ramphele that she form a Trust to own the land instead of her claiming it
  - He suggested a Nguni farm for the area as it was under utilised
  - He identified 1200 ha for 100 head of cattle as he judged the stocking rate to be 10 to 1
  - He then prepared the Proposal for Dr Ramphele.
- 5.76 The Proposal suggests that a Registered Nguni Cattle Agri business be built on the Terbrugge farm near Senwabarwana, Limpopo. The Proposal refers to a study carried out by ARC without naming the study. It appears to be the Bester *et al* study referred to above as many sections of the Proposal appear to be *verbatim* extracts from the study. In addition, and as will be discussed in more detail below, the final business case refers to the Bester *et al* study by name and comprehensively quotes from it. We set out below the salient points of the Proposal.

## **Rationale**

5.77 The Proposal provides background to the Nguni cattle, its history and reasons why pure breed Ngunis are limited in rural areas. According to the author previous re-indigenisation projects has failed. He listed the following constraints experienced in most re-indigenisation projects (which appears in the Bester et al Study):

- *“Poor monitoring*
- *Lack of grazing management*
- *Failure to manage the herd*
- *Lack of reproductive management*
- *Lack of infrastructure*
- *A lack of record-keeping.*

*In the past, projects for the introduction of exotic cattle breeds into the communal sector invariably failed as a result of the introduction of complex technologies that increased production beyond the point of sustainability.*

*The conclusion is that the gene pool of the breed became diluted in the communal sector through cross-breeding and replacement by exotic breeds. This resulted from the perception that the Nguni was inferior compared with larger exotics, despite the fact that it was a low-maintenance breed ideally suited to the low-input farm systems of the communal farmer.*

## **Overview**

- *It was proposed that a registered Nguni Cattle agri-business be built on Terbrugge farm*
- *An outline plan had been prepared for the breeding, rearing and sale of Nguni Cattle, for foundation stock to start similar projects for re-indigenisation of the Nguni cattle breed in the province and adjoining provinces and eventually for sale to abattoirs for consumption and trading in the highly sought after hides*
- *The project was modelled to develop a breeding herd of registered Nguni cattle*
- *The land identified for this business was 10ha per Live Stock Unit (LSU) of breeding herd; hence the model would require 1,000ha of land for the Nguni cattle breeding herd with an additional 400ha for finishing bulls and weaners that remain for breeding stock*
- *For the purpose of modelling it was assumed that the land where the business was based was square , which impacts on the fencing required – 24, 500 perimeter fencing and 8,500 meter internal fencing -33,000m – with 13 steel cattle gates*
- *No detailed market investigations had been carried in order to ascertain whether one would be able to purchase the necessary cattle to start the business, at current prices paid for Nguni cattle in South Africa*
- *Two sales scenarios were presented, one selling registered breeding stock and sales to feedlots and abattoirs alone.*

### **Cost**

The cost for building the farm is set out as follows

- Capex - R2,589,900
- Stock costs – R1,316,000
- Monthly Running Costs – R611,700 per annum
- Total – 4 517 600.

### **Ownership**

5.78 Mr Parker proposed the following regarding ownership:

- It was recommended that the local community own 100% of the project from inception
- The skills to own and manage the business were not present in the community at the time
- A mentor/consultant should be introduced to the project, as a long term advisor to the owners (local community) and to transfer that skill to the local community.

### **Beneficiation Model**

5.79 In respect of the beneficiation the Proposal states that:

*“Terbrugge Nguni Cattle Project referred to above, would be 100% owned by the TRUST and would be set up as a commercial farm business. It would serve the local Terbrugge Farm communities interests in all of the developments that would take place at Terbrugge Farm. It would also serve to add value to the TRUST by employing specialists in various disciplines who would advise on each development. It could potentially go further in that it could also advise on other initiatives that Letsema Circle are involved in.”*

### **Minutes from community member meetings**

5.80 Mr Parker provided TIA with extracts from minutes of Terbrugge community meetings, dated 3 July 2012, 12 July 2012 and 15 July 2012 respectively, where the project was discussed (**Annexure C9**). We set out below the salient issues discussed at the meetings:

#### **3 July 2012**

- The minutes reflect that the purpose of the meeting was to discuss the Nguni Cattle Community project of Dr Ramphele
- The project would help the community with jobs and finances
- The community agreed to accept the project and set a date for further discussions.

#### **12 July 2012**

- Mr Parker was introduced to the community
- Mr Parker advised the community to use the land to its fullest for agricultural purposes as this was the dream of their forefathers. He talked about “*proper Nguni farming*”
- Dr Ramphele will help to look for donations to fund the project
- A Board of Trustees, including Mr Parker and Dr Ramphele would be established
- After some years the community would run the project on its own.

#### **15 July 2012**

- The community agreed on the name of the trust as the Terbrugge Community Trust and elected Trustees.

### **Update on original proposal**

- 5.81 In an email (**Annexure C10**) dated 3 July 2012, Mr Parker sent an update on the Project to Dr Ramphele. On the same day Dr Ramphele sent the update via email to Mr Duma stating that

*"I urge you to pay attention to this note from Jim Parker. He knows and understands cattle farming and we could benefit from his wisdom on the subject and save ourselves and the country a lot of grief!"* Mr Duma responded that he and his team were assessing the Proposal and that he would revert soon.

- 5.82 According to the update (**Annexure C11**), Mr Parker indicates that his original proposal was submitted to Mr Duma for his perusal. According to the document Mr Duma remarked to Dr Ramphele that *"all stakeholders should get together on the Nguni matter"*.

- 5.83 The update indicates that he (Mr Parker) researched the Limpopo Nguni set-up involving, the Limpopo Department of Agriculture, IDC, TIA, ARC and the University of Limpopo. Mr Parker quotes a speech from the Limpopo Agriculture MEC on 1 February 2012 during the launch of the ART project in Limpopo. The speech (as quoted by Mr Parker) outlines the objective of the ART project as follows:

*"To address low reproductive rates in the emerging herds, and*

*To introduce genetically superior cattle, which will also improve growth rates*

*To introduce the Beef Profit Partnership model which is meant to empower individual rural farmers to participate in the existing modern beef industry value chain*

*To support rural farmers with Animal Health issues to reduce mortality and improve fertility*

*To use DNA to verify parentage and identification to deter stock theft and for recording and improvement schemes*

*The Assisted Reproductive Technology (ART) project will transfer Nguni calves to local recipients (female cattle), in other words the calves born from the project will be purely Nguni calves, irrespective of the mother from which the calves were born.*

*The ultimate goal of the project is to introduce a large number of bulls into the emerging sector that will not be related to any female in the village and will also be improve genetics of the whole herd."*

- 5.84 Mr Parker further states in the update that there is no doubt that embryo transfer would speed up the numbers for distribution, but he expresses the following misgivings

*"It is a scientific fact that embryo transfer decreases the size of the gene pool*

*The in calf rate of this method is mere 50%*

*Who will guarantee the perpetuation of the gene pool after the distribution of the bulls and heifers to farmers."*

- 5.85 Mr Parker then recited statistics in relation to a previous project that did not provide the intended results (according to Mr Parker). Mr Parker then continued to state

*"Without sounding arrogant, the only way to re-indigenise pure Nguni is to breed from registered stock and fence out the exotic influence. Whilst laagering the pure bred Nguni the mixed cross bred cattle can be either sold off to beef merchants or kept separate with fencing.*

*I personally fear that the good work and massive amounts of money distributed by TIA and the IDC is not being fully utilised but to the contrary they are continually being told that each and every Nguni project is a success?*

*I would venture to say that the Embryo Transplant Project is nothing but a quick fix to make up more numbers at a cheaper rate to an already floundering exercise which was started some 6 years ago by the present stakeholders, excluding TIA, and others projects that were started by ARC 12 years ago.*

*In conclusion, the proposed figure of 400 bulls per year produced from the embryo transfer farm stock will require at least 10 000 Nguni cows to cover. Therefor (sic) it confirms my fear that they will be put to any old cow that happens to be wandering past. This is exactly what the ARC did in the case study in 2001 where there is nothing to show for their efforts and the re-indigenisation of Nguni was set back 12 years.*

*Mamphela there is no quick fix to any problem. There is only the precise way and that is to produce genetically sound and registered Nguni Cattle. If we ran our model for 8 farms over 8 years with 100 foundation cows at each farm there would be close to 5 000 pure bred Nguni on the veld in Limpopo Province.*

*The IDC has funding models with the Department of Agriculture but I feel it is time to try another way that has more chance of working and that is our way.*

*Can you also run our project by the IDC as well as follow-up with TIA for the same?"*

- 5.86 On 10 July 2012, Mr Duma forwarded the Proposal to Ms Kefiloe Monageng without any message (**Annexure C12**). Ms Monageng stated that:

- She was involved in the initial pilot project when she had been employed at BioPad
- Mr Duma had verbally requested her to look at The Proposal to see if it was in line with what TIA was doing in respect of ART
- She read The Proposal and verbally informed Mr Duma that The Proposal was not in line with what TIA was doing and not within its mandate.

- 5.87 In an email (**Annexure C13**) dated 13 June 2012, Dr Ramphela enquired from Mr Duma regarding progress of The Proposal. Mr Duma responded that Ms Monageng was assessing The Proposal and it would be discussed at Exco the following Monday (16 July 2012). According to the minutes of the Exco meeting of 16 July 2012 The Proposal was not discussed at the meeting.

- 5.88 Ms Brigitte Binneman, Project analyst in the Special Project division, advised us that she had received The Proposal as well as the update from Dr Margaret Mkhosi (Dr Mkhosi), General Manager, Special Projects. According to Ms Binneman, Dr Mkhosi had instructed her to read The Proposal and indicated that they would meet to discuss it. This never transpired.



5.89 On 22 July 2012, Dr Mkhosi sent The Proposal to Prof Nedambale from ARC and stated that *"... My thoughts are we can form a consortium with these people and explore the model we talked about before. Apparently the author is Jim Parker and I am going to phone him tomorrow."* (**Annexure C14**).

5.90 On 22 July 2012, Mr Parker sent the following message to Mr Duma and Dr Ramphele (**Annexure C15**).

*"I was wondering whether you had any news for me regarding the funding for the Nguni Re-indigenisation Project. We would really like to get started as soon as possible so everything is ready in time to introduce the cattle early next year and in time for the bulling season."*

5.91 Dr Mkhosi instructed Ms Binneman to prepare a report on the project by 10:00 the following day.

5.92 On 23 July 2012, at 9:43 AM Mr Duma responded to Mr Parker and Dr Ramphele stating:

*"... Dr Margeret Mkhosi left you as message to indicate which pieces of the project can be funded immediately by TIA. You will still need to respond to the IDC call for proposal on others. I do however think that a letter of support from TIA on the other aspects will be useful".*

5.93 On 23 July 2012 at 11:05 AM, Ms Binneman sent the report to Dr Mkhosi stating that she had tried to complete it before 10:00, but that it was not possible (**Annexure C16**).

5.94 Ms Binneman, set out the background to the project as well as the cost for establishing the project. Ms Binneman recommended as follows:

*"Without the funding the (sic) will be severely constrained and would not be in a position to set up the Terbrugge farm. The above investment will not provide any innovative technologies which can add value for TIA and therefore there is no current incentive for TIA stage (sic) although the programme might possibly provide a future base for the current Nguni cattle Assisted Reproductive Technology project.*

*It is therefore recommended that the re-indigenisation of Nguni Cattle programme and establishment of the Terbrugge cattle breeding farm is rejected.*

5.95 In her interview Ms Binneman stated that she had motivated for the rejection of the project as she was of the view that there was no technology or new innovative ideas in the proposed project. In fact it appeared from the Proposal that Mr Parker was against the ARC approach and the technology. Dr Mkhosi and Mr Duma confirmed during their interviews that the Proposal, as received, did not fall within the TIA mandate.

5.96 Dr Mkhosi stated that Ms Binneman's memorandum and recommendation was never elevated.

5.97 On 25 July 2012, Prof Nedambale sent a memorandum setting out the cost of ART in respect of the Terbrugge Project (**Annexure C17**).

5.98 On 26 July 2012, Dr Mkhosi sent a memorandum in response to the Proposal from Mr Parker (**Annexure C18**) to Messrs Parker and Duma. In the memorandum Dr Mkhosi sets out the background and costs involved in the Proposal and then makes the following recommendations

*"It is hereby recommended that a consortium be formed between TIA, ARC, IDC, Limpopo government and the Bahlaloga tribe with the following roles and responsibilities:*

- IDC and Limpopo government provide requested funds for the Re-Indigenisation costs
- Bahlaloga tribe make the land available for the project.

### **Proposed TIA Assistance**

- TIA will help with breeding of cows using the available Nguni Cattle Assisted Reproductive Technologies project as per the ARC/TIA Memorandum of Agreement. The estimated cost is R246,000.00 as shown in Table below:

Items	Cost	Total
1 Assistance with the screening or selection of registered bulls and cows for the project	<ul style="list-style-type: none"> <li>• R500/bull</li> <li>• R400/cow/heifer</li> </ul>	R2 000 <hr/> R4 000
2 <ul style="list-style-type: none"> <li>• Training of the farmers and/or farm managers to build capacity and skills</li> <li>• Beef Profit Partnerships (BPP) Technologies: introduce BPP model to the farmers in order to empower them to participate in the existing modern beef industry value chain</li> </ul>	R0.00. Cost will be provided by ARC (they have separate funding for helping farmers)	R0.00
3 Assist with the application of Assisted Reproductive Technologies	R500/bull	R2 000.00
<ul style="list-style-type: none"> <li>• Artificial Insemination (AI)</li> <li>• Synchronization of cows for natural mating or artificial insemination</li> <li>• Embryo Transfer (ET)</li> <li>• Animal Health Technologies: to support rural famers with animal health (reproductive diseases) issues to reduce mortality and improve fertility</li> </ul>		<hr/> R160 000
	R1600/Embryo Transfer/cow R200/animal	R20 800.00
<ul style="list-style-type: none"> <li>• DNA Profiling: Use of DNA to verify parentage and identification to deter stock</li> <li>• theft and for recoding and improvement schemes</li> <li>• Livestock Identification Catalogue (LidCat)</li> </ul>	R550/animal	R57 200.00
<b>TOTAL ESTIMATED</b>		<b>R246 000.00</b>

- 5.99 On 28 July 2012, Mr Parker sent the update to the original Proposal (**Annexure C8**) to Dr Mkhosi and stated that (**Annexure C19**):

*"Dear Margaret, this is the up-date that we discussed Friday late pm which I sent to Dr Ramphela, who in-turn forwarded it to Simphewe Duma. Alas, it appears that you were not privy to my concerns before your proposal was sent to your CEO and I a few days back. What I am looking for is the funding split with IDC and TIA and no involvement from unwanted bureaucrats and technocrats but purely funders. That is not to say I know everything, I sure don't, but I still have to see some modicum of success. ARC and the Dept of Agric have been having a go at this for more than 12 years. The community is ready and willing to move on this now and I would like to keep to the works schedule I detailed in my report.*

- 5.100 Dr Mkhosi informed us that she arranged a meeting with Mr Parker to discuss The Proposal on 2 August 2012. The following individuals attended the meeting:

- Margaret Mkhosi
- Muhammed Sayed
- Brigitte Binneman
- Jim Parker.

- 5.101 According to the minutes (**Annexure C20**) the following were required from TIA:

- *"Funding to purchase at least 30 Nguni cows from different surrogates but 100 cows is required*
- *Alternatively access to the embryos in order to select 100 different genes*
- *Direct to someone at IDC or other institution which can provide the funds, if not within TIA mandate."*

- 5.102 The following is reflected in the minutes from Dr Mkhosi:

*"MM TIA wants the project to succeed and is currently exploring different means to ensure the project becomes sustainable even beyond the 3 years of funding. Other relevant stakeholders and commercial players along the entire value chain as well as are explored into in order to ensure the sustainability of the project. The current project education and training to the emerging farmer's. TIA is open to suggestions and changes in order to improve the current project."*

- 5.103 Dr Mkhosi forwarded the email chain regarding the update to The Proposal to Prof Nedambale and Dr Nengovhela, ARC Senior Researcher on 3 August 2012 (**Annexure C21**). Dr Nengovhela responded as follows on 7 August 2012:

*"Interesting! What do you do with this type of writings. Wrong information (J.S.McI. PARKER intentional &or maybe unintentional) e.g. All IDC Nguni cattle in Limpopo are registered and are run as one herd under the Trust until the owners have paid back with the registered animals. From reading that whole document he wrote, Jim comes as somebody who distorts facts maybe that's why he wants to deal with TIA and IDC only—don't want the knowledgeable once to be part of the evaluation of his proposal. Nguni cattle are not endangered in South Africa, they are the 2nd biggest stud herd to the Bonsmaras. They are known for their dam abilities, thus they are used in crosses widely in the country. I guess this was for our information only"*

5.104 On 10 September 2012, Dr Mkhosi forwarded a memorandum (**Annexure C22**) to Mr Duma regarding the project and requested a meeting with Dr Ramphele. From the memorandum the following is evident:

- During a meeting between TIA and ARC on 20 August 2012, the following issues were raised:
  - *“Land Ownership – it is not clear who owns the land in question*
  - *Business Concept need to be reviewed*
  - *Market need to be clearly defined*
  - *Infrastructure “.*
- It was recommended that:
  - *“Other possible stakeholders be consulted as part of the project is outside TIA mandate*
  - *Clarity be given as how the community would benefit from the project*
  - *TIA and ARC representatives arrange the next meeting at the Terbrug (sic) Farm, near Senwabarwana”.*

5.105 It further appears from the memorandum that on 27 August 2012, a meeting was held between TIA, ARC and the community where various issues were discussed. The memorandum records the following recommendations:

- *The land issues need to be resolved. Supporting information on land ownership should form part of the proposal.*
- *A meeting with all other government departments and other stakeholders must be convened to support the development of Terburg (Sic) community*
- *The area appears to be overstocked. The project proposal recommended that the current herd be pushed into 400 ha portion. This will jeopardise the livelihood of people in the area. The project as it is promises only 3 jobs excluding the mentor*
- *The total number of animals in the area needs to be ascertained*
- *The model is based on Re-Indigenisation, which appears not to benefit the community in a short or medium term. The immediate socio-economic impact of the project is not clear*
- *At the moment, the model as Re-Indigenisation as proposed appears to be unattractive. Fine-tuning of the model is needed in order to attract funders. People in area where project proposed seem to rely on their livestock. Anything proposed should focus on uplifting the community or increasing their income. Replacing the existing herd with Nguni cattle seems to be dis-empowering the community*
- *The model needs to be revisited in such a way that it benefits people immediately. The infrastructure needs to be developed for the existing herd. Re-Indigenisation could be achieved faster without issues of introducing a community owned herd using ART as funded by TIA*
- *Community interests need to be determined, the current proposal is silent on the issue. The results of this need to be included in the proposal. Proper community consultation needs to be done and the report need be incorporated in the proposal such that it becomes attractive to the funders*

- *The TIA's Limpopo BDM needs to get involved in assisting to attract support and funders in the province*
- *TIA needs to request Dr Mamphela Ramphele to be patron/champion of the project and direct TIA to possible funders*
- *In order to easily attract funders in their various mandates, the proposal needs to be split into:*
  - *Infrastructure (Land Reform could finance)*
  - *Animals improvement program".*

5.106 On 2 October 2012, Mr Parker sent live stock figures (in respect of the Terbrugge farm) that he had received from Dr Ramphele (**Annexure C23**). Dr Mkhosi sent the information to Dr Nengovhela to which he responded:

*"This is very valuable. The problem with Jim's proposal is here... where will these animals go? He proposes that 1000ha be taken for 100 nguni cow-herd and leave all these other animals on 400ha. The many families that benefit from these live stock must sacrifice their herds productivity just for the sake of indigenisation. The whole area is already overstocked. The proposal should be how to improve the productivity of this herd and the proposaed (sic) infrastructure development could help this existing village herd. I don't think TIA should continue to entertain the Indigenisation idea in that community. It will not be about improving those people's livelihoods, but if TIA has funds they may want to zone the farm for the community to use that will be good. The issue is the rumour that we heard that Landcare (Australia funded) could not be done in that community because of conflicts in the village. I think there is enough information for TIA make a call"*

5.107 On 17 October, Dr Mkhosi instructed Ms Mmamose Seloane (Ms Seloane), Lead Project Analyst to resolve the following issues as a matter of urgency (**Annexure C24**):

- *"The land issues need to be resolved. Beneficiaries of the land need to be tracked and confirmed*
- *A meeting with all other government departments, and other stakeholders must be convened to get clarity on the land issue and ownership*
- *The area appears to be overstocked. Project consultant recommended that the current herd be pushed into 400 ha. This will jeopardise the livelihood of people in the area. The project as it is promises only 3 jobs excluding the mentor*
- *The total number of animals in the area need to be clarified*
- *Community interests need to be determined-the proposal is silent on the issue. The results of this need to be included in the proposal. Proper community consultation needs to be done and the report need be incorporated in the proposal such that it become attractive to the funders. A follow-up needs to be done with the chairman of the trust".*

- 5.108 Ms Selwane confirmed that she had started to make enquiries in this respect and inter alia spoke to Mr Cedric Mojapelo, Project Manager at the Limpopo Department of Agriculture. In an email dated 22 October 2012, Ms Selwane informed Dr Mkhosi as follows (**Annexure C25**):

*"I spoke to Cedric regarding how could IDC assist community with infrastructure and procedure to acquire cattle for Nguni project. He said IDC does not assist when coming to infrastructure as it is government responsibility to assist with infrastructure. He can assist in giving the community the contact person. When coming to acquiring cattle he said the farmers does not meet their Nguni project criteria, therefore IDC would not be able to assist them. However, IDC could provide expertise on how to establish the project. The community must request funding for acquiring of cattle from the mine owners in the area. As far as expertise as concern, the community must approach IDC via their municipality. He said the claims made by Jim Parker regarding IDC involvement is not true as they do not know much about the project and no one has informed them, including agric department officially about the project. Hence, Monday meeting will be fact finding where IDC will explain its role and the procedure to be followed by community if they need IDC's expertise services. In addition, community should confirm claims by Jim Parker and he requested that Jim be excluded from the coming meeting."*

- 5.109 In a telephonic interview with Mr Mojapelo, he confirmed the contents of the email. Mr Mojapelo added that during or about April 2012, Mr Parker attended the offices of IDC and enquired about the IDC Nguni project. He did not know Mr Parker at the time and treated him as a member of the community. On this basis he provided him with information of the IDC program. To his knowledge Mr Parker never formally applied to the IDC for assistance.

- 5.110 On 23 October 2012, Dr Mkhosi sent a memorandum to Mr Duma updating him on the Terbrugge Project (**Annexure C26**).

- 5.111 On 24 October 2012, Mr Parker sent an email to Dr Mkhosi stating inter alia (**Annexure C27**),

*"Thank you for your last e mail – sorry I have taken a while to reply but I have been extremely busy finishing phase II at Dr. Ramphela's project.*

*I must say I am a bit taken aback by your questions. I fully understood after our last meeting that things were progressing forward to you sourcing the funding for the fencing and infrastructure from a Government Department in Lands and that ARC Irene would carry out a survey of the cattle at Terbrugge with suggestions on de-stocking the animals that are badly bred and moribund – You even photographed these type of cattle when we visited Terbrugge.*

*Two months have passed and we now seem to be at the starting blocks all over again. You have my report, title deed docs and minutes of the Terbrugge Community Trust. The Trust document draft has been completed and approved and will be ready for signing when I return from Australia on 21<sup>st</sup> November 2012.*

*Simon Mokwele is confused as to why Ms Selwane (Sic) from TIA is starting the process from the beginning and would like to know why and is extremely miffed and confused, especially so because he has supplied the title deeds and minutes to TIA via me already!*

- 5.112 Ms Selokane informed us that after TIA received the email she was removed from the project and had no further involvement.
- 5.113 On 7 November 2012, Dr Mkhosi sent Mr Duma an email reminding him that Mr Parker had to send him a modified business plan by Friday 9 November 2012. (**Annexure C28**). Mr Parker confirmed in his interview that the business plan (Proposal) was never amended.
- 5.114 The Minutes of the Chairperson Committee meeting dated 12 November 2012, reflect that Dr Ramphele *“raised her indirect interest the ART Nguni Cattle Project”* (**Annexure C29**). Under point 6.1.1.5 (g) it was noted that *“The chairperson declared her interest relating to TIA and IDC support to be granted to local farmers in the village that she originally comes from, however noting that she does not have any financial interest in it”*.
- 5.115 Dr Ramphele stated in her submission (**Annexure A4 page 8**) that she had disclosed any potential interest and that
- “I noted that
- (i) *“The pilot project would be conducted on freehold land bordering her family homestead*
  - (ii) *The project would be conducted at her home village*
  - (iii) *Mr Parker was an acquaintance*
  - (iv) *She was the founder of the trust*
  - (v) *It had previously been suggested that she take up office of Trustee of the Trust”*
- “In addition, she stressed to the Chairperson Committee that her family should not benefit from the Pilot Project in order to avoid any allegations of conflicts of interest, unethical conduct and the like.”*
- 5.116 We obtained the recording of the meeting. The following was discussed
- Mr Duma gave feedback in respect of the ART project and stated that:
    - The ART project was launched in February 2012
    - They had the misfortune that the MEC and HOD of Department of Agriculture in Limpopo moved which resulted in approximately 3 months delay as they were going to fund the project as well
    - He asked the team to work more independently from the Department
    - They also involved the IDC. He and the COO met with the Regional Head who had informed them that they plan to spend R1 Billion on the agricultural development in Limpopo Province
    - One of the things they were considering was the Nguni cattle and how they can bring them into the project
    - Apart from the beef, the skin is very valuable. TIA could assist people in running small companies selling the skin
    - This is where TIA's role become more critical in providing the technology to enable them to do that
  - Dr Ramphele stated that:
    - It was in order for her to declare an indirect interest
    - The village she original comes from is one of those places where people don't have any work
    - She had interested TIA and the IDC to provide support to the local farmers, so there was a direct link to her in the sense that she proposed it

- She wanted it recorded that she had no financial interest in it. It was simply that she thought that the far off places get forgotten in the world
- She informed the Company Secretary to advise whether she needs to explain in writing as she does not want any “flack” from it.

5.117 On 21 November 2012, Dr Mkhosi requested the Limpopo Department of Agriculture to conduct a veld assessment and stated that “*TIA is exploring the possibility of providing the community with assisted reproductive technologies from our Nguni Cattle Assisted Reproductive Technologies projects which was launched in Limpopo on 1 February 2012. However, in order to make an informed decision we need a proper veld assessment of the land.*” (**Annexure C30**)

5.118 In an email message dated 23 November 2012, Mr Duma informed Dr Mkhosi as follows (**Annexure C31**):

*“...I have reviewed the proposal and business plan by Jim, including your inputs. I believe we can assist them for phase 1 in the following manner:*

*Set up phase for the farm;*

1. *R2 589 900 to start up.*
2. *R611 700 for running cost.*
3. *R800 000 for initial stock. The stock should be owned by the Trust and must be made mainly of at least 10 bulls and the rest can be cows. The community can then bring their own cows for the ART developed by TIA and ARC.*

*The total support will then be R4 000,600.*

*Please get hold of Jim and the Trust so we can prepare the Legal Documents and Milestones deliverables”.*

5.119 On 3 December 2012, Mr Duma forwarded the message to Dr Ramphele.

#### **Approval of the Terbrugge project**

5.120 In her submission (**Annexure A4, page 7 and 8**) Dr Ramphele stated the following with regards to the approval of the Terbrugge Project:

- As far as she was aware, in the discussions between Messrs Duma and Parker and the IDC, it had emerged that there was an existing partnership “*of sorts*” between TIA and IDC
- In terms of the partnership, TIA had undertaken to fund pilot projects and, once it had determined whether such pilot projects were successful, the IDC would potentially fund the commercialisation and national roll-out of the projects
- It was her understanding that it was on this basis that approval of TIA was sought to award funding for the Pilot Project
- TIA had established two policies namely the Delegations Policy and the Investment Policy ( annexed to her submission as annexure A and B respectively)
- In terms of these policies, decisions to acquire or dispose of investment assets (where the investment was less than R50 000 000) were not within the ambit of her control
- Depending on the value of the investment the Executive Committee and the Investment Committee were empowered to take decisions to grant funding of this nature
- Accordingly the approval of the Terbrugge Project was not raised with the Board, but with the relevant committees.



**Exco Meeting 10 December 2012**

- 5.121 Ms Binneman informed us that Dr Mkhosi had instructed her to prepare a motivation to request Exco to approve funding for the project which she had provided to Dr Mkhosi on 4 December 2012 (**Annexure C32**). Dr Mkhosi requested Ms Binneman to remove the ART amount from the total amount of funds requested, as the amount (R265 000) would be obtained from ARC money. (**Annexure C33**)
- 5.122 On 5 December 2012, Dr Mkhosi sent an amended version of the memorandum to Ms Binneman (**Annexure C34**). All references to Dr Ramphela had been removed from this document. It is this version, dated 10 December 2010, that was submitted for Exco approval (**Annexure C35**).
- 5.123 The memorandum reads as follows:
- “TIA received a proposal that was prepared for the re-indigenisation of registered Nguni Cattle at Terbrugge farm near Senwabarwana in Limpopo. The received document proposes that a Registered Nguni Cattle agri-business be built on Terbrugge Farm Nr 987 Pietersburg, the title deed of which has been transferred to the Bahlaloga Tribe 24th January 1941.*
- The project is modelled to develop a breeding herd of registered Nguni cattle, and sell live Nguni cattle to breeders, or to stock similar Nguni re-indigenisation projects. Ten (10) hectares per Live Stock Unit (LSU) of breeding herd has been identified for this business. Thus, the model would require 1,000 ha of land for the Nguni cattle breeding herd with additional 400 ha for finishing bulls and weaners that remain for breeding stock.*
- Furthermore the objectives of the project include: wealth creation for the local community primarily through the reward of ownership that would be to the maximum benefit of the local community by means of 100% ownership by the trust from its inception together with the necessary mentorship and secondly through providing employment opportunities.”*
- 5.124 Under the heading “DISCUSSION” it is mentioned that “TIA will assist the community, with the help from ARC with the breeding of cows using the available Nguni Cattle Assisted Reproductive Technologies project as per the ARC/TIA Memorandum of Agreement.”
- 5.125 The financial implications are recorded as R4 001 600 which is broken down as follows:
- Start-up and infrastructure: R2 589 900
  - Running cost: R611 700.
    - Project Consultant
    - Young Farmers in the area be part of the management team.
  - Stock (stock owned by the Trust): R 800 000.
    - Procurement of stock
    - 10 Bulls and remainder cows.
  - Assisted Reproductive Technologies (assuming 100 animals): R265 000.
- 5.126 The memorandum makes the following recommendation:
- “It is believed that the above investment will achieve significant socio-economic benefit for the community as well as provide a significant good news story for South Africa. In future it could also possibly provide as a base for future projects that could contribute to building the culture of innovation.*

*It is therefore recommended that ExCo approves the R4 001 600, 00 (excluding the costs for Nguni Cattle Assisted Reproductive Technologies as these will be covered under the ARC/TIA Memorandum of Agreement) for the re-indigenisation of Nguni Cattle at Terbrugge Farm near Senwabarwana, Limpopo Province. However, the funds should be disbursed only after the trust has been officially registered.*

5.127 On 9 December 2012, Mr Duma forwarded his email of 23 November 2012 (**Annexure C31**) to Dr Ramphele (**Annexure C36**). Dr Ramphele responded by requesting what the timelines for the project finalisation and funds transfer were. Dr Ramphele stated that it would be helpful to complete it before year end “so we can hit 2013 running”. Mr Duma responded that the matter would be noted at EXCO the following day and that he was hoping that the disbursements could be done before Christmas or the second week of January at worst.

5.128 Exco considered the matter on 10 December 2012. We obtained a recording of the meeting. The following transpired at the meeting:

- Dr Mkhosi motivated the approval of the project as follows:
  - TIA received a proposal from the community who wanted to form a Trust and initiate a project involving Nguni Cattle
  - Having approached the Department of Agriculture to conduct a veld assessment in order to assess whether the farm can accommodate the number of cattle the community envisage maintaining on the farm
  - TIA had approached ARC and they have indicated what they could achieve with the funds TIA has already committed on the ART Project. The amount requested therefore excludes the amount in respect of ART
  - The funds are more to demarcate the area to enable the community to breed pure Nguni cattle. ART will then be administered at the farm
  - The approval of the funds would be conditional on the condition that the Trust must be registered and the outcome of the veld assessment
- Exco members raised the following question/concerns:
  - It was highlighted that there was no technology commercialisation in the programme but that the money requested from TIA would be used to run a cattle farm
  - Only a portion of money requested would be used for the ART programme and the rest would be used for buying over 100 cows and build infrastructures which had “nothing to do” with the TIA mandate
  - Should TIA approve the request as it was presented, it would create a precedent that would allow every farmer that had Nguni cattle and wanted to demarcate an area to request funding
  - As the funds were requested to start a business, questions were raised as to whether it should be a grant and that TIA should consider getting at least a portion of the money back
  - A question was raised as to what informed the choice of this particular community for the project and who the trustees would be
  - It was suggested that the project should be referred or recommended to the Land Bank for assistance in order for TIA to stay within its mandate since the investment falls outside of TIA’s mandate
  - TIA should request ARC to draft a clear business case on the anticipation of how the business would be sustained

- The Proposal should not be addressed to Dr Ramphela as it makes for a negative connotation even if only a perceived one
- Mr Duma responded as follows to the questions raised:
  - The Nguni project started from the IDC “*buying bulls and hoping they will mate with cows*”. There was no controlled process and was “*dependent on the hormones of the bulls at some point*”
  - TIA spent money assisting ARC on the ART Project
  - When launched, in Limpopo, the Department of Agriculture and more than 300 farmers under the Farmers Association were involved
  - There was an interest in the Eastern Cape and Free State regarding the roll out of the project
  - The basis of the project was that people bring in cattle to use the technology to increase their farm stock and after that create industries outside of beef provision such as leather and so on
  - In the Eastern Cape, the project stalled due to politics and in the Free State and Limpopo it never really “took off”. Part of the reason the Limpopo project failed was because the MEC and Head of Department changed and consequently TIA had no contact there
  - On a broad scale TIA, still don’t have a project in respect of ART aimed at testing it on a “live scale”
  - The Proposal (for the Terbrugge project) was generic and not meant for TIA. When it was submitted he thought TIA could use it in particular to conduct a “lab like scale in a controlled environment” as opposed to the previously uncontrolled process
  - What they were proposing was a smaller version of what TIA should have achieved by now, i.e. to demonstrate an economic model
  - It is still part of the development phase, on a small scale, as TIA didn’t have a dedicated farm to demonstrate the work (in respect of ART) that has already been concluded
  - The ART project, from where TIA and ARC derived it, is unfinished. It is a continuation of the unfinished work (in respect of ART)
  - This project would be used to complete the unfinished ART project in order to formulate a business model that could be rolled out nationally. Once the model is in place other individuals could take it to Land bank and IDC for funds
  - The community had selected itself because they own the land.

5.129 Exco resolved that:(**Annexure C37**)

- The submission was to be tabled at the next EXCO
- The linkage to the ART project was to be demonstrated on the Proposal to EXCO
- Dr Mkhosi was to inform ARC to provide TIA with a proper business case/plan
- Dr Mkhosi was required to talk to Mr Caiphus Ramoroka was to assist with a sound business case that was to be submitted to EXCO.

- 5.130 On 11 December 2012, TIA received a “Veld and Pasture Assessment/Grazing Capacity” in respect of the Terbrugge Farm from the Department of Agriculture (**Annexure C38**). The report states that:

*“In a normal rainfall year Terbrugge can carry 172 LSU’s (Live Stock Units) on the 2 372 hectares (13.8 ha/LSU”. On 1000 ha the stocking rate should not be more than 72 LSU’s for sustainable production. This is only a guideline for the carrying capacity and it should be adapted according to the seasonal rainfall. In other words with less than 400 mm/year the animal numbers should be reduced.*

*Infrastructure on the farm, except for the crush-pen is almost non-existent.”*

- 5.131 The report also recommends that a stock count be done as soon as possible “as the carrying capacity is currently already being exceeded by far”.
- 5.132 On 19 December 2012, Ms Binneman reminded Dr Nengovhela of a discussion with Dr Mkhosi the previous day regarding the provision of a one page report on the veld assessment report received from the Limpopo Department of Agriculture. She also stated that the ARC should provide TIA with a proper business plan by 4 January 2013.
- 5.133 Dr Nengovhela responded that it will not be proper to write a business plan outside of a participatory process with the community and other role players especially after he was informed that the community wants the project as is, even though they did not have enough land for new and existing stock in the area (**Annexure C39**).
- 5.134 On 21, December 2012, Dr Nengovhela emailed the following table to Ms Binneman and Dr Mkhosi in respect of the capacity of the land involved (**Annexure C40**):

*“Farm Terbrugge & Re-Indigenisation Project*

<i>Livestock</i>	<i>Numbers</i>	<i>LSU equivalent</i>	<i>LSU( Estimates)</i>
<b>Cattle</b>	379 to 500	1.0	250LSU (40 to 50% are calves)
<b>Sheep</b>	281	0.10	28LSU
<b>Goats</b>	524	0.10	52LSU
<b>Donkeys</b>	44	0.80	35LSU
<b>Total LSU in the community</b>			362
<b>Farm Size 1 (Title deeds)</b>			1234,8
<b>Farm Size 2 (Wagner Report)</b>			2372ha

<b>Carrying Capacity (Wagner Report)</b>	13.8ha/lsu
<b>Area Carrying Capacity Range (Wagner Report)</b>	11 to 20 ha/lsu
<b>Farm Size 1 Carrying Capacity= 1234/13.8</b>	89LSU
<b>Farm Size 2 Carrying Capacity =2372/13.8</b>	171LSU
<b>Re-Indigenisation Project LSU</b>	104LSU
<b>Current LSU</b>	362LSU
<b>Current plus Re-Indigenisation Project</b>	466LSU
<b>Sustainable Land size needed after Project</b>	466LSU 13.8ha=6430,8ha

*“The table above illustrate that the area do not have the capacity to accommodate a herd of 100 breeding cows without adversely affecting the livestock condition in the communities and also the livelihood of the owners of these livestock. “*

- 5.135 On 20 December 2012, Mr Parker sent an email to Mr Thando Gobe and Courtney Rinqest from TCT, and copied Mr Duma and Dr Ramphele. This email stated that TIA was urgently asking for a Trust bank account. He then quoted an SMS message from Mr Duma to Dr Ramphele as follows (**Annexure C41**)

*“Evening Ma’am. I was at the office to track progress. Jim has not submitted the letter of authority for the Trust, the trust number and the account number. If he could kindly give these to us. We cannot process these to individuals. I am still around so he can contact me directly.”*

Dr Ramphele then adds to the text *“Dear Jim, could you forward Trust Account number to TIA to transfer funds? See Simphiwe’s sms! Mamphela”*.

Mr Parker continues to state that *“The final signed Trust Deed documents have been signed by the 7 trustees and will be collected today from Chairman Simon. I will be handing them to Dr Ramphele to convey to Cape Town to be handed to Courtney”*.

#### **Exco meeting of 14 January 2013**

- 5.136 Exco considered the Terbrugge Project again on 14 January 2013.
- 5.137 We requested Dr Mkhosi to provide us with the amended business plan as requested by EXCO in its meeting of 10 December 2012. Dr Mkhosi advised us that due to capacity constraints it was decided that the Trust (TCT) was to have been requested to develop a business plan as part of the project within the first three months of the project.

- 5.138 Dr Mkhosi provided us with a memorandum (**Annexure C42**) that served as motivation for the approval of the funds. The following was noted in the motivation.

**“3. DISCUSSION**

*TIA received a proposal for the Nguni Re-Indigenisation project from a community at Terbrugge farm near Senwabarwana in Limpopo. The community proposes to utilise about 1000 hectares of this land towards breeding the Nguni cattle. A meeting with the community and representatives from the Department of Agriculture was convened and it was verified that they understands what the project entails. The TIA Nguni ART project was explained to the community and they expressed interest in being included in the roll-out of the project.*

*TIA intends to assist the community, with the help from the ARC, with the breeding of cows using the available Nguni Cattle Assisted Reproductive Technologies project as per the ARC/TIA Memorandum of Agreement.*

*This proposed project serves as an opportunity for TIA to complete the pilot project at a smaller scale of the Nguni ART project in a controlled environment where both the technologies can be applied, and the farmers can also be trained in administering these technologies. TIA also intends to use the pilot project to develop standard operating principles and a business social model for the envisaged rollout.*

**6. RECOMMENDATIONS**

*This project represents an opportunity for TIA to complete its unfinished programme of rolling out the Nguni ART project. It is recommended that the funding be approved and money be released on condition that the Trust administering the farm is officially registered.”*

- 5.139 The minutes (**Annexure C43**) reflect the following:

- Exco was requested for an in-principle decision to approve R4 001 600 for the project
- It was mentioned that the proposed project served as an opportunity for TIA to complete the pilot project at a smaller scale than that of the Nguni ART project in a controlled environment where both the technologies can be applied, and the farmers could also be trained in administering the technologies
- The key outcome of the project was to be a sustainable business and social model for the envisaged rollout in other Provinces
- The project should be regarded as a TIA project rather than a community project.

- 5.140 EXCO resolved that:

- The Proposal was approved as a TIA project and the registered community Trust would be utilised to administer the funds
- The project should be recommended to InvestCo for final approval.

**InvestCo meeting of 24 January 2013**

- 5.141 InvestCo considered the matter on 24 January 2013. In a memorandum (**Annexure C44**) motivating the approval of the funds the following was noted:

**“2. BACKGROUND**

*TIA launched the Nguni ART project in Limpopo on 1<sup>st</sup> February 2012. At the time, various Agricultural government departments in Limpopo and Eastern Cape had indicated their interest in financially supporting the project roll-out. It was envisaged that each province would contribute at least R3 Million towards the project to match TIA funds (R24 million for 8 provinces). Due to many changes within the said department, TIA has not rolled a pilot project as envisaged at the launch”*

**3. DISCUSSION**

*“TIA received a proposal for the Nguni Re-Indigenisation project from a community at Terbrugge farm near Senwabarwana in Limpopo. The community proposes to utilise about 1000 hectares of this land towards breeding the Nguni cattle. A meeting with the community and representatives from the Department of Agriculture was convened and it was verified that they understand what the project entails. The TIA Nguni ART project was explained to the community and they expressed interest in being included in the roll-out of the project.*

*TIA intends to assist the community, with the help from the ARC, with the breeding of cows using the available Nguni Cattle Assisted Reproductive Technologies project as per the ARC/TIA Memorandum of Agreement. This proposed project serves as an opportunity for TIA to complete the pilot project at a smaller scale of the Nguni ART project in a controlled environment where both the technologies can be applied, and the farmers can also be trained in administering these technologies. TIA also intends to use the pilot project to develop standard operating principles and a sustainable business and social model for the envisaged rollout.”*

- 5.142 Under financial implications it was mentioned that TIA intended using this opportunity to complete its unfinished programme of rolling out the Nguni ART project.
- 5.143 The minutes reflect that it was indicated that TIA intends to use this opportunity to initiate its unfinished programme of rolling out the Nguni ART Project (**Annexure C45**).
- 5.144 In a report to the Board (**Annexure C46**) intended to provide feedback on issues the Investment Committee deliberated on, the following was noted in respect of the project:

*“A proposal for the approval of R4 001 000 funding for the Nguni Cattle Re-Indigenisation Project by re-allocating of funds in the TIA approved ART Project was made to the committee”.*

*Resolution*

*“The committee approved the proposal to slightly change the scope of the ART Nguni project and approved the reallocation of funds that had already been approved.”*

5.145 We obtained a recording of the meeting. The following transpired in the meeting:

- Mr Duma explained the request for funding as follows:
  - In 2012, the ART Project was launched with ARC. What was supposed to come from it was a national program to roll out in different provinces. TIA was working with the Limpopo Department of Agriculture but it had changed MEC and HOD which disturbed the work. Critical from the relationship with Department of Agriculture was the set up to enable them to conduct a pilot study. Now TIA needed another entity to allow them to do a pilot study
  - TIA received a request from the Terbrugge farm to fund the re-indigenisation project. Because the initial approval was R24m, he brought it to InvestCo to approve a slight change in scope to focus on one farm
  - Firstly to see how many hectares you need to do re-indigenisation. Also to see what business plans can come from this
  - They had hoped to already have a model in place but the Department of Agriculture was the problem
  - He asked that change in scope of work to include this farm as it was not part of the original plan.

5.146 Mr Norton, Chairperson of the Committee, requested clarity on whether Mr Duma was asking for the reallocation of existing funds or whether he was requesting additional funds. Mr Duma stated that they still had the original funds and that he was requesting re-allocation of funds, which had already been approved.

5.147 Both Dr Mkhosi and Ms Binneman stated in their interviews that there was never a re-allocation of funds.

#### **The Terbrugge Community Trust**

5.148 As per the Trust Deed (**Annexure C47**) Dr Ramphela is the founder of the Trust and made a donation of R1000 to the Trust. The Purpose of the Trust is indicated as the re-indigenisation of Nguni cattle at the Terbrugge Farm. The initiative is to benefit the greater community in the area by creating employment and a source of income. Members of the community were to benefit from the initiative were to be identified by the Trustees from time to time.

5.149 We note that the Trust is silent as to the ownership and or use of the land by the Trust. In a telephonic interview with Mr Thando Gobe on 10 October 2013 he explained that

- His involvement in the project started in 2012 after a conversation involving Mr Parker and other Trustees regarding an opportunity to propose to TIA for a Nguni cattle project
- They needed a structure to help them with governance and the Trust that would hold the assets in Trust
- Personal Trust International assisted with the structure
- He is also a Trustee of TCT and CMSC
- He understood that Dr Ramphela's family would effectively donate or contribute land for the use of the project
- It is communal land and they had to go through a process to understand how exactly the use of it would work



- At the time of setting up the Trust, there had been a number of delays and as a result of some urgency from TIA the legal conversations that they had as to how the trust would end up owning the land or at least the long term use of the land, was omitted from the Trust Deed
- The process of transferring the land is still on-going.

#### **Agreement between TIA and TCT**

5.150 On 28 March 2013, TIA entered into a Memorandum of Agreement (MoA) (**Annexure C48**) with TCT for the execution of the project. Mr Duma signed on behalf of TIA and Mr Gobe on behalf of TCT.

5.151 Mr Ndou, Head Legal Services, informed us that:

- Legal services was not involved in drafting the MOA
- During or about April 2013, Ms Modisha, Legal Administrator, informed him that Special Projects have submitted the MoA to Legal Services
- He instructed that the MoA be returned to Special Projects and requested them to explain in a memorandum the history of the project so that Legal Services had a record
- Dr Mkhosi subsequently informed him that she referred the matter to the CEO's office
- Legal Services have not received a response.

5.152 Advocate Polaki informed us that:

- In early January 2013, Mr Duma and Dr Mkhosi came to her office to discuss the agreement between TIA and TCT.
- Mr Duma requested her to assist Dr Mkhosi in the drafting of the MoA between TIA and The Terbrugge Community Trust (TCT).
- She informed Mr Duma that she understood that it was the function and responsibility of the Legal Services department to draft and review all contracts and agreements between TIA and third parties
- Mr Duma indicated to her that her predecessor, Advocate Arthur Maisela (Adv Maisela), used to deal with contracts and agreements relating to special projects and that it would therefore be normal for her as an Advocate and the Company Secretary to draft contracts on behalf of TIA
- She then agreed to assist Dr Mkhosi in the drafting the MoA.

5.153 The following is recorded in the Preamble to the MOA:

*"WHEREAS TIA has been established to amongst other things, to support and enable technology innovation across all sectors of the economy to achieve socio economic benefits for South Africa;*

*WHEREAS: TIA in its quest to get technologies adopted and utilised to speed development of the country is introducing interventions to address, amongst others, the shortages of bulls in the emerging sector and in particular, under communal areas;*

*AND WHEREAS: The benefit of using Assisted Reproductive Technologies such as Artificial Insemination and Embryo Transfer technology allows farmers to obtain multiple progeny from genetically superior females or males;*

*AND WHEREAS: Terbrugge has requested support from TIA as a special project in promoting the development of a breeding herd of registered Nguni cattle at Terbrugge farm in Limpopo;*

*NOW THEREFORE: The Parties wish to enter into this Agreement in order to regulate their relationship in relation to the above matters and any other matters incidental thereto.*

5.154 The material terms of the MoA are as follows:

- The duration of the contract is for two years from the effective date
- TCT shall, in all respects carry out the Project in accordance with the Project specifications
- TIA would pay TCT an amount of R4 001 600 which was payable as follows:
  - An amount of R3 000 000 payable upon signature and to be used for start-up and infrastructure costs, running cost and management team and procurement of stock owned by the Trust
  - The remainder of the amount would be paid after reaching of agreed milestones (to be agreed within 3 months of signature of the agreement)
  - In addition, TIA shall make available assisted reproductive technologies services to be rendered through the existing TIA/ARC Nguni ART Project to the value of R265 000
  - The funding is conditional upon:
    - TCT developing a full-fledged business model/plan and sustainability model that TIA can utilise to roll out the project nationally and attract other funders (clause 5.8.1)
    - Submission of a revised project schedule with clear set milestones and as agreed to by the parties.

#### **Events following signing of the MOA**

- 5.155 On 4 June 2013, Mr Duma, Dr Mkhosi and Ms Binneman together with representatives from TCT held a site meeting at Terbrugge Farm. The minutes (**Annexure C49**) of the meeting reflect that the purpose of the meeting was to discuss challenges and to determine how TIA could possibly link various projects with the Youth Technology Innovation Fund (YTIF). Items discussed were:
1. *"The Veg project.*
  2. *The Nguni – indigenisation project.*
  3. *The potential participation of youth and the development of other auxiliary projects together with ensuring that the project is sustainable.*
  4. *Development of a business plan that should include all of these mentioned above".*
- 5.156 During his interview Mr Parker informed us that Mr Duma was impressed by the vegetable project and had requested a proposal to extend it to all the homesteads in the area.
- 5.157 Ms Binneman informed us that she drafted a project plan as per the decision in the meeting, but that it could only be completed after receipt of the final business plan from TCT. We discuss the Business plan in more detail below.
- 5.158 On 24 June 2013, Mr Gobe forwarded a proposal titled "*Youth in Farming Project*" to Ms Binneman (**Annexure C50**). The document proposes that:
- TIA immediately get involved in the "Youth in Farming Project" at the Nguni Project and the adjacent Uit-Kyk Vegetable Project
  - Twelve school leavers from the Terbrugge are to be employed as trainee farmers in cattle and vegetable farming (1 year with 6 months at each discipline)
  - The trainees will complete courses on Tunnel farming and Animal production
  - The cost per youth is in the region of R55 000, totalling R665 832.
- 5.159 On 11 July 2013, Mr Gobe advised TIA that TCT required more time to complete the business model/plan as per clause 5.8.1 of the agreement and to combine the Cattle and Vegetable Projects. TIA informed TCT to submit the business plan by 30 August 2013, but to submit separate business plans for the respective projects (**Annexure C51**).
- 5.160 TCT provided the business plan by the said date (**Annexure C52**). We note the following from the business plan:
- The business plan is largely an extract from the original proposal (**Annexure C8**)
  - TCT proposes an alternative approach to the approach which TIA follows with the (ART) project and the IDC Nguni cattle development project and proposes a purpose built pure registered Nguni cattle breeding and rearing model
  - The objective is ultimately to sell the breeding stock to feedlots and abattoirs. In another section of the business case it also indicates possible selling of stock to similar Nguni re-indigenisation projects and eventually selling to abattoirs for consumption and trading of the hides
  - There are no suggestions as to whether a market for the registered Nguni cattle exists or the size of the market or how the market would be developed

- There is no evidence that TCT consulted any of the key potential stakeholders i.e. ARC, IDC or the Department of Agriculture
  - No mention is made to the use of any technology or other initiatives that could be incorporated in order to ensure sustainability of the project other than the fenced purpose built farm that will protect the genetics from dilution and contamination from outside bulls
  - There is no indication of what other costs might have to be sourced in future to ensure sustainability and national roll-out
  - The running costs that were presented in the Proposal also differ from those presented in the business case
  - No suggestions were provided as to how TIA can utilise this business case in respect of a national roll-out and for attracting other funders and possible stakeholders in order to obtain buy-in for the project.
- 5.161 Ms Binneman advised us that TIA have not approved the business case and that it was referred back to TCT.
- 5.162 Notably, in section 5.1.1 of the business case, where the cost of the project is discussed, it stated that *“Breeding Heifers and bulls will be purchased from ARC-API A.R.T. program because TIA has joint Venture with them pertaining to the embryo transplanting of Nguni. This means a much cheaper buy because the average price from this program for all sexes is R3 750 per head”*
- 5.163 In an email message from Mr Parker to Ms Cornia Vosloo, the ART Project Co-ordinator, informed her that Ms Binneman had informed him that Ms Vosloo would contact him regarding the supply of breeding heifers and bulls for their TIA funded project. Mr Parker then states that *“Seeing as I have not heard from you yet I was wondering whether TIA has explained our project and the urgency behind selecting the animals and vaccinating them with BVD 6 weeks prior to bulling”*.
- 5.164 Prof Nedambale responded to Mr Parker that they do not supply heifers or bulls, but that they can assist with using technology. Mr Parker replied that he was “shocked” that there were no cattle available for the following reasons:
- As far back as 2012, Dr Mkhosi had insisted that they buy the 100 heifer and 5 bulls from the ART project
  - TIA has a joint venture with ARC and as TIA is funding their project they must acquire cattle through ARC
  - They were supplied with a breakdown of cost which gave a figure of R3 750 per head
  - The allocation of funds reflects the amount and so does the budget.
- 5.165 In reply Prof Nedambale indicated that he did not know what Mr Parker was talking about as the ART project does not provide live animals but generic materials. He requested the documents Mr Parker referred to.
- 5.166 Mr Parker attached an extract from the original memorandum (dated 26 July 2012 – **Annexure C18**) where Dr Mkhosi set out the assistance TIA could provide to the project as well as an extract from the agreement between TIA and TCT. It is not clear from these documents how Mr Parker could claim that it was agreed that they had to purchase live animals from the ART project as no mention is made in this regard. (**Annexure C53**).

- 5.167 On 28 August 2012, Mr Parker submitted a request for additional funds in the amount of R1 400 000 in order to purchase 100 heifers and 5 bulls (**Annexure 54**).
- 5.168 Dr Mkhosi advised that she had no knowledge of Mr Parker's averments in this regard as it is clear from the agreement that TIA provided funds for the purchase of cattle.
- 5.169 We note that in August 2012, TCT/Mr Gobe submitted a proposal for establishment of farmlets at the Terbrugge Farm (**Annexure C55**). The total value of funds requested is R103 000 000. Dr Mkhosi advised us that TIA have, to date not considered the Proposal.

#### **Payments to TCT**

- 5.170 We obtained and reviewed the following documentation:
- Funding reports dated 19 July 2013 (**Annexure C56**) and 26 August 2013 (**Annexure C57**)
  - The Terbrugge Community Trust statement from inception to 16 September 2013 (**Annexure C58**)
  - Supporting documentation for fund expenditure (**Annexure C59**).
- 5.171 TCT provided TIA with an invoice in the amount of R3 000 000 in accordance with the Agreement on 28 March 2012. Initially the invoice was made out as a donations invoice and in the name of Personal Trust International. The bank account number reflected on the invoice was Nedbank 1009 308 599. TIA queried the invoice and specifically the name. Personal Trust International then presented TIA with an amended invoice in the name of TCT, but with the same account number. (**Annexure C60**).
- 5.172 On 19 July 2013, TIA received a funding report form TCT setting out a breakdown of how the grant had been spent as follows (**Annexure C56**):

Account	Amount
Vehicles (Tractor/Trailer)	R 126 800.00
Professional fees	R 755 670.18
Setup costs	R 500 000.00
Trust Setup and Admin fees	R 34 300.00
Building costs	R 1 129 229.00
Insurance	R 34 229.73
Membership fees	R 2 863.68
<b>Total Expenditure</b>	<b>R 2 583 092.59</b>
<b>Balance</b>	<b>R 429 531.44</b>

5.173 TCT/ Personal Trust International did not provide supporting documentation for the above funding report.

5.174 We obtained an amended Grant funding report dated 26 August 2013. The expenses are set out as follows. (**Annexure C57**):

Account	Amount
Vehicles (Tractor/Trailer)	R 126 800.00
Building Costs	R 1 657 933.47
Membership Fees	R 2 863.68
Trust Setup & Admin Fees	R 34 300.00
Running Costs	R 591 254.88
<b>Total expenditure</b>	<b>R 2 413 152.03</b>
TIA grant received 12 April 2013	R 3 000 000.00
Total expenditure as at 26 August 2013	R 2 413 152.03
<b>Balance of grant remaining</b>	<b>R 586 847.97</b>

5.175 The cost was broken down as follows (**Annexure C61**):

Expense	Payee	Invoice	Paid	Balance due
Vehicles (Tractor/Trailer)	Limpopo Tractors	R 126 800	R 126 800.00	-
Building Cost	Tunnelman	R 143 640	R 71 820.00	R 71 820.00
	GroSlab	R 2 114 818.00		R 528 704.50
Membership fees	Nguni Society	R 2 736.00	R 2 736.00	-
	Stud book fees	R 127.68.00	R 127.68	-
Trust Setup and Admin fees	Personal Trust GHF	R 34 200.00	R 34 200	-
	Trust registration fee	R 100.00	R 100.00	-
Running cost	Jim Parker-April 2013	R 113 146.27	R 113 146.27	
	Jim Parker-May 2013	R 126 106.61	R 126 106.61	
	Jim Parker-June 2013	R 115 345.00	R 115 345.00	
	Jim Parker – July 2013	R 116 866.00	R 116 866.00	

	Jim Parker – August 2013	R 119 791.00	R 119 791.00
<b>Total Expenditure</b>		<b>R 2 413 152.06</b>	
TIA Grant Received 12 April 2013		R 3 000 000.00	
Total expenditure as at 26 August 2013		R 2 413 152.06	
<b>Balance of grant remaining</b>		<b>R 586 847.94</b>	

5.176 We set out in the table below a summary of the statement provided by TCT (**Annexure C58**):

Detail	Amount
Grant	R 3 000 000.00
Interest	R 14 786.72
Fees	(R 3 511.94)
Insurance	(R 34 229.73)
Setup and admin fees	(R 34 300.00)
Vehicles	(R 126 800.00)
Lezmin 3503C	(R 201 072.30)
Running Cost	(R 471 463.88)
Deposit	(R 700 000.00)
Building Cost	(R 1 439 229.00)
<b>Balance</b>	<b>R 4 179.87</b>

5.177 We note that there is an amount of R201 072.30 for “Lezmin 3503C” (Mr Parker explained that Lezmin 3503C is his company) reflected on the statement which does not appear on the funding report. No supporting documentation is available for this amount. We requested Mr Parker to provide supporting documentation and an explanation in this regard. Mr Parker informed us that he understood that it was payment relating to the project prior to TIA approving the project. Personal Trust later found out from TIA they could not recover costs prior to TIA approving the project. He stated that an external party was found to pay it and that Mr Gobe could explain this in detail.

- 5.178 An amount of R34 229.73 in respect of insurance also does not reflect on the funding report. Mr Parker explained that the amount of R34 229.73 was not in respect of the Terbrugge Project. It relates to insurance for the Vegetable Project privately funded by Dr Ramphele.
- 5.179 According to the statement, TCT deposited R704 179.87 into a trust account (**Annexure C62**). TCT also deposited the balance of R4 179.87 reflected on the statement into the Trust account. These deposits are not reflected in the funding report above.
- 5.180 We note that the statement does not include the fees that TCT paid to Mr Parker for August 2013 (R119 791). Therefore the remaining grant funds available are R584 388.87, which is R2 459.07 less than the amount reflected on the funding report dated 26 August 2013, according to TCT.
- 5.181 Mr Parker informed us that he works on various projects for the Citizens Movement for Social Change Trust (CMST). His agreement with Dr Ramphele is that he gets paid a fixed fee of R100 000 plus expenses per month. His company, Lezmin 3503 t/a Parker Agricultural Services, invoices the Citizens Movement Trust. We showed Mr Parker the invoices received from Personal Trust International (who administers TCT) in support of payments to him and pointed out that all the invoices from him were made out to TCT.
- 5.182 Mr Parker provided us with copies of his invoices sent to Personal Trust International (**Annexure C63**). All the invoices are in word format and made out to the Citizens Movement for Social Change. The amounts on the invoices correspond with those invoices submitted to TIA by TCT/Personal Trust International.
- 5.183 Mr Parker was of the view that someone at Personal Trust International must have changed the name on the invoices submitted to TIA. The effect of this was that TIA paid for services rendered by Mr Parker to the Citizens Movement for the period April 2013 to August 2013. Mr Parker explained that Dr Ramphele had incurred expenses in respect of the Terbrugge Project prior to TIA approving the project. TCT wanted to recoup the money from TIA, but TIA refused. He believes the changes to his invoices were motivated to recoup these expenses. *(In our interview with Mr Gobe he confirmed that the invoices were changed).*
- 5.184 We provided the financial documentation discussed above to Dr Ramphele and requested an explanation. In her submission (**Annexure A4**, page 11 and 12) Dr Ramphele states that:
- She plays no role in the management of the Trust and was not involved in the negotiation and administration of the Agreement
  - She has no knowledge of how these payments between the Trust and Mr Parker were managed
  - It was the first time that she had sight of the documents and ,on the face of it, was at a loss as to how these payments would have come about
- 5.185 Dr Ramphele also states that, although she is the founder and was a member of the CMSC Trust she resigned as trustee in December 2012.
- 5.186 In respect of payments made by TCT Mr Gobe explained during his interview that
- CMSC Trust is effectively a partner to TCT. When it became clear that there needed to be mobilisation of the individuals around the opportunity there was certain costs that needed to be covered
  - CMSC Trust acted as a convenor of the individuals involved in the project and paid certain costs such as those incurred for the initial proposal prepared by Mr Parker



- Initially, when Mr Parker started, CMSC paid him. His understanding was that when the Terbrugge Project commenced Mr Parker would move to TCT and would be effectively employed by the Project
- Mr Parker's initial invoices were sent to CMSC. When TCT had to report on the financials (June 2012) he advised that Mr Parker's invoices should be changed to TCT
- The Project effectively has two "pots", the initial cost which they used and was raised by CMSC and the Trust account where the TIA funds were paid into (**Annexure C58**)
- Personal Trust International has 3000 clients run on a nominee platform to enable them to manage the funds better. The account for Terbrugge is a sub account on the Nedbank money market platform
- When the initial financial report was asked for (**Annexure C56**) in June 2013 they did not understand that they had to produce management accounts on a quarterly basis. They allocated the cost that was for the Project in their understanding at the time i.e all cost from inception of the project
- Mr Parker informed him that Dr Mkhosi had advised that they could not allocate costs before project approval
- They then produced another report (**Annexure C57**), only allocating costs since the agreement was signed
- The agreement between TIA and TCT does not specify how the running cost should be paid. The Trustees are aware that further funds will need to be raised to keep Mr Parker on the project for its duration.

5.187 We note that the following individuals met to discuss the project on 26 September 2013

- Dr Margaret Mkhosi (MM)
- Brigitte Binneman (BB)
- Charles Mukwevho (CM)
- Anelisa Skosana (AS)
- Jim Parker (JP)
- Thando Gobe (TG).

5.188 The following was noted in the minutes (**Annexure C64**).

*"(MM) TIA works with the ARC on the Nguni Cattle Assisted Reproductive Technologies (ART) project. As indicated on the agreement assisted reproductive technology services to the value of R 265 000 will be made available to the Terbrugge Community Trust. These are services and therefore no cash or livestock were committed.*

*(JM) Understood it completely differently and were under the impression that through TIA's joint venture with ARC cattle will be provided, but only later realised that the ARC do not have cattle.*

*(MM) Mr Parker trashes the ARC Nguni Cattle ART project and other Nguni projects. The ART project is not to be confused with the other projects. No animals are provided through the TIA/ARC ART project, the ARC merely provide services to the farmers who already do have animals.*

*TIA is currently providing infrastructure to the Terbrugge Community Trust which are outside of TIA's mandate.*

*A motivation had to be made that were submitted to ExCo since the proposed project could fit in with the Nguni ART project. Several individuals at ExCo responded by indicating that the project is outside of the TIA mandate. Therefore there was a need to resubmit several times and eventually what was approved conditionally that the Trust is registered. The funding that was approved was based on the proposal. The agreement does not include any animals that were to be provided by the ARC only the technology and therefore on the agreement indicates services. It seems as if there was a breakdown in communication between the Trust members which contributed to the misunderstanding.*

*(TG) The funding that was provided was reduced from that of the original proposal. The understanding was that the funds were reduced due to the cattle that will be provided at cheaper rate through the TIA/ARC agreement. The Trust therefore has a shortfall on the resources.*

*(MM) When the agreement was sent for review and signature the Trust should have taken their time to understand and should have brought it to TIA's attention. The funding was conditionally made available on the business plan/model etc. The proposal as it was prepared was not acceptable and therefore the conditions to have a business plan/model from the Trust. The business plan that was submitted is similar to the proposal and therefore also not acceptable. A new model needs to be developed.*

*(JM) Would not have accepted the agreement as it is, but is binding and therefore stands.*

*(TG) If the Trust and TIA is committed to carry the project successfully through there should be way forward. The issues should be resolved in order for the project to succeed.*

*The consultancy fees on the proposal is R 300 000 per year and the remainder of the total R 611 700 were to be used towards the youth. Of the total R 611 700, R 591 000 was already spent. The remainder of the funding that is to be disbursed is conditional.*

*\*(AS and CM joined the meeting)*

*An amount of R 34 200 was also used to setup the Trust. This was before the agreement. In the original proposal there also was a quid bike of R 42 000 that was used for a tractor and trailer to the value of R 126 000.*

*Considering all these amounts that the Trust spent there was enough funds to at least have had some cattle. It was also understood that the Community would do the work and that they would benefit from the project. It is however not clear how the community is benefitting.*

*(TG) Requested Mr Parker to elaborate on the allocations of the funds*

*An argument arose and Mr Jim Parker excused himself from the meeting.*

*(MM) The financial issues need to be resolved and there need to be better communication between the Trust and the Project leader and a new project leader should be obtained.*

*(TG) There needs to be a balance of the right skills and how the funding is utilised. Both parties should work on the same budget in order to ensure the success of the project. The financial information as was provided by the Trust is correct. The funding needs to be broken down and both parties should agree on the way forward. Mr Parker is mainly operational to the project.*

*(MM) At this stage TIA would not be in a position to provide any additional funding to the project."*

## **Conclusion**

5.189 In respect of the allegation that Dr Ramphele received preferential treatment in respect of the approval of the Terbrugge Project we found that:

- The Proposal initially received on behalf of TCT was not in the mandate of TIA
- Both in the Proposal and in subsequent interactions with Mr Parker on behalf of the Trust it was made clear that TCT was not interested in the Assisted Reproductive Technology
- Several Role players, including Exco members and representatives from ARC and other third parties expressed reservations about the viability of the project for various reasons including
  - Relevance to the TIA mandate
  - Suitability of the community for the envisaged project
  - Suitability of the land for the envisaged project
  - The community did not meet the selection criteria for existing ART project or the IDC programme
- Mr Duma instructed, in November 2012, that TIA fund the project before the above issues were satisfactorily addressed and before the relevant committees had considered the approval
- Mr Duma communicated his decision to Dr Ramphele before it was approved by the relevant committees
- Mr Duma requested bank details and the Trust Deed from TCT before the project was approved
- The approval of the project was motivated without a clear business case and project deliverables being in place prior to signing the Agreement.

5.190 In respect of Dr Ramphele's involvement in the Terbrugge Project we found that

- Dr Ramphele is the founder of TCT and not a Trustee
- The Citizens Movement for Social Change Trust (CMSC Trust) managed the project and incurred expenses prior to TIA approving funds for the Project. Dr Ramphele is the founder of CMSC Trust and until December 2012, was also a Trustee
- Dr Ramphele disclosed her interest in the ART project at a Chairpersons' Committee meeting during November 2012 and it was noted that she had no financial interest in the project.
- Dr Ramphele was not part of the committees that considered and approved the Terbrugge Project however she communicated and enquired regarding approval of the project

5.191 In respect of payments made by TCT for the project we found that:

- In terms of the Proposal for the Terbrugge Project, an amount of R611 000 per annum was to be used in respect of monthly running cost of the farm. This amount included payment of the project consultant (Mr Parker) in the amount of R25 000 per month
- According to Mr Parker, he has an arrangement with Dr Ramphela in respect of his fees for R100 000 plus expenses per month for all projects that SMSC is involved in. He invoices SMSC on a monthly basis
- Prior to TIA approving the Project SMSC Trust incurred expenses, including expenses in relation to invoices for Mr Parker's services
- All of Mr Parker's invoices were made out to CMSC Trust, both prior to and after TIA approving the project. CMSC Trust paid Mr Parker and other expenses incurred prior to TIA approving the project with the funds paid by TIA. It is not clear from the available documentation if TCT have reallocated the funds
- It appears that the monthly invoices (R100 000 plus expenses) Mr Parker submitted were altered after the project commenced to reflect that it was made out to TCT and these invoices were presented to TIA as project expenses (running costs).
- The MoA between TIA and TCT stipulate that TIA funds should be used for start-up cost and management team, and procurement of stock owned by the Trust. It is not clear from the MoA which amounts should be spent on these aspects as envisaged from the motivations for approvals. It appears that the funds earmarked for running costs (including the project consultant) over the two year period have already been spent in the first five months of the project. TCT would therefore have to raise additional funds to keep the consultant involved in the project.

#### **Recommendations**

5.192 We recommend that

- The Board consider appropriate disciplinary action against Mr Duma and Dr Mkhosi
- Management review the agreement between TIA and TCT with a view to re-negotiate the terms of the agreement to ensure that TIA achieves its objectives in respect of the project
- The Board review the mandate of the Special Projects unit to ensure that it is aligned to TIA's vision and strategic objectives
- The Board ensure that Standard Operating Procedures are approved and monitored in respect of Special Projects.

## **Other Special Projects**

### **Youth Technology Innovation Fund**

- 5.193 The Youth Technology Innovation Fund (YTIF) came into inception during November 2011 after the Board approved a budget of R20 million for the 2011/12 financial year (**Annexure C65**).
- 5.194 The YTIF was aimed at promoting and stimulating the culture of innovation and entrepreneurship amongst the youth by providing access to financial and business support resources.
- 5.195 The YTIF was aimed at the youth between the ages of 18 to 30 who were not already funded through the TYIF or other TIA funding instruments.
- 5.196 The YTIF is administered by the TIA General Manager: Special Projects, Doctor Mkhosi.
- 5.197 The YTIF funding is provided in the form of vouchers which are categorized as follows:
- South African Bureau of Standards (SABS) services for product certification
  - Incubation services at recognized TIA partner organizations
  - Business coaching services
  - Use of TIA's technology platforms/stations services
  - Intellectual property protection
  - Stipends for inventors: R60 000 per annum for up to four people for two years.

### **YTIF Funding Process**

- 5.198 The YTIF's funding process is articulated in TIA's Special Projects Standard Operating Procedure (SOP) document which was approved by the Executive Committee (EXCO) on 10 August 2012.
- 5.199 Ms Binneman (Ms Binneman), an analyst in the Special Projects Department of TIA, provided us with a copy of the SOP. We noted that the SOP is not signed off by EXCO. (**Annexure C66**).
- 5.200 The SOP outlines the process to be followed in assessing YTIF proposals and provides a guideline in issuing the various YTIF vouchers.
- 5.201 The process entails the following steps:

### **Call for Proposals**

- 5.202 The Manager of Special Projects (MSP) drafts a call for proposals and sends it to the manager of TIA Communications for editing.
- 5.203 The MSP submits the edited call for proposals to the Manager of TIA's Marketing and Branding for design and layout.
- 5.204 The MSP submits the final call for proposals to the manager of Supply Chain for advertising, with details of which newspaper to advertise in.
- 5.205 The MSP checks that the advert is correctly published in the newspaper, and if not, the manager of Supply Chain is notified and ensures that the correct advertisement is published.

#### **Receipt of Applications and Screening Stage**

- 5.206 The MSP receives applications/proposals via the internet, email, fax or hand delivery and captures the details.
- 5.207 The MSP sends acknowledgement of receipt to applicants via sms, fax or email with a registration number. In the case of an internet application, the registration number will be sent automatically.
- 5.208 Applications are then screened against set criteria and a Screening Report is generated.
- 5.209 Screening feedback on approval or rejection is sent to the applicant via sms, fax or email.
- 5.210 The MSP prepares and issues assessment packs for the YTIF Assessment Committee.
- 5.211 The MSP initiates Assessment Committee meetings and sends the assessment packs to assessors which comprise the following :
- A schedule with meeting date and agenda
  - Lead discussant
  - YTIF proposals.

#### **Assessment Committee Stage**

- 5.212 The assessors conduct desktop assessment, contact applicants for further information, as well as verify all Intellectual Property (IP) related issues before the Assessment Committee meets.
- 5.213 Lead discussants liaise with the Regional Business Development Managers/Officers (BDM/O's) for inputs prior to the Assessment Committee meetings and make the necessary recommendations on the outcome on the various proposals, using YTIF proposal profiling criteria.
- 5.214 Lead discussants then forward the profiling criteria to the MSP.
- 5.215 At the Assessment Committee meeting, the assessors discuss their findings and present their recommendations.
- 5.216 When proposals are approved or rejected, the MSP prepares and sends assessment feedback via sms, email or fax to the applicant.
- 5.217 When deferred, assessors will contact the applicant, request additional information within the agreed period, and send feedback to the Assessment Committee, which will make a decision to approve or reject and send the feedback via email to the MSP.
- 5.218 Should there be any difference in opinion regarding whether to approve or reject, a Sector Manager/Analyst will be requested to review further; otherwise the General Manager of Special Projects has the authority to make the final decision.
- 5.219 The MSP compiles meeting minutes, assessment reports, YTIF Technology Station packs and lists approved/rejected proposals which are sent to the General Manager of Special Projects.

#### **Technology Stations Evaluation Stage**

- 5.220 The General Manager: Technology Stations (GMTS) assigns YTIF Technology Station packs to the relevant Technology Station Manager (TSM).
- 5.221 The TSM performs initial desktop analysis on the YTIF packs and then validates the findings of the applicant.

- 5.222 The GMTS receives the Major Project Funding Form with scoping, costing and timeframe, host institution, SABs certification and Intellectual Property (IP) together with recommended interventions from the TSM.
- 5.223 The TSM prepares a detailed quotation or invoice on product development, excluding man-hours.
- 5.224 In the case where no Technology Station (TS) has the capacity to develop products, the TSM assists in obtaining three quotations from other service providers.
- 5.225 The GMTS prepares YTIF TS Evaluation reports and invoices based on Major Product Funding Forms and sends it to the GMSP.

#### **Proposal Finalisation Phase**

- 5.226 The MSP requests applicants to modify proposals as necessary as per recommendations from YTIF assessment reports and YTIF evaluation reports.
- 5.227 The Manager or GMSP reviews final proposals and determines the vouchers to be offered.
- 5.228 The manager or GMSP prepares the YTIF Offering Letter to the applicant depending on the outcome of the evaluation process, to receive one or more of the following vouchers :
- SABs Service Vouchers
  - Business Coaching Service Voucher
  - Technology Station/Platforms Voucher or voucher for external service provider
  - Incubation Services Voucher
  - IP Protection Voucher
  - Stipend Voucher.
- 5.229 If any of the vouchers exceeds the stipulated amounts, the GMSP will issue the second voucher with EXCO approval.
- 5.230 If the TS does not have the capacity to develop a product, the GMSP must seek EXCO approval to utilize other service providers.
- 5.231 The GMSP, TSM and applicant sign the YTIF Offering Letter.

#### **Voucher Offering Stage**

##### **Technology Station/Platforms Voucher to the value of R250 000**

- 5.232 The GMSP prepares and sends a signed YTIF Offering Letter, reviewed by TIA Legal to the GMTS who sends to the relevant TSM for signature (signed by the GMSP, TSM, or identified service provider and applicant).
- 5.233 The GMSP receives the signed copy of the YTIF Offering Letter from the GMTS for recording.
- 5.234 The product/process development/improvement then commences.

5.235 The MSP receives the YTIF TS progress report from the TSM, if product development is:

- Less than three months, then the report should be submitted every week
- Within three months, a report every month
- Within six months, a report every two months
- Within 12 months, a report every three months.

5.236 If none of the existing technology stations/platforms have the capacity to develop the products, Special Projects outsources the services according to the TIA procurement procedures.

#### **SABS Service Vouchers**

5.237 The GMSP sends all approved proposals to SABS for review. SABS sends SABS Review Reports to SP recommending what needs to be done in terms of SABS services.

5.238 When prototypes exist, the SABS will perform product certification and testing according to SABS standards and provide SABS Certification Reports with costs involved.

5.239 When no prototypes exist, the SABS will interact with TS and applicant during product development to ensure that standards are met. The progress must be reported as per product development reporting to TS.

#### **Business Coaching Services Voucher**

5.240 SP assesses the applicant's technical and business skills needs and compiles a Skills Assessment Report and prepares recommendation action for business coaching/training.

5.241 SP looks for service providers and informs SABS.

5.242 SABS then offers the applicant business coaching services of up to 160 hours in the following areas:

- Business coaching
- Mentoring
- Marketing plan
- Business plan.

5.243 The GMSP receives SABS business coaching/skill training report from the SABS indicating the services offered to the applicant for the duration of the coaching/training.

If the training period is:

- less than three months, the report should be submitted every week
- within three months, the report should be submitted every month
- within six months, the report should be submitted every two months
- within twelve months, the report should be submitted every three months.

#### **Incubation Services Voucher for Up to Two Years**

5.244 The GMSP issues YTIF the Offering Letter as per the partnership agreement between TIA and the incubator.



5.245 The GMSP places the applicant at the relevant incubator (once the applicant has signed the Offering Letter).

5.246 The SPM receives the Incubation Report from the applicant, incubator and business coach every three months.

**Intellectual Property Protection Voucher up to R150 000**

5.247 If prototypes exist, the SPM sends YTIF Evaluation Reports and final proposals to the Intellectual Property Manager (IPM).

5.248 The IPM reviews and sends IP Recommendation Reports to the SPM.

5.249 If IP protection is required, SP issues a IP Protection voucher.

5.250 The IPM assists with registration or a service provider is procured to assist.

5.251 If the product does not require IP protection, the SPM sends a IP Protection Feedback Letter via sms, email or fax to the YTIF recipient.

**R60 000 Stipend Per Person Per Annum Up To Four Inventors Up To Two Years**

5.252 SP determines the need for the Stipend Voucher for the YTIF recipient to establish an enterprise.

5.253 A business coach is assigned to assist with the business plan.

5.254 Upon approval of the business plan, SP issues a YTIF Offering Letter for a stipend voucher to be signed by the YTIF recipient and business coach.

5.255 The MSP receives Stipend Progress Reports from the business coach as well as separate reports from the YTIF recipient.

5.256 The MSP or GMSP monitors the progress as per the project milestones and deliverables.

**Monitoring and Evaluation Stage**

5.257 The GMSP receives technical and financial quarterly progress reports from the relevant parties.

5.258 The MSP reviews quarterly progress reports received, drafts monitoring and evaluation reports and makes necessary recommendations.

5.259 We selected four project proposals on a sample basis that were funded through YTIF as follows:

Project Name	Investment/Project Code	Project Budget
Acoustic Gunshot Recognition and Triangulation	YTIF - 00004 – CC3	R 150 000
All - in - one Braai Utensil	YTIF - 12 – 00104 – CC	R 150 000
Million Baby	YTIF – 00077 – CC4	R 150 000
Eco Baby	YTIF – 00074 – CC2	R 150 000

- 5.260 We performed Business Intelligence Services (BIS) searches on the beneficiaries and their related companies/trading entities.
- 5.261 We found no apparent conflicts of interest between the beneficiaries, their related companies/trading entities and TIA employees.
- 5.262 We reviewed the YTIF funding process in respect of the sample proposals and compared it to the documentation provided to us.
- 5.263 We found that due process was followed in respect of all the sample proposals and no apparent irregularities existed.

### **Alleged irregular procurement transactions**

#### **Appointment of McKinsey & Co (McKinsey)**

- 5.264 Mr Achary provided us with a fact finding report (**Annexure A1**). In this report, he also provided his findings into the possible irregular appointment of McKinsey. Mr Achary stated in his findings that he received a protected disclosure (in the form of a report) from a TIA official (Employee X) dated 14 June 2013. During our investigation, we learned that Employee X is Ms Joy Sixholo (Ms Sixholo).

#### **Protected disclosure report**

- 5.265 We interviewed Ms Sixholo on 27 August 2013. She confirmed that she provided Mr Achary with a report entitled "Report to Board of TIA on Procurement of McKinsey TIA Benchmarking Study" (The protected disclosure report) dated 14 June 2013 as part of the protected disclosure (**Annexure D1**). She further confirmed that she provided all the annexures as contained in this report. We set out below Ms Sixholo's version of events as well as relevant documentation. Ms Sixholo stated the following:
- She disclosed the information contained in the report with the understanding that she is protected under the Protected Disclosures Act, No 26 of 2006
  - On the morning of the 10 April 2012, Mr Duma gave her the telephone numbers of Mr Yeboah-Amankwah, a partner at McKinsey
  - He (Mr Duma) informed her that he and Mr Yeboah-Amankwah had studied together at the Massachusetts Institute of Technology (MIT)
  - Mr Duma instructed her to contact Mr Yeboah-Amankwah to discuss the work that he wanted him (Mr Yeboah-Amankwah) to do for TIA
  - He told her that he wanted her to be a project lead and to make sure that it appeared to follow the right procurement process
  - She did not call Mr Yeboah-Amankwah as she was still "*conflicted inside*" about what she had been asked to be involved in
  - On 11 April 2012, Mr Yeboah-Amankwah emailed her asking if he could call her that day. They then set up a telecon for 14:00 that same afternoon

- On the phone he briefed her about the benchmarking project and they decided it would be more useful to meet in person and a meeting was scheduled for 17 April 2012 as follows:
  - **Annexure D2** - Various email correspondence between Mr Yeboah-Amankwah and Ms Sixholo dated 11 April 2012. Mr Yeboah-Amankwah requested her to provide him with a suitable time for him to contact her. Ms Sixholo replied that between 16:00 and 16:30 that afternoon, would be suitable
  - **Annexure D3** - An Outlook meeting request from Ms Teresia Gichache (Ms Gichache) on behalf of Mr Yeboah-Amankwah, to Ms Sixholo dated 13 April 2012 and with subject "Accepted: Meeting to formulate Project Plan & RFP for TIA International Benchmarking Study". A printed photograph of a computer screen image of the above meeting request, showing that the meeting was scheduled for 14:00 to 16:00, 17 April 2012 at TIA House.
- On 17 April 2012, Mr Yeboah-Amankwah, Mr Tarik Alatovic (Mr Alatovic) and Mr Muhammad Simjee (Mr Simjee), from McKinsey, came to TIA for their meeting and they discussed in detail the work that Mr Duma wanted them (McKinsey) to do for TIA
- It was at this meeting that it was decided that the McKinsey team will draft the tender specifications that will be used for the tendering process of this work. A budget of approximately R5 Million was also discussed
- It was also at this meeting that Mr Yeboah-Amankwah told her that he and Mr Duma are friends and they studied together at MIT, USA
- On 17 April 2012, Mr Yeboah-Amankwah emailed her the first draft of the bid specification as follows:
  - **Annexure D4** - An email from Mr Yeboah-Amankwah to Ms Sixholo dated 17 April 2012 with a PowerPoint document named "TIA Organization benchmarking v3.ppt" attached thereto. This PowerPoint document contained six PowerPoint slides titled "Organizational benchmarking approach" dated 12 April 2012. The document showed that it was last modified on 16 April 2012. It appears this is the attachment emailed to Ms Sixholo by Mr Yeboah-Amankwah on 17 April 2012, containing the tender specifications.
- During the course of that week, she and Mr Alatovic worked further on the document (via phone and email) and finalised the specification as follows:
  - **Annexure D5** - Various email correspondence between Mr Alatovic and Ms Sixholo dated 20 April 2012 and with subject "RFP outline and preliminary project plan". Mr Yeboah-Amankwah and a Nischal Bajjnath were carbon copied (cc'd) in the emails
  - A Word document named "20120420 TIA RFP.doc" and a PowerPoint document named "20120420 TIA Workplan.ppt" were attached to the initial email. The Word document consisted of four pages titled "Bid: Consulting services to assist the Technology Innovation Agency in an organization wide review, benchmarking and best practice process implementation". It appears that this is the Word attachment emailed to Ms Sixholo by Mr Alatovic on 20 April 2012, containing the work plan. The PowerPoint document contained nine PowerPoint slides titled "Organizational benchmarking approach" dated 19 April 2012. The document showed that it was last modified on 20 April 2012. It appears this PowerPoint document contained the tender specifications ()

- **Annexure D6** - Various email correspondence between Ms Sixholo and Mr Alatovic dated 14 May 2012 to 17 May 2012. On 14 May 2012, Ms Sixholo requested assistance from Ms Alatovic related to a terms of reference for operating models with local consultancies. Mr Alatovic provided her with a PowerPoint document named "McKinsey – Operating model for capability building and skills transfer with local consultancies.ppt" attached to an email dated 17 May 2012. The PowerPoint document was undated and contained a PowerPoint slide titled "*To maximise capability building and skills transfer we recommend both secondment and leadership integration with a local consultancy*". It appears this is the PowerPoint attachment emailed to Ms Sixholo by Mr Alatovic on 17 May 2012, containing the terms of reference details.
- She followed internal processes to constitute the Bid Specification Committee. The Bid Specification Committee evaluated the specifications and made some recommendations on how the specifications could be improved. These were incorporated into the document and the committee approved the final document:
  - **Annexure D7** - A memorandum from Ms Sixholo to Ms Barbara Kortjass (Ms Kortjass) dated 4 May 2012 with subject "*Appointment of the chairperson for the bid specification committee*". The proposed committee members were Dr Tsakani Mthombeni (Dr Mthombeni) to chair the committee, Mr Innocent Siziba (Mr Siziba), Mr Naim Rassool (Mr Rassool) and Ms Sixholo. Ms Kortjass approved the memorandum on same date
  - **Annexure D8** - Bid Committee Meeting dated 7 May 2012, one page agenda ( ).
- None of the members of this committee, except herself, knew that McKinsey had already been involved and that they in fact drafted the bid specifications
- During May 2012, the exact date she could not recall, the advert for the benchmarking was published in the Sunday Times with a closing date of 4 June 2012 and a compulsory briefing session on 21 May 2012:
  - **Annexure D9** - Various emails between Mapule Leshaba (Ms Leshaba), Rashaad, Seja Mokgawa (Mr Mokgawa), Ms Sixholo, Marian and Mandisa Pitso (Ms Pitso) dated 9 and 10 May 2012. Ms Leshaba emailed Rashaad to place an advert in the Sunday Times. The advert was placed in the Sunday Times of 13 May 2012. A one page advert titled "*Call for proposals (Ref: TIA0812): Consulting services to assist the Technology Innovation Agency in an organisation wide review, benchmarking & best practice process implementation*". It appears this was the advert placed in the Sunday Times of 13 May 2012. The advert stated that 4 June 2012 is the closing date for submissions and a compulsory attendance of a project briefing meeting date of 21 May 2012 at TIA House
  - **Annexure D10** - An eight page document which appears to be the Bid Specifications published on TIA's website titled "*Bid: Consulting services to assist the Technology Innovation Agency in an organization wide review, benchmarking and best practice process implementation*".

- On 21 May 2012, 18 companies attended the briefing session. Mr Simjee attended on behalf of McKinsey.
  - **Annexure D11** - A two page attendance register for the briefing session titled "*Bid: Consulting services to assist the Technology Innovation Agency in an organization wide review, benchmarking and best practice process implementation*" on 21 May 2012, signed by the representatives of the attending companies
  - **Annexure D12** - Nine PowerPoint slides titled "*TIA Benchmarking*" used in the presentation during the briefing session on 21 May 2012.
- After the briefing meeting, she was "*drained and emotionally exhausted*" as she knew the briefing session was "*just a show*" and that they were wasting the time of 17 professional people who took time to prepare tender documents and come to the meeting
- It is during that period that her conscience got the better of her and she suffered from severe depression. She aggressively started searching for other employment. She then enquired if TIA had a whistle blowing policy in place. She found there was none existent at the time
- In a meeting between herself, the date she cannot recall, Dr Sibongile Gumbi (Dr Gumbi) and Mr Duma; Dr Gumbi was ordered by Mr Duma, to chair the evaluations committee and ensure that McKinsey progress to the adjudication stage or to "*kill the entire process*" if not possible. She could not recall the exact date of the meeting. She felt sorry for Dr Gumbi as she (Dr Gumbi) was still new at the organisation:
  - **Annexure D13** - A memorandum from Ms Sixholo to Ms Kortjass dated 25 May 2012 with subject "*Appointment of the chairperson for the bid evaluation committee*". The proposed committee members were Dr Gumbi to chair the committee, Mr Olympus Manthata (Mr Manthata), Ms Kefiloe Monageng (Ms Monageng), Ms Pitso and Ms Sixholo. Ms Kortjass approved the memorandum 28 May 2012.
- Dr Gumbi, acted as ordered (by Mr Duma), to ensure that McKinsey was recommended to proceed to the adjudication stage. By pushing through McKinsey and another company, which quoted more than McKinsey, it ensured that McKinsey would win the bid when the 90/10 principle was applied by the adjudication committee
- The adjudication committee approved the appointment of McKinsey based on the price:
  - **Annexure D14** - Six declarations of interest titled "*Consulting services to assist the Technology Innovation Agency in an organization wide review, benchmarking and best practice process implementation*" all dated 11 June 2012 and signed by Ms Sixholo, Dr Gumbi, Ms Pitso, Ms Monageng, Mr Manthata and Ms Thendo Musehane (Ms Musehane). Ms Musehane was not listed in the memorandum from Ms Sixholo to Ms Kortjass dated 25 May 2012 in which Ms Kortjass approved five Bid Evaluation Committee Members, but it appears that she (Ms Musehane) was the scribe of the evaluation committee
  - **Annexure D15** - Five, undated TIA Evaluation Score Sheets completed by the Bid Evaluation Committee members in which they evaluated UP (Business enterprises), AIA, McKinsey, Vunani and Red Flank. It appears that Mint Fresh was not evaluated, because they were disqualified for not providing TIA with a compulsory declaration of interest. PWC was disqualified for not submitting five copies of their proposals

- **Annexure D16** - Three, undated TIA Evaluation Score Sheets. It appears that this score sheets are a summary of the scores sheets prepared by the Bid Evaluation Committee members. It appears that McKinsey, with a quoted price of R7 866 000.00 scored 4.6 and AIA, with quoted price of R8 613 310.00 scored 3.19
- **Annexure D17** - A four page meeting minutes of the TIA Bid Evaluation Committee dated 27 June 2012. It appears that the various bids were discussed during the meeting
- **Annexure D18** - A three page report titled "*Evaluation Committee Report on consulting services to assist the Technology Innovation Agency in an organization wide review, benchmarking and best practice process implementation*" dated 6 August 2012. The committee recommended McKinsey as the service provider for the benchmarking and best practice process implementation at a cost of R7 866 000.00 (VAT inclusive)
- **Annexure D19** - A one page meeting minutes for the Adjudication Committee Meeting – Benchmarking Study held on 6 August 2012. The meeting minutes were signed and dated by the Bid Adjudication Chairperson on 8 August 2012.
- Mr Duma motivated the Board to approve the benchmarking study at their meeting. She could not recall the date of the Board meeting
- At that meeting the Board did not approve the study as they had various concerns relating to the Terms of reference :
  - **Annexure D20** - Various emails between Ms Kortjass, Board Members, Mr Duma and Ms Sixholo dated from 31 July 2012 to 17 September 2012 with subject "*Terms of Reference benchmarking tender*". In this correspondence, Mr Ross Norton (Mr Norton) stated his concerns relating to the Terms of Reference. He mentioned that the scope of the benchmark is much broader than originally discussed. He was under the impression that they were seeking a benchmark on two points, namely what success rate for investments should they expect in the risk space they operate in and what percentage of funds available should be consumed in overheads or other non-project expenses. His main concern was the review of investments suggested in the Terms of Reference. He thought they have not reached a point where they have a settled portfolio with metrics to inform their decisions. He suggested that they must do these themselves and not involve external and expensive consultants. He stated he is not comfortable with the Terms of Reference and that it should be discussed further. He communicated these concerns to Mr Duma and Ms Kortjass on 14 August 2012. Ms Kortjass forwarded these emails to Ms Sixholo on 17 September 2012.
- In subsequent Board meetings, through Mr Duma's persistence, the Board eventually approved the benchmarking study and it is currently underway.
  - **Annexure D21** - An email from Mr Sibongile Letuku (Mr Letuku) to Ms Sixholo dated 12 March 2013 with subject "*Extract – Benchmarking Study*". Attached to this document was a Word document named "Document1.docx". This document appears to be an extract of the minutes of the Board meeting held on 21 February 2013, indicating that the Board approved appointment

- A memorandum from the Business Strategy Manager (BSM) to the CEO (Mr Duma) dated 11 June 2013 with subject "Request for CEO's signature). This was a request for Mr Duma's signature for McKinsey "End of Phase 1 Invoice", as the invoice is above the BSM's delegation. Attached to the memorandum was an invoice prepared by McKinsey addressed to TIA signed and dated 11 June 2013, and McKinsey's SARS Tax Clearance Certificate of Good Standing approved on 15 February 2013 as well as signed and dated on 11 June 2013.

5.266 We retrieved the following documents from Mr Duma's computer:

- Email correspondence between Mr Yeboah-Amankwah and Mr Duma dated from 24 February 2011 to 8 March 2011. A Mr Johnson Agogbua (Mr Agogbua) and Ms Abbey Smith (Ms Smith) were cc'd in the emails. Mr Yeboah-Amankwah informed Mr Agogbua that he (Mr Yeboah-Amankwah) and Mr Duma went to MIT together and wrote "we (Mr Yeboah-Amankwah and Mr Duma) fought many battles together...nbs; he taught me everything I know...he is now the CEO of a government owned organization that is in charge of innovation for South Africa...its complicated...he will have to explain .. anyway, he will be a great guy for you to meet..". It further appears that Mr Duma and Mr Yeboah-Amankwah met for a breakfast meeting at the Radisson Hotel in Rivonia Road, Sandton at 08:30, 8 March 2011. Mr Duma specifically requested that the meeting should not take place at TIA's offices (**Annexure D22**)
- Email from Mr Yeboah-Amankwah to Mr Reed Hundt (Mr Hundt) and Mr Duma dated 8 May 2013 with subject "Introduction". Mr Yeboah-Amankwah informed Mr Hundt that he (Mr Duma) is client and former MIT class mate of his (Mr Yeboah-Amankwah) and that Mr Duma is the CEO of TIA. He (Mr Yeboah-Amankwah) further informed Mr Hundt that Mr Duma will be in (Washington) DC for an Energy Conference and would love to meet with Mr Hundt on the Friday or Saturday succeeding the email. Mr Yeboah-Amankwah informed Mr Duma that Mr Hundt is his friend and mentor. He (Mr Hundt) used to work in the US government and served as the FCC Chairman and now sits on a number of investments companies' boards. Mr Yeboah-Amankwah suggested that Mr Hundt would be a fantastic person to chat about innovation and how he (Mr Duma) could stimulate it (**Annexure D23**)
- A meeting request from Mr Duma to Ms Kortjass for 13 March 2012 with subject "*Meeting with the CFO (Possible ways of appointing McKinsey to assist TIA)*" (**Annexure D24**)
- An email from Ms Portia Selebalo (Selebalo), PA to Ms Kortjass, dated 27 March 2012, to Ms Mzobe and Mr Duma with a Power Point Presentation named "*The McKinsey Brief fianl1. (sic)*". The Presentation contains three slides with the following headings (**Annexure D25**):
  - "*Organisational set up.....Benchmarking with international trends (standards) for like minded institution.)* The slide starts with the introduction "*Key output (Why?) For McKinsey (sic)*"
  - "*Benchmarking success for an Organisation such as TIA*"
  - "*Looking at the TIA portfolio of projects and investments*".

5.267 On 17 October 2013, we enquired from Ms Kortjass as to the meeting request per **Annexure D24**. In a written explanation (**Annexure D26**) dated 17 October 2013, Ms Kortjass informed us that she could not recall a specific meeting she had with Mr Duma in respect of discussing the appointment of McKinsey.

5.268 On 17 October 2013, we interviewed Ms Selebalo in respect of the email dated 27 March 2013 and the power point presentation in respect of the McKinsey brief (**Annexure D25**) .

5.269 In a written explanation Ms Selebalo informed us that (**Annexure D27**):

- On or about 27 March 2012, Ms Mzobe was on leave
- She acted as the PA for Mr Duma
- Mr Duma presented her with a note in his handwriting and requested her to prepare a PowerPoint presentation from the notes
- She prepared the PowerPoint presentation (**Annexure D25**) and forwarded it to Ms Mzobe on 27 March 2013.

#### **Interview with Doctor Sibongile Gumbi**

5.270 We conducted an interview with Doctor Sibongile Gumbi (Dr Gumbi), the salient points of which are included hereunder (**Annexure D28**):

- She is employed by TIA as the General Executive: Biotechnology Sectors
- She has held this position since 1 April 2012
- She reports to Mr Duma
- She attended a meeting during June 2012 with Mr Duma and Ms Joy Sixholo (Ms Sixholo). At this meeting, Mr Duma requested her to be the Chairperson of the Bid Evaluation Committee relating to a tender for the Organisation Wide Review, Benchmarking and Best Practice Process Implementation
- She had limited knowledge of benchmarking and best practice implementation
- Mr Duma told her that McKinsey & Company (McKinsey) and Price Waterhouse Coopers (PWC) had amongst others, submitted tender proposals for the Organisation Wide Review, Benchmarking and Best Practice Process Implementation
- Mr Duma expressed his sentiments towards McKinsey as his preferred service provider to conduct the Benchmarking and Best Practice Implementation process at TIA
- Mr Duma's sentiments towards his preference of McKinsey made her feel uncomfortable as she formed the impression that he was placing undue influence over her to favour McKinsey over other prospective bidders
- Mr Duma did not specifically instruct her to ensure that McKinsey's tender proposal progressed to the adjudication stage
- She assumed that Ms Sixholo had prepared the terms of reference (specifications) for the Organisation Wide Review, Benchmarking and Best Practice Process Implementation tender
- She would have withdrawn as the Chairperson of the Bid Evaluation Committee if she was made aware that McKinsey had prepared the terms of reference for the tender, as she felt that McKinsey would have prepared the proposal in such a manner that they could respond directly to the terms of reference
- The members of the Bid Evaluation Committee comprised of the following persons:
  - Herself;
  - Ms Sixholo;
  - Ms Kefiloe Monageng (Ms Monageng);



- Mr Olympus Monthata (Mr Monthata); and
- Ms Mandisa Pitso (Ms Pitso).
- She was unfamiliar with TIA's Supply Chain Management's Policy at the time that the Organisation Wide Review, Benchmarking and Best Practice Process Implementation tender was evaluated. She relied on the guidance of Ms Pitso who was a Supply Chain Manager at TIA
- The Bid Evaluation Committee members evaluated the various tender proposals solely on the technical qualities of each proposal with regard to the terms of reference. The scoring was done in terms of the functionality evaluation criteria with a minimum of zero and a maximum of five points for each criteria. The financial offerings of the various tender proposals were not considered by the Bid Evaluation Committee
- After the various tender proposals were reviewed and collectively discussed, the Bid Evaluation Committee members each allocated individual scores for each tender proposal on their respective score sheets
- The individual score sheets were signed by the Bid Evaluation Committee members and given to Ms Pitso
- The aggregate score calculations of the tender proposals were done by TIA's Supply Chain Management component and submitted to the Adjudication Committee
- She was not aware of the Evaluation Committee Report that was submitted to the Adjudication Committee.

#### **Interview with Ms Mandisa Pitso**

5.271 We conducted an interview with Ms Pitso, the salient points of which are included hereunder (**Annexure D29**).

- She is employed by TIA as a Supply Chain Manager
- She has held this position since about March 2012
- She reports to Mr Sipho Hlaethwa (Mr Hlaethwa), the Senior Supply Chain Manager
- She is familiar with TIA's Supply Chain Management Policy
- She conducted a briefing session for prospective bidders relating to the Organisation Wide Review, Benchmarking and Best Practice Process Implementation tender advertised by TIA
- She could not recall the exact date of the briefing session although she confirmed that it was during 2012 and prior to the bid submission closure date. She could not recall the names of the entities and/or their representatives that attended the briefing session
- The purpose of the briefing was to inform prospective bidders of the bid submission compliance requirements
- She was a member of TIA's Bid Evaluation Committee relating to the tender for the Organisation Wide Review, Benchmarking and Best Practice Process Implementation
- At the outset of the Bid Evaluation Committee meeting, she explained the evaluation criteria to the other members of the Bid Evaluation Committee with regards to the terms of reference (specifications)
- Bid submissions were checked for compliance requirements and two bid proposals were disqualified for non-compliance, namely:

- Mint Fresh, for failing to provide a declaration of interest form
- PWC, for failing to provide 5 copies of the proposal.
- After the various tender proposals were reviewed and collectively discussed, the Bid Evaluation Committee members each allocated individual scores for each tender proposal on their respective score sheets
- The scoring was done in terms of the functionality evaluation criteria with a minimum of zero and a maximum of five points for each criteria
- After the tender adjudication process had taken place, Ms Sixholo informed her that McKinsey had drafted the terms of reference (specifications) for the Organisation Wide Review, Benchmarking and Best Practice Process Implementation tender
- Ms Sixholo had requested McKinsey to draft the terms of reference after Mr Duma had instructed her to do so
- Ms Sixholo told her that one of the directors of McKinsey was a friend of Mr Duma
- She compiled the aggregate score calculations of the tender proposals after the Bid Evaluation Committee had adjourned
- She drafted the Evaluation Committee Report and emailed it to Mr Hlaethwa for his review before she submitted it to the Adjudication Committee
- Although it was her responsibility, Mr Hlaethwa calculated the 90/10 points scoring relating to price and Broad - Based Black Economic Empowerment Status (B-BBEE) on her behalf
- Mr Hlaethwa was a member of the Bid Adjudication Committee relating to the Organisation Wide Review, Benchmarking and Best Practice Process Implementation tender.

#### **Interview with Mr Duma**

5.272 In his written submission (**Annexure A5**) stated as follows:

- The international benchmarking exercise has been the project of Ms Joy Sixholo (Business Strategy Manager in the CEO's Office). I have attached her performance Agreement. This means that she would have led the project from start to finish. This would have included:
- Ms Joy Sixholo reported directly to him
- He introduced her to Mr Safroadu Yeboah-Amankwah
- Ms Sixholo had already been introduced to Prof Pouris of the University of Pretoria Business Enterprises the previous year when she worked with Dr Ntutela on the study undertaken with Ilizwi
- Whilst not in one meeting, they discussed a number of potential vendors for the projects including Bain, Monitor, Gemini, some local business schools and BEE participation
- They both agreed at some point that TIA should get a vendor with international offices and assisted by two local BEE companies to be selected by TIA on their behalf for skills transfer and project implementation

- They both agreed that we should not continue with the project if it did not involve an organisation an international reach. This is primarily because TIA spent R7 million in early 2010 on a study undertaken by a local team called K2S. The study had an international component that resulted in locals travelling around the globe to introduce themselves. Hence the value was questionable. It therefore became imperative that the supplier must have strong international presence that TIA can benefit from
- He did not instruct or put Ms Sixholo under pressure to appoint McKinsey. The appointment of the service provider would have been made by the CFO hence it would not make sense to put her under pressure if that was one's desire. It would also have desired the manipulation of a lot of individuals to make it happen. Since he had no such desire, he did not. He admits that he spoke fondly of McKinsey, Monitor and Gemini, Harvard, MIT and INSEAD to her
- He did share with Dr Gumbi, who chaired one of the Adjudication Committees, their discussion with Ms Sixholo for a need to appoint someone with international reach and offices
- He did not get involved in the SCM process until the need to present it to the Board
- The Board requested a deliberation on the Terms of Reference and different Members suggested changes for different reasons. This included scaling down the work to focus only on investments and hiring a locally based firm or business school to undertake the work. From May 2012 to February 2013, the Board had not reached an agreement on the way forward
- At the November 2012 Board meeting, some Members suggested that DST be approached to enquire whether the three year review study of TIA to be undertaken by the Minister would also address some of the aspects of the benchmarking study
- On 6 December 2012, Dr Ramphele, Advocate Polaki and he met with Minister Hanekom, his advisor Martin and Dr Munsami (the DDG: Research and Innovation). The issue was among the agenda items that were discussed. The Minister and his team confirmed that the TIA review to be undertaken by DST would not accomplish what was envisaged with the benchmarking study. He also forwarded the terms of reference for the three year review to Dr Ramphele
- It was at the Board meeting of February 2013 that the Board decided to give the go ahead of the appointment of the supplier for the benchmarking study
- Upon the confirmation of the appointment of McKinsey, I went to inform the acting CFO, Mr Werner van der Merwe that there was someone from MIT that I knew. He reported that I was not part of the SCM process and it doesn't matter. However, I could write him an email and he would confirm his words on the email
- The project was then managed by Ms Sixholo to completion.

5.273 On 1 October 2013, we discussed the process with the following representatives from McKinsey:

- Mr Henrik Arwidi – McKinsey SA Country Manager (Mr Arwidi)
- Mr Benedict Phiri – Associate General Counsel (Mr Phiri)
- Ms Marlynie Moodley - Head: External Relations, Sub-Saharan Africa
- Mr Safroadu Yeboah-Amankwah (Mr Yeboah-Amankwah).

5.274 Mr Yeboah-Amankwah stated that:

- He is a Senior Partner and leads the McKinsey Technology Practice. He and Mr Duma studied together at MIT between 1989 and 1993. They are close friends and comrades. They were part of the organisation to put pressure on the University to cut ties with South Africa during apartheid.
- He moved to South Africa approximately 2 years ago from the USA
- Mr Duma was invited to a CIO – CTO conference hosted by McKinsey in late 2011/early 2012. At this conference Mr Duma spoke about what TIA was going through with bringing 6 organisations together and that it had to become world class
- Mr Duma wanted to know if McKinsey had done such work before
- He told Mr Duma to refer the people to him and he would put them in touch with the relevant individuals. At that stage he did not know too much about TIA
- On 11 April 2012, he had a conversation with Ms Sixholo. Ms Sixholo explained that it was part of her duties to implement a benchmarking study along four or five dimensions and to get input from as many people as possible, especially from International consulting companies as TIA wanted to benchmark themselves against international standards. She wanted to get input into a potential tender she was going to do. She was also interviewing other consulting companies and internal TIA employees
- They did not discuss any budgets
- On 13 April 2012, he met with Ms Sixholo who explained their needs further
- On 17 April 2012, McKinsey provided “Organizational benchmarking approach” dated 12 April 2012 (**Annexure D4**)
- On 20 April 2012, Mr Alatovic sent the “RFP outline and preliminary project plan” to Ms Sixholo. (**Annexure D5**)
- One of the questions Ms Sixholo had asked was to how International companies work, from a BEE perspective, with smaller local companies. McKinsey had forgotten to include this aspect. On 17 May 2012, Mr Alatovic sent the McKinsey methodology to Ms Sixholo (**Annexure D5**)
- McKinsey submitted its tender before the closing date. Approximately 9 months later TIA informed them that McKinsey was successful. Only after McKinsey started did he hear that there were extensive deliberations at Board level regarding the terms of reference.

## Conclusion

5.275 We found substance in the allegation that Mr Duma and Ms Sixholo may have manipulated the procurement process in that:

- Mr Duma had an pre-existing relationship with Mr Yeboah-Amankwah who is a partner at McKinsey & Co
- Prior to the Benchmarking tender being advertised by TIA Mr Duma allegedly instructed Ms Sixholo to engage with Mr Yeboah-Amankwah regarding the Benchmarking process at TIA
- According to Ms Sixholo, Mr Duma instructed her to ensure that the tender process appeared to follow the correct procurement process

- Mr Safroadu Yeboah-Amankwah and his McKinsey colleagues, Messrs Tarik Alatovic and Muhammad Simjee drafted the tender specifications for the Benchmarking tender
  - Mr Duma irregularly instructed Dr Gumbi to act as the Chairperson of the Bid Evaluation Committee that was to evaluate the Benchmarking and Best Practice Implementation process tender submissions
  - Mr Duma attempted to influence Dr Gumbi to favour McKinsey in the evaluation process.
- 5.276 As an organ of State (defined in section 239 of the Constitution), TIA must comply with section 217 of the Constitution. TIA's procurement system must accordingly be fair, equitable, transparent, competitive and cost-effective. In terms of the PFMA TIA is listed as a Schedule 3A National Public Entity. Treasury regulation 16A3.2 A are applicable to TIA and similarly requires that the Supply chain management system must be fair, equitable, transparent, competitive and cost effective
- 5.277 The equability requirement entails that all tenderers and suppliers must be treated equally throughout the entire procurement process, and must be given access to the same information.
- 5.278 The fact that McKinsey played a major role in preparing the terms of reference for the tender and subsequently participated in the tender process raises doubt about the equitability of the process. It may be argued that through McKinsey's interactions with TIA prior to the tender publication they may have gained an unfair advantage.
- 5.279 In addition, the Supply Chain Management Policy prohibits the sub-delegation of any supply chain Management powers and duties to an advisor or consultant, a person who is not an official of TIA or to a committee which is not exclusively composed of TIA officials. TIA should seek legal opinion in this regard.

#### **Recommendations**

- 5.280 We recommend that the Board consider:
- Appropriate disciplinary action against Mr Duma. Ms Sixholo has since resigned from TIA
  - Obtaining legal advice in respect of the legality of the tender process and consider the provisions of Section 34 of the Prevention and Combatting of Corrupt Activities Act.

## **Alleged irregular procurement transactions**

### **Appointment of Ilizwi Industrial Holdings**

- 5.281 Mr Sipho Hlaethwa (Mr Hlaethwa), the Supply Chain Manager, provided us with the procurement file containing documentation relating to the appointment of Ilizwi Industrial Holdings (Pty) Ltd (Ilizwi) as a service provider in February 2011. We set out below the documentary evidence contained in the procurement file relevant to our review.

#### **Memorandum dated 10 February 2011 (Annexure E1)**

- 5.282 Mr Duma signed a memorandum dated 10 February 2011 addressed to Ms Kortjass. It appears from the memorandum that Advocate Arthur Maisela (Adv Maisela) signed the memorandum as a witness.
- 5.283 Mr Duma stated the following in the memorandum:
- On 15 December 2011, he had a meeting with the Minister of Science and Technology (Minister Naledi Pandor) to discuss matters relating to TIA and her expectations thereof
  - Part of Ms Pandor's input was that TIA should conduct a study of all the innovation tools that are available within the different government departments
  - He had tasked Dr Siyabulela Ntutela, the Senior General Manager in CEO's office, (Dr Ntutela) to commission the study
  - It transpired that a close friend of his was the head of the potential service provider for this task. (*Mr Duma did not mention the names of the service provider or his friend*)
  - In line with TIA's conflict of interest policy, he declared a potential conflict of interest. Accordingly he recused himself from any deliberations and processes to procure services from the said service provider
  - He delegated the authority for all commercial matters pertaining to this service provider to the CFO, (Ms Kortjass).

#### **Memorandum dated 17 February 2011 (Annexure E2)**

- 5.284 Ms Joy Sixholo, the Business Strategy Manager, signed and submitted a memorandum (**Annexure E2**) to Ms Kortjass in which she motivated for deviation from the procurement policy to appoint Ilizwi. Dr Ntutela and Mr Hlaethwa recommended and signed the memorandum. Ms Kortjass approved and signed the memorandum.
- 5.285 Ms Sixholo stated the following in the memorandum:

##### **1. "Background"**

*The approved TIA procurement policy requires that procurement services/ goods in excess of R500 000.00 be concluded by way of an open bid.*

*TIA has to respond to a Ministerial request to conduct a study on that will measure the impact of innovation instruments that have been supported the public funds, the challenges thereof and the lessons for TIA and the DST in general. The final report is expected by the DST before the 31st March 2011.*

*While previous work of similar nature has been conducted in small pockets around academic institutions, it lacks sufficient detail to address the Minister's questions.*

*Ilizwi Industrial Holdings Pty Ltd (Ilizwi) has conducted similar consulting services to agencies such as the Support Programme for Industrial Innovation and have reviewed and conducted impact assessment for THRIP. In addition, some of the reviewers that they have partnered with have conducted similar impact studies for other agencies. This means that Ilizwi is better positioned in refining the terms of reference as required by the study and have the capability to enlist the assistance of other relevant service providers.*

*Due to the urgent need for this study to be conducted, it is requested of you to consider Ilizwi as a chosen provider for this service.*

## **2. Request**

*In order to expedite the conducting of the study and deliver the outputs to the Minister on the required deadline, it is requested that approval be granted for deviation from policy and that the proposal from Ilizwi be approved to undertake the abovementioned study. The budgeted amount for this study is R1.4M*

## **3. Recommendation**

*It is recommended that the CFO approve the appointment of Ilizwi Industrial Holdings Pty for this specific matter, under the said conditions.”*

### **Services Agreement between TIA and Ilizwi (Annexure E3)**

5.286 Ms Kortjass and Mr Kelvin Radebe (Mr Radebe), the Chief Operations Officer and Director of Ilizwi, signed the services agreement respectively on 24 March 2011 and 25 March 2011.

5.287 In its preamble, the services agreement states:

- TIA had invited proposals from third parties to conduct a study on the impact of national innovation instruments
- Ilizwi had submitted a proposal in response to the previously mentioned invitation and TIA subsequently appointed it to provide the previously mentioned services in accordance with the terms and conditions set out in the services agreement.

5.288 Appendix A to the services agreement contains a timeframe and payment schedule with detailed milestones. In terms of this document the first milestone was to be completed by 15 March 2011 and the last milestone by 29 April 2011. The first payment was due on 15 March 2011. The total amount due after the completion of the three milestones was R1 304 990.

### **Clarification of Roles and Delegations of Authority**

5.289 According to the minutes of the Board meeting held on 26 October 2009 (**Annexure B9**) the Board approved the Delegations of Authority document. In terms of this document, titled “*Clarification of Roles and Delegations of Authority*” (**Annexure E4**) the CEO was authorised to approve the following procurement decisions:

1. Expenditure on capital projects, amounting to a maximum of R 5 million.
2. Procurement of goods and service.
3. Expenditure up to a maximum of R1 million for the appointment of consultants, in consultation with the Chief Financial Officer.

5.290 The Clarification of Roles and Delegations of Authority further stated the following:

*The CEO is authorized do all such things as are necessary and legally possible to effect the authority conferred in clause 6.14 above. Without limiting the extent of this authority, the CEO may authorize any expenditure (within the limits provided above) where 3 quotations were received, where an open tender was followed and where a request for deviation, with sufficient reasons, from normal procurement processes was submitted; and provided the items have been budgeted for and all other legal requirements are met. Provided further that in respect of capital projects, the CEO report to the Chairperson's Committee of the Board on each approval.*

#### **Shareholding and directorships in Ilizwi Holdings**

5.291 We performed public record searches on Ilizwi which indicated that it has the following directors:

- Gaur Kelvin Radebe
- Chanche Collin Matlala
- Molifi Thomas Molamu
- George Maanda Negota
- Tidimalo Tranqueline Khobane
- Mathukana Givion Mokoka.

5.292 From the public records searches on Mr Radebe we note that he is also a director of Lebone Engineering (Pty) Ltd (Lebone Engineering) which is a subsidiary of Ilizwi. According to public record searches Lebone Engineering has the following listed directors:

- Gaur Kelvin Radebe
- Thomas Molifi Molamu
- Collin Chanche Matlala
- Ndileka Eumera Portia Loyilane
- Ntotole Abner Mangokoane.

5.293 We performed public record searches on Mr Duma which indicated that he is an active director of the following companies:

- Psidot Engineering (Pty) Ltd
- Psidot Technology Holdings (Pty) Ltd.



**Mr Duma's Curriculum Vitae (Annexure E5)**

- 5.294 Ms Corlette Mamabolo, the General Manager, Human Resources, provided us with the Human Resources (HR) file for Mr Duma.
- 5.295 We found a memorandum dated 23 July 2010 in this file. The former company secretary, Adv Maisela submitted this memorandum to members of the Board of TIA relating to the CEO recruitment process. Adv Maisela stated that the Chairperson's Committee of the Board had interviewed four candidates for the position of CEO on 6 July 2010 and identified Mr Duma as having met the requirements. He then referred the Board members to Mr Duma's curriculum vitae (attached to the memorandum). Adv Maisela requested the Board members to provide their input and or comments, in respect of Mr Duma's curriculum vitae, to the Chairperson.
- 5.296 The curriculum vitae of Mr Duma, *inter alia*, states:
- He had been a Director of Psidot Technology Holdings (Pty) Ltd (Psidot) since 2000
  - He had been the Chief Engineering Consultant at Lebone Engineering during 2003 to 2007.

**Searches for electronic evidence**

- 5.297 In the table below, we set out the details of the official TIA assets used by Mr Duma. We obtained these assets for the gathering of electronic evidence.

Description	TIA Asset number	Laptop Serial number	Hard disk drive serial number
Dell Latitude laptop	13823	F7494R1	WX91CC1K2145
Dell Latitude laptop ( <i>formerly used by Mr Duma and given to personal assistant Ms Ophilia Mbatha</i> )	10458	HM86XP1	W0Q38TD4
iPad	14301	n/a	n/a
Acer Tablet	10017	n/a	n/a

- 5.298 Our forensic experts made two forensic copies of each hard disk drive of the two laptops. The forensic experts further obtained two copies of the data contained on the iPad and the Acer tablet. The first copy (image) serves as the "Master Copy" (this copy will remain sealed in our forensic lab to preserve the evidence) and the second copy served as the "Working Copy".
- 5.299 On the Working Copy our forensic experts also performed the following processes:
- A data recovery process using EnCase, a forensic software tool to ensure that all deleted files on the forensic image were recovered
  - Extracted all active and recovered data
  - Indexed all the extracted data onto an e-discovery platform, known as DTSearch, to enable the investigators to perform keyword searches on the data.
- 5.300 We used the DTSearch platform to perform searches for electronic documentary evidence relating to the subject matter of the investigation.

#### **Memorandum of Agreement between Psidot and Lebone Engineering (Annexure E6)**

- 5.301 We searched for electronic evidence on Mr Duma's laptops and found an unsigned Memorandum of Agreement between Psidot and Lebone Engineering. Although the memorandum was unsigned it contained a space at the end of the document for the signatories to sign while the year was indicated as 2009.
- 5.302 The memorandum sets out its purpose as to establish a mutual framework governing the respective organisational relationships, responsibilities and activities between Psidot and Lebone Engineering. The agreements were primarily for projects where Psidot and Lebone Engineering are used jointly.

#### **Company Profile: Lebone Engineering (Annexure E7)**

- 5.303 During our electronic searches on Mr Duma's laptops we found a company profile for Lebone Engineering dated 2008. The company profile stated Lebone is a totally black economic empowerment company that is owned by Ilizwi Industrial Holdings (Pty) Ltd (90%) and the Lebone Engineering Share Scheme Trust (10%).
- 5.304 According to the Lebone Engineering website, it is a black economic empowerment company that is owned by Ilizwi Industrial Holdings (Pty) Ltd (90%) and the Lebone Engineering Share Scheme Trust (10%).

#### **Interviews conducted**

- 5.305 We interviewed the following individuals:
- Ms Jolanda Hechter (Ms Hechter) on 16 August 2013. She is currently the General Manager: Finance. KPMG employed Ms Hechter during the period 2010 to 2011. KPMG has been TIA's auditors since 2010 and Ms Hechter was involved in the external financial audit of TIA during July 2011
  - Ms Sixholo on 16 August 2013 and 5 September 2013. Ms Sixholo undertook to provide us with a signed statement but at the time of writing the report, Ms Sixholo had not submitted a signed statement.
  - Dr Ntutela on 23 August 2013 and 3 September 2013. Dr Ntutela submitted a signed statement dated 23 September 2013 (**Annexure E8**)
  - Ms Kortjass on 22 August 2013, 9 September 2013 and 20 September 2013. Ms Kortjass submitted and signed a statement dated 30 September 2013 (**Annexure E9**)
  - Adv Maisela on 2 September 2013. Adv Maisela submitted a signed statement dated 9 September 2013 (**Annexure E10**)
  - Mr Duma on 10 September and 20 September 2013. We recorded our interviews with Mr Duma and had them transcribed.
- 5.306 Following our initial interview with Mr Duma on 10 September 2013 he requested the TIA Board to interview Ms Barbara Kortjass regarding some of the aspects discussed during our interview with him. The Board agreed but requested our presence during this interview. As previously stated this second interview took place on 20 September 2013 during which Ms Kortjass was also present.

5.307 Ms Hechter stated the following:

- During the financial audit in July 2011, the external auditors found that the expenses incurred for services received from Ilizwi ought to be classified as irregular expenses
- The amount paid to Ilizwi was in excess of R500 000 and in terms of Treasury Regulations the appointment should have been made by way of a competitive tender process
- The auditors further pointed out that the Board of TIA should have approved the deviation from the procurement process
- KPMG stated in the Annual Financial Statements for 2011 that the total amount of R40 088 000 in irregular expenses had been condoned by the Board. Ms Hechter confirmed that the irregular expenses relating to Ilizwi's appointment formed part of these irregular expenses that had been condoned by the Board.

5.308 Ms Sixholo stated the following:

- TIA employs her as the Business Strategy Manager in the Chief Executive Officer's (CEO) office. She had submitted her resignation to TIA with effect from 30 September 2013
- During February 2011 to April 2012, she reported to the then Senior General Manager (SGM), Dr Siyabulela Ntutela, in the CEO's office
- She currently reports to the acting CEO, Mr Mkhululi Mazibuko in the absence of the CEO, Mr Duma who is on special leave
- She attended the official launch of TIA on 29 October 2010 at TIA and recalled that the then Minister of Science and Technology, Ms Naledi Pandor, conveyed to staff members her main expectations of TIA
- On 24 December 2011, Mr Duma sent an internal memorandum titled "*End of the year update*" (**Annexure E11**) via email to all TIA internal staff. In item 7 of the memorandum Mr Duma referred to a meeting that he had with the Minister on 15 December 2010 regarding her expectations of TIA and to update her on TIA's activities. Mr Duma then listed the three primary expectations of the Minister as expressed to him
- In her view, the three listed aspects, discussed in item 7 of Mr Duma's memorandum, were in line with the main expectations expressed by the Minister in her speech during the launch
- She recalled that sometime late in January 2011 or early February 2011 Dr Ntutela informed her that Mr Duma had received an instruction from Minister Pandor that TIA should perform a study on the impact of technology instruments in South Africa for the Department of Science and Technology (DST). Dr Ntutela explained that Mr Duma had instructed him to commission the study
- Dr Ntutela informed her that Mr Duma specifically indicated that the Minister had wanted the study to be completed before 31 March 2011
- Dr Ntutela further informed her that Mr Duma had specifically instructed him to contact one Mr Kelvin Radebe (Mr Radebe) of Ilizwi Industrial Holdings (Ilizwi) to conduct this study as Ilizwi had previously done similar work for the DST
- Dr Ntutela then explained that he had accordingly contacted Mr Radebe and sent him the terms of reference in order to submit his proposal

- Dr Ntutela instructed her to commence with the drafting of a memorandum motivating the request for approval to deviate from the procurement policy in order to appoint Ilizwi. Dr Ntutela explained they would not proceed by way of an open bidding process but instead procure services from Ilizwi as a single supplier on an urgent basis as the study had to be completed before 31 March 2011
- She further understood from Dr Ntutela that after he had reviewed and signed the memorandum to deviate, he would submit it to Mr Duma who would approve and sign the memorandum
- She did not have much experience in drafting memoranda to motivate deviations from the supply chain policy, she had submitted the first draft version of the memorandum (**Annexure E12**), dated 4 February 2011 to Mr Sipho Hlaethwa (Mr Hlaethwa), the Supply Chain Management Manager
- She requested Mr Hlaethwa to review the draft memorandum and advise her how to proceed with the motivation. Mr Hlaethwa indicated, as highlighted in yellow in the memorandum (**Annexure E12**), that she needed to give background of why, when and who requires the study and why it was so urgent that the supply chain policy needed to be circumvented the supply chain policy, She should also explain why TIA should appoint Ilizwi
- While she was in the process of drafting the memorandum Dr Ntutela informed her that he had arranged a second meeting with Mr Radebe during which Mr Radebe would present Ilizwi's proposal. Dr Ntutela requested her to be present during this meeting and she confirmed that she attended this meeting. During this meeting, Mr Radebe presented his proposal (**Annexure E13**) and the costs indicated in the proposal amounted to R1.3 million
- The timeframe and payment schedule for the study was indicated on the last page of the proposal (**Annexure E13**). In terms of the timeframe and payment schedule various milestones for the completion of Ilizwi's study indicated that the first milestone had to be completed by 18 February 2011 and the last milestone indicated the finalisation of the report on 29 April 2011. In terms of the timeframe and payment schedule the first payment to Ilizwi was also due on 18 February 2011
- After receiving the feedback from Mr Hlaethwa, she requested Dr Ntutela to assist her and provide her with the required information to adequately motivate reasons for the deviation. She then included the information in the draft memorandum (**Annexure E14**) dated 4 February 2011 which she addressed to Mr Duma. She further recalled that Dr Ntutela and she had signed a version of this draft memorandum that Dr Ntutela submitted to Mr Duma for his approval.
- She recalled that Dr Ntutela then come back to her and indicated that she had to include more detail and made some changes in respect of the addressee and signatories. He explained that she had to make the following changes:
  - Change the addressee from the CEO, Mr Duma, to the CFO, Ms Barbara Kortjass
  - Remove Mr Duma as a signatory
  - Add Mr Hlaethwa as a signatory recommending the memorandum
  - Add Ms Kortjass as signatory approving the memorandum.

- She incorporated the changes suggested by Dr Ntutela and on 17 February 2011, she drafted the final version of the memorandum (**Annexure E2**). All the signatories signed the memorandum and Ms Kortjass approved the memorandum on 17 February 2011
- After Ms Kortjass had approved the memorandum, Mr Radebe had to complete a process of registering on the TIA's database of service providers. It transpired that Ilizwi's tax clearance certificate had expired and until it provided a new valid tax, clearance certificate TIA would not appoint Ilizwi as a service provider. This delay also resulted in Ilizwi not commencing with the study on time in terms of the timeframe and payment schedule
- She requested Mr Radebe to submit an amended timeframe and payment schedule and to submit a valid tax certificate
- Mr Radebe submitted a valid tax clearance certificate sometime during the middle of March 2011
- She confirmed that a service agreement (**Annexure E3**) between TIA and Ilizwi was signed on 25 March 2011 by Ms Kortjass and Mr Radebe respectively
- At the time TIA's offices were still situated at the Innovation Hub in Brummeria, Pretoria. She could not recall the exact dates but remembered that during March 2011 TIA was in the process of moving offices to its current location in Lois Avenue, Menlyn, Pretoria. During this period, all TIA employees were in the process of moving to the new offices and due to the IT servers being moved as well the TIA employees had no internet and email connections
- She could not recall the exact date but confirmed that Mr Radebe submitted an updated timeframe and payment schedule, separately in an envelope, after TIA's move to the new offices (**Annexure E15**). Mr Radebe had added his initials to this updated timeframe and payment schedule and she submitted the document to Ms Kortjass to initial it
- In terms of the updated timeframe and payment schedule, various milestones for the completion of Ilizwi's study indicated that the first milestone had to be completed by 25 March 2011 and the last milestone indicated the finalisation of the report on 30 May 2011. In terms of the timeframe and payment schedule the first payment to Ilizwi was also due on 25 March 2011
- Ilizwi subsequently conducted the study and submitted a draft report on their findings in June 2011. On 7 July 2011, she wrote an email (**Annexure E16**) to Mr Radebe informing him that Mr Duma had requested that he prepare and deliver a presentation on the report and its findings
- On 15 July 2011, Mr Radebe and one Professor Pouris from the University of Pretoria attended the TIA offices and presented the report to Mr Duma. She was present in this meeting and recalled that Mr Duma did not indicate to the presenters whether he was satisfied or dissatisfied with the report
- It was only after the Mr Radebe had presented his report that she found out from Mr Duma that he and Mr Radebe were longstanding friends and that they used to work together at Lebone Engineering

- She stated that she and Dr Ntutela were not happy with the quality of the report. After the presenters had left, she, Mr Duma and Dr Ntutela discussed the poor quality of the report. Mr Duma then said *“what is the point of having two people with an MBA in my office if the two of you cannot fix this report”*. Mr Duma was referring to herself and Dr Ntutela who both had MBA degrees
- Because she and Dr Ntutela were not happy with the quality, content and adherence to the terms of reference of the report, she suggested to Dr Ntutela that TIA appoint independent peer reviewers to evaluate and review Ilizwi’s report. Dr Ntutela recommended the suggestion
- Following a supply chain process TIA appointed Mr Leon Staphorst and Mr Sthembiso Mpungose to conduct peer reviews on Ilizwi’s report
- In October 2011, Mr Staphorst and Mr Mpungose submitted their reports and she recalled that both peer reviewers found that the reports were of poor quality in that it had not addressed the required terms of reference
- She recalled that she had given Mr Radebe their (her and Dr Ntutela’s) feedback, including the peer review documents. Mr Radebe never sent a revised document to TIA
- After receiving the peer reviewers’ report Mr Duma has to date never asked her for the final reviewed report. To date she still only has the draft report of Ilizwi which it never finalised
- To her recollection, she could not confirm that the Ilizwi report had been finalised and submitted to the Minister
- At the time Dr Ntutela and she thought that Mr Duma had mislead them in that there had never been a basis for the urgent appointment of Ilizwi and that he had in fact never received a request from the Minister that TIA had to complete the impact study before 31 March 2011. She based her suspicions on the following facts:
  - It did not make sense to her why Mr Radebe was allowed enough time to obtain a valid tax clearance certificate if this was supposedly such an urgent matter
  - Ilizwi only submitted a draft report in June 2011 and presented their findings in July 2011, long after the deadlines expired. This did not make sense if the Minister had expected the report by 31 March 2011. It therefore appeared to her that there never existed an urgency that the study had to be completed before 31 March 2011
  - She found out that Mr Radebe was a friend of Mr Duma and they used to work together at Lebone Engineering
  - She was never asked for the final report and to her recollection the report was not sent to the DST or the Minister. This did not make sense if the Minister had requested the study to be conducted urgently and apparently expected the report before 31 March 2011.

5.309 Dr Ntutela stated the following in his statement:

- He was formerly employed at TIA as the Senior General Manager: Operations and reported to the CEO of TIA, Mr Duma
- On 24 December 2010, Mr Duma circulated an internal memorandum (**Annexure E11**) to all TIA staff. In Item number 7 on the memorandum Mr Duma stated that he had a meeting with the then Minister of Science and Technology, Ms Naledi Pandor on 15 December 2010
- According to the memorandum, Mr Duma stated that the Minister discussed that TIA should conduct an audit of innovations in research institutions and Higher Education Institutions (HEIs) and commercialise them. In his view the memorandum did not state that TIA had to conduct an impact study on the technology innovation study. He understood from Mr Duma's statements in the memorandum that the Minister requested TIA to focus on inventions within the country's higher education institutions, science councils and platforms etc. According to his understanding of Mr Duma's statements in the memorandum, the Minister wanted to know what was in the shelves of these institutions that could be commercialised through TIA's assistance
- On or around 6 January 2011, he met with Mr Duma in his office. Mr Duma informed him that Minister Pandor wanted TIA to conduct a study on the technology innovation instruments that existed within the country. Mr Duma said that he wanted him to commission the study and that it had to be finalised and sent to the Ministers' office by 31 March 2011
- He subsequently drafted a memorandum dated 6 January 2011 (**Annexure E17**) setting out what he thought should be the terms of reference for the study based on his discussion with Mr Duma. He indicated in this memorandum that the estimated cost should amount to R250 000. He thought that the estimated cost of R250 000 was sufficient to accomplish the objectives of the study
- He had certain individuals and companies in mind that he intended going to approach in order to get the required three quotes. He knew of some companies that did similar studies on technology instruments in SA. His understanding was that the Minister had required a report on the study to present it in Parliament hence the tight deadline and therefore whoever wanted to bid had to be able to submit a final report by 31 March 2011
- His intention was to take the memorandum to Supply Chain Management officials so that they could follow the relevant processes to source a supplier to conduct the study
- He took the memorandum (**Annexure E17**) to Mr Duma first before submitting it to Supply Chain Management so that they could discuss the memorandum and to get Mr Duma's approval to continue with the study. The draft terms of reference were based on how he understood the contents of his discussion with Mr Duma. He assumed when he had submitted the draft terms of reference to Mr Duma, he would give him the go ahead to get three quotes from potential suppliers
- He did not receive a concrete answer from Mr Duma on whether he should go ahead and submit the memorandum to supply chain management. Mr Duma gave him a piece of paper on which was written the name of Mr Kelvin Radebe and his contact number. Mr Duma instructed him to contact Mr Radebe. Mr Duma informed him that Mr Radebe should be able to assist him to conduct the study

- He suggested to Mr Duma that he knew other people whom he could approach to get quotes and who could also conduct and complete the study by the due date. Mr Duma told him that if he followed the process of obtaining quotes from other people it would slow down the project and TIA won't meet the deadline. Mr Duma conveyed to him that the Minister had required the information as soon as possible hence he (Mr Duma) suggested that he contact Mr Radebe to assist him to draft the terms of reference. This was the first time that he had heard of Mr Kelvin Radebe
- In his view, Mr Duma disagreed with his proposed terms of reference because normally when he would submit a draft memorandum to Mr Duma they would discuss it and then agree on it. Thereafter he would draft a "*signable*" memorandum with dotted lines where both he and Mr Duma would have to sign before submitting the memorandum to the procurement department. The memorandum which he prepared, dated 6 January 2011, was in a draft format and was never approved or signed
- He contacted Mr Radebe and informed him that he had received his mobile number from Mr Duma. He informed him about the study which he had been commissioned to do and arranged to meet with him
- He met Mr Radebe the following week at the TIA offices. Mr Radebe had already drafted a proposal (**Annexure E13**) to TIA to conduct the study based on their first discussion. The proposal requested an amount of R1.3 Million
- He met Mr Radebe for a second time and Ms Sixholo was present at this meeting. Mr Radebe finalised his proposal to TIA at that meeting. He received the proposal from Mr Radebe and discussed it with Mr Duma. As it was the last quarter of the financial year, he was concerned about TIA's finances. He thought that TIA had not received any funds from the DST at that time. He informed Mr Duma that his department did not have a budget of that nature to conduct the study. Mr Duma then said that he did have a budget for R1.3 Million and he should go ahead with the study. Mr Duma stated that the payment would come from the CEO's budget. If he recalled correctly, he had to have approached Mr Hlaethwa, who was head of Supply Chain Management at the time, seeking advice on how he had to go about procuring such services from one supplier. Mr Hlaethwa advised him that he had to submit a memorandum requesting to deviate from the supply chain process
- He recalled that on 4 February 2011 Ms Sixholo drafted a memorandum (**Annexure E14**) requesting that approval be granted for deviation from the procurement policy and that the proposal from Ilizwi be approved to undertake the study. The requested budget for the study was R1.4 Million
- He recalled that the memorandum was addressed to Mr Duma for his approval. He was of the view that Mr Duma had to have known that the total cost to conduct the study was above his threshold in terms of his delegation of authority, therefore he should have forwarded the memorandum to the Board for its approval
- It was the first time that he had to perform a supply chain deviation of this nature. The reason why he and Ms Sixholo had three memorandums with three different versions was due to the fact that they had to adequately motivate the reasons for deviating from the procurement policy. Mr Hlaethwa had rejected the initial versions of the memorandum due to the fact that the motivation to deviate was not sufficient and as a result there were three different versions. (**Annexure E12**), (**Annexure E14**) and (**Annexure E2**)



- Ms Sixholo drafted another version of the memorandum (**Annexure E14**), which she, Dr Ntutela and Mr Duma had to sign. He took the memorandum to Mr Duma for his signature. Mr Duma stated that he could not sign the memorandum as Mr Radebe was his friend and indicated that he would draft a letter to Ms Kortjass asking her to sign the memorandum
- Mr Duma instructed him to draft another memorandum and to add Ms Kortjass and Mr Hlaethwa as signatories (**Annexure E2**)
- This was when he discovered that Mr Radebe was Mr Duma's friend and it was of great concern to him. He stated that had he known that Messrs Duma and Radebe were close friends he would probably not have called Mr Radebe when Mr Duma instructed him to do so. He would have been very afraid to contact Mr Radebe and would have known that Mr Radebe was not the right person to contact. He reiterated that Mr Duma had not mentioned that Mr Radebe was his friend when he instructed him to contact him  
*(We showed Dr Ntutela the signed memorandum dated 10 February 2011 (**Annexure E1**) which Mr Duma had signed and submitted to Ms Kortjass)*
- Mr Ntutela stated that it was the first time that he had seen the letter. He was not aware that Mr Duma wrote and submitted the letter to Ms Kortjass at the time
- At the time, Ms Kortjass requested that Mr Hlaethwa to also sign the memorandum to motivate the deviation from the procurement policy (**Annexure E2**)
- Mr Radebe later came to the TIA offices to present the report accompanied by two professors. Professor Anastassios Pouris from the University of Pretoria was the one professor. He could remember the name of the other professor but only that he was from Stellenbosch. He knew professor Pouris and his work very well. He could not understand why Mr Radebe brought both these professors to the presentation but thought maybe it was to justify the course of the report
- He and Ms Sixholo were not happy with the quality, content and adherence to the terms of reference of the report. Later in the year, Ms Sixholo proposed that TIA appoint two external evaluators to evaluate the report that was submitted by Ilizwi
- He could not recall who were appointed as the external evaluators and if those evaluators eventually gave a final report
- According to his knowledge no-one at TIA had submitted the report to the Minister by the time he resigned from TIA. He recalled that at the time the report from Ilizwi had not yet been finalised
- He recalled that sometime in March 2011 he was transferred out of the CEO's office to Head the Operations department
- Ms Sixholo still reported to him. Mr Duma managed all his office operations by himself. He was still involved in some interactions with the DST
- By 25 March 2011 there were still issues relating to the procurement process of appointing Ilizwi and that there were concerns as to why the study resumed so late whereas the deadline was 31 March 2011. He never doubted that Minister had requested that the study be conducted within three months. He stated that it was not normal for the agreement to be signed on 25 March 2011 if the Minister had requested for a study to be conducted by 31 March 2011

- In his view, if the Minister had requested TIA to conduct the study this request would normally have been recorded and the Minister's personal assistant or someone from the DST would have followed up on the progress of the investigation before the deadline
- If the Minister had made such a request, the Board would normally have been made aware of the quick deliverable that was required from TIA and they would have been notified of the due date. He did not know whether this request from the Minister was ever raised with the Board and confirmed that there was never such a communication of urgency from the Board to Exco
- He was of the view that if Mr Duma had known that TIA was not going to meet the deadline, he should have met with the Minister and informed her that TIA was not going to meet the set deadline and requested for an extension. After negotiating such an extension, he should have informed the TIA staff of the new deadline and urged the staff to meet the deadline subject to the premise that behind all this work a directive from the Minister
- He could not exclude the possibility that the Minister might not have requested for this study to be conducted. If there was such a request, it should have been captured in the minutes of the Board meeting. Therefore it was possible that there had never such a directive from the Minister with a strict deadline. There was supposed to be a directive as a key deliverable from TIA for the study to be conducted. He did not know of any subsequent meeting between the Minister and Mr Duma that might have taken place to discuss the study
- In his view, the Clarification of Roles and Delegation of Authority (**Annexure E4**) was approved at Board level and most staff members at TIA would not know what the Board agreed on. In this regard he was of the view that the R1 Million delegation on the CEO must have been discussed by the Board, of which he was not privy to the information. Ms Kortjass as the CFO should have known about the R1 Million delegation as she sits at Board meetings.

5.310 Ms Kortjass stated the following in her statement:

- She recalled that sometime in early February 2011 she met with Mr Duma and Dr Ntutela regarding the memorandum to motivate the deviation from the procurement process in order to appoint Ilizwi
- Mr Duma explained to her that he had a meeting with the Minister in December 2010 who requested him to urgently conduct the impact study. However she did not recall whether a period of three months was mentioned during the meeting
- Mr Duma indicated that he was going to write a letter wherein he was going to recuse himself from the procurement process relating to TIA. She confirmed that she had accordingly received the signed memorandum dated 10 February 2011 (**Annexure E1**) from Mr Duma
- At the time she had not been aware or seen any document, letter or any written instruction from the Minister confirming the urgent request
- Mr Duma often had meetings with the Minister and it was not strange when Mr Duma informed her of his meeting with the Minister
- According to the Clarification of Roles and Responsibilities document approved by the TIA Board, the CEO had the authority to approve the procurement of consultants up to a maximum amount of R1 million

- At the time she understood the Supply Chain Management procedures provided that the CEO could approve deviations in his capacity as equivalent to that of an Accounting Officer of a state department
- The request for deviation, in order to approve Ilizwi's appointment, was based on the urgency of the Minister's request that the study be completed by 31 March 2011 and that Ilizwi was the only service provider that the team (Dr Ntutela and Ms Sixholo) was aware of to have concluded a similar study in that area
- The external auditors, KPMG, had during the financial audit in July 2011 pointed out to her that a public entity such as TIA did not have an Accounting Officer but only an Accounting Authority which was the Board. The auditors further pointed out to her in terms of the Clarification of Roles and Delegation of Authority did not allow the CEO of the CFO to approve deviations for expenditure of consultants above R1 million. The auditors accordingly treated the appointment as irregular expenditure in the Annual Financial Statements for 2011
- She confirmed that, had she been aware that the CEO was not the equivalent of an Accounting Officer, she would have advised Mr Duma to have taken the memorandum motivating the request to deviate from the procurement policy to the Board for approval
- Due to her misunderstanding that the CEO was the equivalent of an Accounting Officer, she assumed that Dr Duma could have delegated the signing powers for approving the memorandum to her and therefore she signed and approved the memorandum.

5.311 In our interview with Adv Maisela we showed him the following documents:

- The memorandum dated 10 February 2011 (**Annexure E1**) which Mr Duma, had written to Ms Kortjass. Mr Duma's signature appears on this document as well as Adv Maisela's signature
- The TIA memorandum dated 17 February 2011 (**Annexure E2**) submitted by Dr Ntutela to Ms Kortjass.

5.312 Adv Maisela stated the following in his statement:

- He was seconded by the DST, having been responsible for the drafting of the legislation that formed TIA, in May 2009 to assist with the amalgamation of the seven entities that merged to form TIA
- His initial role within TIA was to assist with the smooth merger of the seven entities that were amalgamated. He was responsible for all the legal affairs of the entity, from contract drafting to acting as the Company Secretary of the agency
- The merger of the entities occurred in April 2010 and a month later he took a permanent role with the entity as the Head of Legal Services and Company Secretary
- He occupied the role until February 2011 when he reduced his workload to becoming the Company Secretary after the agency appointed someone in the position of Head of Legal Services

- In his role as Company Secretary (GM: Board Secretariat and Legal Advisory Services) he was the corporate governance manager for the Board of TIA. He sat in all meetings of the Board and its committees to provide advice and take minutes. All legal aspects regarding the Board as well as administrative issues in respect thereof were his responsibility. He was responsible for generating Board and committee packs, disseminating same to members of the Board/Committees and taking minutes in the meetings
- He generated the initial Clarification of Roles and Delegation of Authority (**Annexure E4**) and he ensured that it was approved by the Board in 2010. He also prepared the amended version, approved by the Board in August 2011
- He resigned from TIA in December 2012
- He recalled that Mr Duma came to him with the memorandum and requested him to sign as a witness on the memorandum
- As a lawyer signing as a witness, he did not need to read the document he had only to sign. In this regard he did not discuss the contents of the memorandum with Mr Duma. Mr Duma just signed the memorandum in his presence after which he signed as a witness confirming that Mr Duma had signed the memorandum
- He confirmed that he and Mr Duma signed the document on 10 February 2011 as he would have made sure about the date before signing the memorandum as a witness
- He confirmed that Mr Duma's signature on the memorandum dated 10 February 2011
- He regards himself as an ethical person and was sure Mr Duma had been aware of that aspect. He expected Mr Duma to know that he would only have signed as a witness if he signed the document in his presence. In the event that he brought a document that had already been signed, he would have given him a blank page and requested him to sign on the blank page to verify if the signature on the contract was his. It was his responsibility to sign as a witness on most, if not all the contracts that the CEO signed. It was Mr Duma's practice to bring documents to him to sign as a witness.
- He understood that Mr Duma and the then Minister, Ms. Pandor would usually only meet if the Chairperson of the Board, Dr. Ramphela had been informed of the meeting
- Mr Duma had various meetings with the Chairperson of the Board or the chairpersons of other committees to which he had not been invited to attend, or he had not been informed of. He would only hear about the meetings afterwards and what had transpired from these meetings
- He could not remember the appointment of Ilizwi
- Having worked with Mr Duma and understanding his *modus operandi* regarding requests from higher powers such as the Minister's office or the Board, he could attest that requests of such nature would normally receive ultimate priority on his to do list to the extent that the Board, if not the Chairperson thereof, would have been informed via email on the same day. Furthermore, an Official would have been given the task on the same day of the request
- In his experience whilst employed at TIA, Mr Duma's normal practice would have been to ensure that the procurement process of appointing a service provider commenced immediately after his meeting with the Minister

- In his view, it did not make sense that Mr Duma would only have written the memorandum on 10 February 2011, almost two months after his meeting with the Minister (15 December 2010). In his experience, and knowing Mr Duma, it was unlikely that he would have taken this long to commence with the procurement process of getting the study done. If the Minister had requested Mr Duma to urgently complete the study it would not have made sense that he would have forgotten about it until 10 February 2011 before he wrote the memorandum. If TIA had closed during December 2010 for the holidays, he would have expected that Mr Duma would have made sure that someone would have commenced with the procurement process based on the urgency of the matter. Therefore he was not convinced that the request to conduct the study was urgent
- In his experience, whilst employed at TIA it would have been normal practice for the Minister to instruct the Board to conduct the study and not the CEO. Furthermore, it would have been normal practice for the Minister to submit her instruction in writing to the Board
- In all Board meetings that he attended during 2011 and 2012, he recalled that the Board had never discussed the following:
  - The request from the Minister to Mr Duma to conduct this impact study within three months before 31 March 2011
  - That Ilizwi was appointed to conduct this study based on an urgent basis and that a motivation had been submitted to deviate from the procurement process
  - That Mr Duma and Mr Kelvin Radebe, the director of Ilizwi were close friends
  - The subsequent work and report by Ilizwi and whether it had been submitted to the Minister.
- He did not recall discussing the appointment of Ilizwi during his discussions with the members of the Board
- He did not know Mr Radebe and stated that Mr Duma was hardly in his employment at TIA when he appointed Ilizwi to conduct the study
- The CEO's delegation to approve the appointment of consultants was up to R1 Million at the time of the appointment of Ilizwi. Ilizwi quoted a budgeted amount of R1.4 million which exceeded the CEO's power to delegate. Therefore the Board was the required authority to approve the deviation and ultimately also the approval of the contract
- Mr Duma could therefore not have sub-delegated the commercial aspects to Ms Kortjass for this transaction, as he never had this delegation in the first instance
- The CEO cannot sub-delegate his powers to the CFO regarding the procurement of goods and services
- At the time of Ilizwi's appointment, Mr Duma did not have the authority to make such decisions because Ilizwi's appointment was above his threshold of R1 Million
- He confirmed that during a Board meeting in August 2011 the Board approved Mr Duma's request to increase his delegation of authority to approve procurement of services of consultants up to R2 million
- He effected the changes in the Clarification of Roles and Delegation Authority resulting in the increased threshold of R2 million for the procurement of consultant services

- After the August 2011 meeting the Clarification of Roles document ought to have been amended to reflect the date in which the amendments were approved. It was a simple error but the minutes of the Board of October 2011 would have more weight with respect to the date.

5.313 In our first interview with Mr Duma on 10 September 2013 he stated the following:

- He and Mr Radebe were close friends and had known each other for a long time
- He was still a Non-Executive Director of Psidot. Prior to his appointment in September 2010, he did disclose this directorship in his declaration of interests. (*We reviewed Mr Duma's HR file and confirmed that he had confirmed his directorships of Psidot annually*)
- After his appointment as the CEO of TIA he became a non-executive director of Psidot but remained the Chairman of the Board of Psidot
- He used to work as a Chief Engineering Consultant at Lebone Engineering as indicated on his CV. He confirmed that Lebone Engineering was a company that was owned by Ilizwi
- He had a one on one meeting with Minister Pandor on 15 December 2010 to discuss her expectations of TIA
- The Minister requested that TIA conduct a study of all the innovation tools that are available within the different government departments
- He admitted that Minister Pandor did not specifically instruct him that this study had to be completed within three months and before 31 March 2013
- He could not recall the exact reasons why he informed Dr Ntutela that the study had to be completed within three months, before 31 March 2011. He stated that he was not sure but after his meeting with the Minister he might have consulted with Ms Kortjass. He and Ms Kortjass might have decided on behalf of TIA that due to the financial year in its last quarter that the study had to be completed before 31 March 2013, before the end of TIA's financial year
- He would have to go and check whether he has any records in his possession which could confirm more details of his meeting with Minister and the urgent appointment of Ilizwi
- He tasked Dr Ntutela to commission the study and that Dr Ntutela was responsible for the appointment of a service provider to conduct the study
- He provided Mr Radebe's contact details to Dr Ntutela as a potential service provider but denied that he had specifically instructed Dr Ntutela to only contact Mr Radebe and no any other potential service providers. He recalled that Dr Ntutela mentioned to him at the time that he knew of other service providers who could conduct the study. He assumed that Dr Ntutela would have contacted these other service providers and obtained quotes from them
- He understood that it was Dr Ntutela who decided not to approach other potential service providers and commenced with the drafting of the memorandum to motivate the urgent appointment of Ilizwi
- He confirmed that Ilizwi submitted their first draft report in June 2011 and a presentation in July 2011

- He was aware that TIA had appointed two independent peer reviewers in August 2011 to review Ilizwi's report and they submitted their reports in October 2011
  - He stated that he had submitted the final report of Ilizwi to the Minister. (*We requested Mr Duma to provide us with documentary proof that he had indeed submitted Ilizwi's report to the Minister. He undertook to provide us with documentary proof*). Mr Duma did not provide this.
- 5.314 We interviewed Mr Duma again on 20 September 2013. Ms Kortjass was present during this interview.
- 5.315 The following transpired during this interview (**Annexure A3**):
- Mr Duma asked Ms Kortjass what she could remember of how it came about that TIA decided that the study of the impact of technology tools had to be completed within three months and before 31 March 2011
  - Ms Kortjass stated that she understood at the time that Mr Duma was the one who said the Minister had issued the request for the study and that it had to be completed within three months before 31 March 2011
  - After hearing Ms Kortjass' response he said that he would have to go and check his records at the time whether it was indeed the Minister's request that the study be completed within three months
  - We indicated to Mr Duma that he had in our first interview indicated that the Minister had not specifically requested that the study be completed within three months and that he and Ms Kortjass had decided on the date of 31 March 2011 as the deadline probably because it was the financial year end
  - Mr Duma reiterated that he would check his records and that he would by Wednesday 25 September 2013 provide us with either relevant records or his written version in a sworn affidavit.
- 5.316 Subsequent to the abovementioned interview, we attempted to contact Mr Duma on numerous occasions and left several messages to respond without any response from him.
- 5.317 Following Mr Duma's failure to provide us with the abovementioned information, we sent an email to Ms Carmen Heydenreich, the Administrative Secretary of Minister Pandor, on 25 September 2013. We requested Ms Heydenreich to assist us in conveying our request to the Minister to confirm and respond to the following:
- Her meeting with Mr Duma on 15 December 2010
  - Did the Minister instruct Mr Duma that TIA had to conduct a study of all the innovation tools that are available within the different government departments?
  - Did the Minister specifically instruct Mr Duma that TIA should conduct the study within three months and that it had to be finalised and sent to the Ministers' office by or before 31 March 2011, hence the urgency?
  - Did the Minister ever subsequently receive a report from Mr Duma or TIA regarding the study conducted by the service provider, Ilizwi Industrial Holdings?

- 5.318 On 27 September 2013, we received an email from Ms Heydenreich (**Annexure E18**) with the following note from Minister Pandor:

*'Dear Mr Du Plooy*

*I cannot recall the content of my meeting with the TIA CEO. In fact I cannot recall meeting him on that day.*

*It is possible that we met. It is also possible that I referred to the need to carry out a study on innovation institutions and instruments.*

*It is, however, not possible for me to instruct an accounting officer on how or when such work should be done. In fact the PFMA under which TIA resides expressly forbids executive authorities from giving such directives. I would not have given such a directive to the TIA CEO and certainly not at a meeting that has no minutes.*

*I am shocked at the use of my office to put in motion a process that falls outside established practice.*

*I repeat the CEO was never given a directive to ignore our rules in carrying out any research study.*

*I trust this clarifies the matter from my side.*

*Yours sincerely*

*GNM Pandor, MP*

*Minister of Home Affairs'*

- 5.319 As indicated previously, on 15 October 2013 we received a written and signed response dated 15 October 2013 (**Annexure A5**) from Mr Duma.

- 5.320 Mr Duma stated the following in his response:

4. "Appointment of Ilizwi Holdings

*The study was commissioned after a meeting I held with Minister Pandor on 15 December 2010. The Minister had expressed a need for TIA to look at the landscape of innovation instruments for the country. The contents of the meeting were wide ranging but were also shared with the Chairperson of the Board, Dr. Ramphela during a telephone conversation giving feedback. This is the study that was flagged by KPMG (external auditors) as having not been handled properly. The Board condoned it with other projects where management was sighted for improper application of the PFMA. It was in fact the handling of this project that lead to an extensive deliberation of the application of the deviations rule and appropriate implementation of the delegation of authority for SCM. TIA did not manage this project properly from start to finish. Hence its quality was also not something to be celebrated. The lessons from it influenced the way other projects were managed in the future (especially the participation of key stakeholders internally and externally). The people who participated in the study who were not from Ilizwi but were paid via Ilizwi are:*

- *Prof Pouris of the University of Pretoria Business Enterprises*
- *Frik du Plessis (an Independent Consultant)*



*I recall that the study was shared with Minister Pandor later in the year 2011. I have been hoping to get the date when it was delivered or presented to the office of the Minister together with the report of the Biotechnology Regional Innovation Centres (BRICS). Our office had not introduced the system of document delivery and confirmation at that time. It was introduced a few months later to track documentation.*

*During the 2010/11 financial year, there were almost 39 transactions that were flagged by KPMG as being irregular and were presented to the Board to be condoned. Six of these were above R500 000. Two were also transactions that were flagged as fruitless and wasteful expenditure."*

## **Relevant legislation, policies and procedures applicable to TIA**

- 5.321 Below we refer to the relevant legislative and administrative principles, which govern the daily activities of the TIA employees with respect to the relevant procurement procedures and other aspects pertinent to this investigation.

### **The Public Finance Management Act 1 of 1999**

- 5.322 The Public Finance Management Act 1 of 1999 (PFMA) was promulgated to regulate financial management in the national and provincial spheres of government. It is the responsibility of the National Treasury to foster coherent financial management in all organs of state, across all spheres of government.
- 5.323 The PFMA applies to public entities listed in Schedule 2 and 3 of the PFMA. TIA is a listed public entity in terms of Schedule 3A of the PFMA. Chapter VI of the PFMA (sections 46 to 62) deals with public entities. In terms of section 49 (2) (a) of the PFMA, the Board of a public entity is the Accounting Authority for the public entity.
- 5.324 The general responsibilities of the Accounting Authority for a public entity are stipulated in section 51 of the PFMA. The relevant subsections of section 51 provide as follows:

#### *(1) An accounting authority for a public entity:*

##### *(a) must ensure that that public entity has and maintains:*

- i. effective, efficient and transparent systems of financial and risk management and internal control;*
- ii. a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77*
- iii. an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;*
- iv. a system for properly evaluating all major capital projects prior to a final decision on the project*

##### *(b) must take effective and appropriate steps to:*

- i. collect all revenue due to the public entity concerned; and*
- ii. prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity*
- iii. manage available working capital efficiently and economically*

##### *(c) is responsible for the management, including the safe-guarding, of the assets and for the management of the revenue, expenditure and liabilities of the public entity*

- (d) *must comply with any tax, levy, duty, pension and audit commitments as required by legislation*
- (e) *must take effective and appropriate disciplinary steps against any employee of the public entity who:*
  - i. *contravenes or fails to comply with a provision of this Act;*
  - ii. *commits an act which undermines the financial management and internal control system of the public entity; or*
  - iii. *makes or permits an irregular expenditure or a fruitless and wasteful expenditure;*

5.325 The accounting authority of a public entity may in terms of section 56 of the PFMA delegate its powers to other officials within the public entity. The relevant subsections of section 56 provide as follows:

- (2) *The accounting authority for a public entity may:*
  - (a) *in writing delegate any of the powers entrusted or delegated to the accounting authority in terms of this Act, to an official in that public entity; or*
  - (b) *Instruct an official in that public entity to perform any of the duties assigned to the accounting authority in terms of this Act.*
- (3) *A delegation or instruction to an official in terms of subsection (1):*
  - (a) *is subject to any limitations and conditions the accounting authority may impose;*
  - (b) *may either be to a specific individual or to the holder of a specific post in the relevant public entity; and*
  - (c) *does not divest the accounting authority of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.*

5.326 The general responsibilities of the other officials are stipulated in section 57 of the PFMA. The relevant subsections of section 57 provide as follows:

*An official in a public entity:*

- (a) *must ensure that the system of financial management and internal control established for that public entity is carried out within the area of responsibility of that official*
- (b) *is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility*
- (c) *must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due*
- (d) *must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 56; and*
- (e) *is responsible for the management, including the safe-guarding, of the assets and the management of the liabilities within that official's area of responsibility.*

5.327 Section 83 of the PFMA provides the following:

- (1) *The accounting authority for a public entity commits an act of financial misconduct if that accounting authority wilfully or negligently:*
  - (a) *fails to comply with a requirement of section 50, 51, 52, 53, 54 or 55; or*
  - (b) *makes or permits an irregular expenditure or a fruitless and wasteful expenditure.*
- (2) *If the accounting authority is a Board or other body consisting of members, every member is individually and severally liable for any financial misconduct of the accounting authority.*
- (3) *An official of a public entity to whom a power or duty is assigned in terms of section 56 commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty*
- (4) *Financial misconduct is a ground for dismissal or suspension of, or other sanction against, a member or person referred to in subsection (2) or (3) despite any other legislation.*

**National Treasury Regulations and Practice Note in terms of the PFMA relating to financial misconduct and abuse of the supply chain management system**

5.328 The National Treasury issued Regulations in terms of section 76 of the PFMA in Government Gazette No 27388 – Vol. 477, dated 15 March 2005 (Regulation Gazette No 8189). In terms of Regulation 1.2.1 (d) regulation 6.1.2 and regulations 16, 16A, 24 to 28 and 30 to 33 apply to all public entities listed in Schedules 3A and 3C.

5.329 Regulation 16A titled: “Supply Chain Management” deals with the supply chain management system and its applicability to public entity.

5.330 Regulation 16A.6 deals with the procurement of goods and services either by way of quotations or through a bidding process and sub-regulation 16A.6.4 provides the following:

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

5.331 Regulation 16A.6 of the supply chain management policy states the following in terms of the procurement of goods and services:

*16A6.1 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 National Treasury.*

*16A6.2 A supply chain management system must, in the case of procurement through a bidding process, provide for –*

- (a) *the adjudication of bids through a bid adjudication committee;*
- (b) *the establishment, composition and functioning of bid specification, evaluation and adjudication committees;*
- (c) *the selection of bid adjudication committee members;*

*(d) bidding procedures; and*

*(e) the approval of bid evaluation and/or adjudication committee recommendations.*

5.332 Regulation 16A.6.4 states that if in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.

5.333 Regulation 16A.8.3 states the following:

*A supply chain management official or other role player –*

- (a) must recognise and disclose any conflict of interest that may arise;*
- (b) must treat all suppliers and potential suppliers equitably;*
- (c) may not use their position for private gain or to improperly benefit another person;*
- (d) must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act;*
- (e) must be scrupulous in their use of public property; and*
- (f) must assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.*

5.334 Regulation 16A.9 deals with the abuse of the supply chain management system by officials and sub-regulation 16A.9.1 provides the following:

*The accounting officer or accounting authority must:*

- (a) take all reasonable steps to prevent abuse of the supply chain management system;*
- (b) investigate any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified –*
  - (i) take steps against such official or other role player and inform the relevant treasury of such steps*
  - (ii) report any conduct that may constitute an offence to the South African Police Service*

#### **Technology Innovation Agency's Supply Chain Management Policy**

5.335 The Supply Chain Management Policy was initially incorporated into the Finance Policy and the Board approved the Finance Policy in a Board meeting held on 8 December 2009.

5.336 Mr Van der Merwe revised the Supply Chain Management Policy subsequent to his employment at TIA. He recommended that the Supply Chain Management Policy should be a separate policy on its own and should not be included in the Finance Policy. The new Supply Chain Management Policy was reviewed and approved by the Chairperson of the Board on 4 April 2012.

5.337 The Supply Chain Management policy contains the following clauses:

1. The purpose of the Procurement policy is to optimise the utilisation of TIA's financial resources through the procurement process that is fair, equitable, transparent and cost effective.
2. Procurement of goods, services and equipment is done so with the highest standard of integrity and ethical practice when interacting with current or potential suppliers.
3. Information received during the procurement process is treated as confidential and is not divulged to or between suppliers.
4. Employees involved in procurement may not exploit their position for personal gain.
5. Employees involved in procurement are required to declare any personal interests which may cause them to be impartial in making or influencing procurement decisions. Such declaration is to be made in writing to the person responsible for authorising the requisition or purchase order.
6. All suppliers of goods and services are registered in TIA's supplier database of approved and preferred service providers.
7. Suppliers are classified by the Strategic Procurement Division following an objective and transparent supplier selection process. Supplier status and changes thereto, are approved by the head of procurement.
8. Service providers are classified as "preferred" based on their BEE status and levels of performance
9. TIA may not consider a written quotation or bid, unless the service provider submits the following:
  - full names and identity numbers
  - company or close corporation registration number
  - tax reference number and vat registration number(if applicable)
  - original tax clearance certificate from SARS
  - all goods and services are procured from TIA's preferred and approved suppliers using TIA's standard procurement processes and evaluation techniques.
10. A competitive bidding process is required for procurement exceeding a transaction value of R 500 000 (VAT included).
11. TIA may procure the services of consultants provided that they comply with Treasury Guidelines in this respect and the quotation process is applied.

## **Conclusion**

- 5.338 In terms of the Clarification of Roles and Delegations of Authority Mr Duma was not authorised to :
- Approve expenditure for the appointment of consultants above R1million
  - Approve a request to deviate from the procurement process, as this was a Board prerogative.
- 5.339 According to the PFMA, the Treasury Regulations and TIA's Clarification of Roles and Delegations of Authority, the Board was supposed to authorise the deviation from the procurement policy. It appears that Mr Duma had contravened the policy by not approaching the Board for the approval of the deviation from the procurement policy
- 5.340 It follows that Ilizwi's appointment was irregular in terms of PFMA. During the audit in July 2011 KPMG highlighted this irregularity to the Board. The Board condoned the irregularity together with many other irregular expenditure transactions.
- 5.341 On the available evidence and documentation provided to us, it appears that
- Minister Pandor did not request that the study be finalised on an urgent basis
  - Mr Duma declared his conflict and recused himself from the commercial process only after he allegedly instructed Mr Ntutela to appoint Ilizwi
  - Mr Duma, for whatever reason, imposed the urgency on his sub-ordinates
  - Based on the available evidence and information provided to us we are unable to confirm whether any reason for the urgency or to deviate from prescribed procurement procedures existed
  - Mr Duma may have misrepresented the true facts in respect of the urgency to various individuals.
- 5.342 Mr Duma's misrepresentation that the Minister had instructed TIA to conduct and complete the impact study urgently before 31 March 2011 resulted in Ms Sixholo submitting a memorandum that incorrectly motivated a deviation from the procurement process to urgently appoint Ilizwi. Because of this motivation and, in our view, misrepresentation Ilizwi was appointed.
- 5.343 It appears from the available evidence that by misrepresenting the facts and abusing his position as CEO to manipulate and bypass the procurement policies, Mr Duma may have contravened section 57 of the PFMA in that he failed to:
- To ensure that the system of financial management and internal control established for TIA was carried out within his responsibility
  - Be responsible for the effective, efficient, economical and transparent use of financial and other resources within his responsibility
  - To take effective and appropriate steps to prevent, within his area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due
  - To comply with the provisions of this Act in terms of the delegations to him by the Board to the extent applicable to that official, including any delegations and instructions in terms of section 56.

## Recommendations

5.344 We recommend that the Board of TIA as the accounting authority and in line with section 51 of the PFMA consider instituting disciplinary action against Mr Duma for:

- Contravening and failing to comply with section 57 of the PFMA
- Committing an act which undermines the financial management and internal control system of TIA
- Making and permitting an irregular expenditure.

5.345 In light of Mr Duma's apparent actions and that it appears as if he may have abused his position in order to ensure that Mr Radebe's company, Ilizwi, was appointed and thereby receiving an undue benefit, it may be relevant to consider the provisions of section 34 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004. This section provides as follows:

*"34. Duty to report corrupt transactions.—*

- (1) Any person who holds a position of authority and who knows or ought reasonably to have known or suspected that any other person has committed—*
  - (a) an offence under Part 1, 2, 3 or 4, or section 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2; or*
  - (b) the offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R100 000 or more, must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to any police official.*
- (2) Subject to the provisions of section 37 (2), any person who fails to comply with subsection (1), is guilty of an offence.*

## Appointment of Mr Nhlanhla Nyide

### Background on the appointment of Mr Nhlanhla Nyide (Mr Nyide)

5.346 Ms Mamabolo provided us with the Human Resources files for Mr Nyide.

5.347 We reviewed Mr Nyide's HR file and found the following:

- A fixed term employment contract (**Annexure E19**) between TIA and Mr Nyide signed Mr Duma and Mr Nyide respectively on 22 September 2011 and 23 September 2011
- A fixed term employment contract (**Annexure E20**) between TIA and Mr Nyide signed by the GM: Human Resource, Ms Makgopelo Mkhwanazi (Ms Mkhwanazi) and Mr Nyide on 8 May 2012
- An Authorisation for Employment form dated 18 April 2012 (**Annexure E21**). It appears that Ms Mkhwanazi had completed and signed this document on 18 April 2012. It appears from the form that a request was submitted to appoint Mr Nyide as a communications specialist on a temporary basis.

### Interviews conducted

5.348 We interviewed Mr Bonginkosi Gumede (Mr Gumede), the Senior General Manager: Business Development and Strategic Partnerships on 23 August 2013. Mr Gumede also provided us with a signed statement dated 9 September 2013 (**Annexure E22**).

5.349 Mr Gumede stated the following:

- He has been employed at TIA since its inception in 2010. Before the incorporation of TIA he was employed at BioPAD which was one of the seven entities that merged to form TIA
- Initially he was employed as the GM: Technology Innovation. In January 2011, he was appointed as the Senior General Manager (SGM) position for Marketing and Technology Innovation
- His title later changed to SGM: Marketing and Business Development. The people who reported to him were the GM: Marketing and Branding, GM: Strategic Partnerships, GM: Technology and Innovation (Western Cape) and the Business Development Manager (Kwa-Zulu Natal)
- Towards the end of 2011, Mr Duma requested him to “*care-take*” the communications as a unit, which at the time had reported to Corporate Affairs
- At the time, Mr Duma arranged that the communications unit temporarily work within his division until Mr Duma decided where to place the communications unit
- He had reported to the CEO as the SGM: Marketing and Business Development
- He worked together with the communications unit and involved the GM: Marketing who had knowledge in terms of communications and guided the team on what needed to be done
- Whilst he had been busy with the incorporation of the communications unit into his unit, the CEO came to him and introduced Mr Nyide to him
- Mr Duma stated that he had appointed Mr Nyide as a consultant at TIA to assist him (Mr Gumede) to develop the communications strategy going forward
- Mr Nyide joined his team late in September 2011
- Mr Nyide was appointed as a contractor on a fixed term but was captured as an employee of TIA
- Mr Nyide was a professional and added value to TIA
- He did not know how Mr Nyide was appointed. There was a process that needed to be followed when TIA appointed a consultant. He explained that a memorandum must be drafted for the appointment of a consultant. The memo is drafted by the GM who seeks a consultant. In this instance it would have been him who should have drafted the memorandum to appoint Mr Nyide
- He explained that if a contract to appoint a consultant was below R500 000.00, he would normally seek three quotes from suppliers. If a contract was above R500 000.00, a tender process would have to be followed



- He was not aware whether a memorandum was written by anyone motivating Mr Nyide's appointment. He confirmed that he had not submitted a memorandum requesting the appointment of Mr Nyide. Mr Duma had already appointed Mr Nyide and he received an instruction from Mr Duma to work with Mr Nyide
- After a few months of working with the communications team, Mr Duma then changed the structure and amalgamated the communications unit into the Corporate Affairs division
- He did not get an opportunity to implement the strategy that Mr Nyide had developed and he was not sure if the strategy was ever implemented.

5.350 We interviewed Ms Mkhwanazi on 9 September 2013. Ms Mkhwanazi also provided us with a signed statement dated 10 September 2013 (**Annexure E23**).

5.351 Ms Mkhwanazi stated the following:

- In September 2011, she was the General Manager: Human Resources and also the Acting General Executive: Corporate Affairs
- She recalled that sometime in September 2011, Mr Duma called her to his office. He instructed her to draft an employment contract for Mr Nyide as a communications specialist
- She recalled that Mr Duma showed her a printout of an email correspondence between him and Mr Nyide. She specifically recalled that the remuneration amount of Mr Nyide was written in a red pen on the email printout and the amount was R80 000. She assumed that Mr Duma had written the amount on the email. Mr Duma did not give her this printout or a copy thereof
- Mr Duma instructed her to draft an employment contract for Mr Nyide as he had already informed Mr Nyide of his appointment
- She recalled that she had not felt comfortable with Mr Duma's instruction but was of the opinion that the matter has been finalised and that Mr Duma had already committed TIA to this appointment
- She confirmed that TIA had adequate procurement processes in place at the time which could have been followed before Mr Nyide's appointment
- She then adhered to Mr Duma's instruction and instructed Ms Mamabolo to draft a contract of employment for Mr Nyide, a communications specialist, for a contract period of 3 months from 19 September 2011 to 19 December 2011
- At the time TIA had (and still has) three categories of employees on its payroll system to effect payments to individuals performing work for TIA. These categories are:
  - Independent Contractors (fixed term);
  - Permanent employees; and
  - Interns.
- She confirmed that Ms Mamabolo prepared a fixed term employment contract for Mr Nyide which she then gave to her (Ms Mkhwanazi). She had submitted the employment contract to Mr Duma for his and Mr Nyide's signatures

- Mr Duma shortly afterwards returned the employment contract to her which he and Mr Nyide had signed on 22 September 2011 and which was kept for filing by HR
- She recalled that Mr Nyide had then been loaded as an independent contractor on TIA's payroll
- Other than Mr Nyide's employment contract there were no other documents in her possession recording Mr Duma's instruction to conclude a contract with Mr Nyide and to load Mr Nyide as an independent contractor
- TIA's procurement policies at the time did make provision for the procurement of goods and services and that TIA would normally follow a procurement process in appointing consultants
- In the event that TIA appoints employees, the process provided in the Recruitment Policy should normally be followed
- She confirmed that to her knowledge, no procurement process or HR employment process was followed in the appointment of Mr Nyide.

5.352 We interviewed Ms Mamabolo on 5 September 2013. Ms Mamabolo also provided us with a signed statement dated 9 September 2013 (**Annexure E24**).

5.353 Ms Mamabolo stated the following:

- In September 2011, Ms Mkhwanazi instructed her to draft a contract of employment for Mr Nyide, a communications specialist, for a contract period of 3 months from 19 September 2011 to 19 December 2011
- Ms Mkhwanazi explained that she had received Mr Nyide's details from Mr Duma
- At the time TIA had (and still has) three categories of employees on its payroll system to effect payments to individuals performing work for TIA. These categories are:
  - Independent Contractors (fixed term);
  - Permanent employees; and
  - Interns.
- She had then prepared a fixed term employment contract for Mr Duma's signature on the 22 September 2011
- The contract was then forwarded to Mr Nyide for his signature on the 23<sup>rd</sup> September 2011 and loaded as an independent contractor on TIA's payroll
- She confirmed that other than Mr Nyide's employment contract there are no other documents in her possession recording Mr Duma's instruction to Ms Mkhwanazi and her to conclude a contract with Mr Nyide
- TIA's procurement policies at the time did make provision for the procurement of goods and services and that TIA would normally follow a procurement process in appointing consultants
- In the event that TIA appoints employees, the process provided in the Recruitment Policy should normally be followed
- She confirmed that no procurement process or HR employment process was followed in the appointment of Mr Nyide's.

5.354 In our interview with Mr Duma on 10 September 2013 he stated that he has no recollection of who Mr Nyide was and could not recall whether he had appointed Mr Nyide. He stated that he could not provide us with any response in this regard as he has no recollection pertaining to Mr Nyide's appointment.

5.355 However, in his written response dated 15 October 2013 Mr Duma stated the following:

3. *"Appointment of Mr. Nhlanhla Nyide (September 2011)"*

- a. *Mr Nhlanhla Nyide is a former employee of the Department of Science and Technology who works as a communication consultant. I don't recall whether it was Advocate Maisela, Dr Gumede, Dr. Ntutela or Ms Maruping who introduced him to me.*
- b. *I recall that Mr. Nyide was appointed to assist TIA with communication activities. He would have either been appointed through the Human Resources Department under a practise for specialist skills in his individual capacity on a short term contract or under the SCM process if it was his company. The process would have been led by either of the departments and I would have been asked to sign off at the end irrespective of who initiated it.*

*In general, the external auditors (KPMG) flagged appointments where they felt that the procedures were not followed or there was a concern. I am not sure if Mr Nyide's appointment was ever flagged for remedial action. I would refer anyone who needs additional information to the management letter or the report of the external auditors."*

**Conclusions**

5.356 The Board approved the CEO's request to increase his delegation of authority to approve the procurement of services of consultants up to the value to R2 million rand during a Board meeting in August 2011.

5.357 In terms of the Clarification of Roles and Delegations of Authority it is required that three quotes be obtained for the procurement of consultants below R2 Million.

5.358 It appears from the evidence that Mr Duma did not follow the procurement process when he instructed Ms Mkhwanazi to appoint Mr Nyide without obtaining three quotes.

5.359 It therefore appears that Mr Duma irregularly appointed Mr Nyide as a communications specialist. It appears from the evidence that by irregularly appointing Mr Nyide, Mr Duma may have contravened section 57 of the PFMA in that he failed to:

- To ensure that the system of financial management and internal control established for TIA was carried out within his responsibility
- Be responsible for the effective, efficient, economical and transparent use of financial and other resources within his responsibility
- To take effective and appropriate steps to prevent, within his area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due
- To comply with the provisions of this Act in terms of the delegations to him by the Board to the extent applicable to that official, including any delegations and instructions in terms of section 56.

### **Recommendations**

5.360 We recommend that the Board of TIA as the accounting authority and in line with section 51 of the PFMA consider instituting disciplinary action against Mr Duma for:

- Potentially Contravening and failing to comply with section 57 of the PFMA
- Committing an act which undermines the financial management and internal control system of TIA
- Making and permitting irregular expenditure.

### **Mr Duma's expense claims**

#### **Relevant documentation obtained**

5.361 We requested and obtained the following electronic downloads from TIA to identify all expense claims submitted by Mr Duma for the period 1 April 2010 to 8 August 2013:

- The Cashbook entries (including all payments made to Mr Duma) as recorded on Pastel, the TIA Financial system
- The General Ledger (GL) extract (including expenses related to Mr Duma), as recorded on Pastel
- Mr Duma's payroll report for this period indicating the detail of all subsistence payments made to him via VIP, the TIA Payroll system.

5.362 We further requested and obtained documents in support of Mr Duma's expense claims to test the validity of the transactions recorded in the accounting records. We reviewed these documents consisting of the following for each claim:

- A general claim form or a subsistence and expense form
- Incidental costs/other expense claims were supported by supplier invoices, slips, receipts, etc.
- Subsistence claims were not supported by supplier invoices or slips as this was an all-inclusive daily rate in line with Department of Public Service and Administration (DPSA) guidelines. We obtained the DPSA rates for each year under investigation from the DPSA website.

5.363 TIA does not perform a reconciliation of all Mr Duma's trips and related expenses. For completeness, we drafted our own schedule of Mr Duma's trips (for which he had claim expenses) for the period 1 April 2010 to 8 August 2010. We ensured the completeness of our schedule by referencing to his expense and subsistence claims, his diary entries on his Outlook Calendar and perusal of his flight details received from Wings and Parktravel (Travel Agencies who made TIA's flight bookings). We requested and obtained all supporting documents for the purpose of Mr Duma's trips, from Ms Mzobe. The supporting documents included, but were not limited to, the following:

- Email invitations sent to Mr Duma to attend conferences or meetings for TIA business
- Email confirmation from conference coordinators to Mr Duma or Ms Mzobe regarding registration and/or payment

- Other email correspondence regarding the trip, meetings scheduled, etc.

#### Applicable policies and guidelines

- 5.364 Through interviews conducted and a review of applicable documentation, we established that the following legislation, policies and guidelines regulated Mr Duma's expense claims and approval thereof:

Legislation, Policy or guidelines	Applicable period
The Travel and Subsistence policy included in the TIA Finance policies ( <b>Annexure F1</b> ).	8 December 2009 ( <b>Annexure F2</b> ) {a}
Guidelines on Travelling and Subsistence ( <b>Annexure F3</b> )	7 July 2010 ( <b>Annexure F3</b> )
Updated version of the Guidelines on Travelling and Subsistence ( <b>Annexure F4</b> )	11 February 2011 ( <b>Annexure F4</b> )

{a} Mr Hlaethwa indicated to us that prior to the forming of TIA, a TIA Project Office was established. The Project Office was, amongst other things, responsible for the drafting of policies for submission to the TIA Board for approval. Mr Hlaethwa provided us with an email, dated 11 February 2010 (**Annexure F5**) which a former employee, Ms Tonette Gouws (Ms Gouws) had sent to him in response to his request for the policy. Ms Gouws attached the policy to the email and added that she recalled certain changes made to the policy but that she did not have the updated version. She added that "Patrick" might have the updated version.

{b} Mr Hlaethwa indicated to us that Mr Patrick Krappie (Mr Krappie), GM Strategic Partnerships should be able to assist us. We emailed Mr Krappie on 2 September 2013 (**Annexure F6**) and enquired whether he had an updated version approved by the Board. Mr Krappie responded on the same day (**Annexure F6**) and attached the last version of the Financial Policies he had in his possession. We compared the version of the policy as received from Mr Hlaethwa to that from Mr Krappie and found no differences on the Travel and Subsistence Policy. We took this policy as the one approved by the Board.

#### Trips undertaken by Mr Duma

- 5.365 We reviewed the relevant documentation in support of Mr Duma's trips (as included in our schedule) for the period 1 April 2010 to 8 August 2013. We established that Mr Duma claimed expenses relating to a total of 19 trips (away from home for more than one day), 16 foreign trips and 3 local trips for this period (See **Annexure F7** for the detailed listing and purpose of these trips).
- 5.366 From our review of the purpose of the 19 trips undertaken by Mr Duma's for which he also claimed expenses, we noted the following two discrepancies:

### **AVCA Conference**

5.367 In summary, the discrepancy relates to TIA who paid Mr Duma an amount of R21 295.47 into his personal bank account. Mr Duma was meant to use these funds to pay for the attendance fee of the AVCA Conference in Cape Town from 8 to 10 April 2013. Mr Duma neither paid for the AVCA Conference nor attended it. Mr Duma has however failed to refund TIA with the amount paid to him.

5.368 We reviewed all the supporting documentation in respect of this claim (**Annexure F8**). We summarise below the facts surrounding this claim:

- Mr Duma was scheduled to attend the AVCA 10<sup>th</sup> Annual Conference which took place in Cape Town from 8 to 10 April 2013
- On 28 March 2013, Ms Mzobe received a confirmation of Mr Duma's booking from the AVCA Conference. Per invoice number 439, the total cost of the conference was €1 800 and payment was due by 4 April 2013
- On 2 April 2013, Ms Mzobe issued a Memo (included in **Annexure F8**) to Ms Gaba Ngobeni (Ms Ngobeni), Payments Clerk, with the AVCA Conference invoice attached for payment
- During interviews conducted with Mr Van der Merwe and Mr Mpofu, they explained to us that Standard Bank normally takes approximately 5 days to release foreign currency payments. The payment to AVCA would therefore not have been effected before 4 April 2013 if it had only been submitted to Standard Bank on 2 April 2013
- Ms Mzobe therefore arranged with the AVCA Conference that Mr Duma pay for the conference upon arrival on Monday, 8 August 2013
- Ms Mzobe indicated to us that she telephonically arranged with Mr Duma to make a direct payment into his bank account for R21 295.47. This amount was calculated by taking the 5 April 2013 Euro exchange rate of R11.8308 and multiplying this with the €1 800 per invoice 439
- According to the Standard Bank audit report, the amount of R21 295.47 was paid to Mr Duma, account number 610200690, on 5 April 2013.

5.369 On 16 August 2013, we requested AVCA to confirm Mr Duma's attendance at the conference and whether payment had been made. A person by the name of "Oludara", from the AVCA Conference, responded as follows (**Annexure F9**).

*"According to our record ,we did not receive payment for invoice 439 and Mr Duma did not attend the conference.*

*The organisation name registered for the invoice was "Technology Innovation Agency".*

*If you have any further questions, please let me know.*

*Kind regards,*

*Oludara"*

5.370 Mr Duma therefore received an amount of R21 295.47 to pay for the AVCA Conference which he never attended or paid for. The amount was recorded in TIA's financial records as "AVCA Conference".

5.371 Ms Mzobe and Mr Mangwane, maintain that Mr Duma approved the payment of R21 295.47 (conference attendance fee) into his personal bank account in order for him to make the payment at the conference. We obtained written explanations from Ms Mzobe and Mr Mangwane and summarise their versions below:

- Ms Mzobe (**Annexure F11**):
  - Mr Duma showed an interest in the AVCA Conference on 26 March 2013
  - After she registered Mr Duma for the AVCA Conference, she received an invoice dated 28 March 2013
  - On 2 April 2013, she drafted a memo to the Financial Accountant requesting that TIA Finance pay the AVCA invoice
  - Between 4 and 5 April 2013, she arranged with the AVCA Conference organisers to have Mr Duma pay for the conference when he arrives on 8 April 2013
  - After receiving a response from the AVCA Conference organisers on 5 April 2013, she phoned Mr Duma to obtain his approval for paying the amount into his personal bank account.
- Mr Mangwane (**Annexure F12**):
  - On 3 April 2013, the Financial Accountant informed Mr Mangwane that a payment needs to be made to the AVCA Conference
  - The Financial Accountant explained that TIA cannot pay via credit card as they do not have one
  - Mr Mangwane discussed the option of paying the amount into Mr Duma's bank account, with Ms Mzobe
  - He explained that she needs to obtain approval from Mr Duma first.

5.372 Mr Duma maintained in his interview that he was not aware of the arrangement and only realised on the Saturday before the Conference that the money had been paid into his account and that he then did not attend the Conference. He stated that he did not approve the payment into his bank account and was annoyed by the fact.

5.373 He refused to incur expenses to transfer the money back to TIA due to his annoyance at the fact that his personal bank account was used in this manner and without his knowledge.

5.374 Mr Duma signed an acknowledgement of debt dated 15 August 2013 (**Annexure F10**) in respect of this amount. We confirmed with TIA HR that the money was deducted from his salary at the end of August 2013.

**Mr Duma's visit to the Netherlands**

- 5.375 Mr Duma travelled to the Netherlands on 31 October and 1 November 2011. He claimed the following expenses in respect of the trip:

Type of claim	Purpose/Description of trip	Amount paid	Nature of claim	Supporting documents
Reimbursive claim	TIA Visit to Netherlands	R2 093.95	Accommodation and Breakfast {a}	<b>Annexure F13</b>
Subsistence claim	None provided	R1 670.78	Subsistence claim of €77 for two days	<b>Annexure F14</b>
<b>Total</b>		<b>R3 764.73</b>		

- 5.376 TIA normally pays for Mr Duma's business trips Accommodation and Breakfast directly. This was the only instance we noted where he paid for this himself and subsequently claimed from TIA.
- 5.377 We enquired from Ms Mzobe why Mr Duma's travelled to the Netherlands from 31 October to 1 November 2011. To date of this report, Ms Mzobe was unable to provide us with any evidence in support of Mr Duma's trip to Netherlands and that it was for official TIA business.
- 5.378 We performed keyword searches on Mr Duma's computer and emails. During these searches, we found email correspondence relating to Mr Duma's travel arrangements to the Netherlands.
- 5.379 The email correspondence was between Mr Duma and Mr Roger Urlings (Mr Urlings) from Rendamax Netherlands dated 18 and 19 October 2011 (**Annexure F15**). In summary, the emails related to Psidot, represented by Mr Duma, and Rendamax entering into an agreement. The agreement was for Psidot to become a Rendamax distributor in South Africa. Mr Duma arranged with Mr Urlings to meet him in Kerkrade on 31 October 2011 regarding this matter. It therefore appears that Mr Duma's visit to Netherlands was for Psidot business as is suggested by the email correspondence with Mr Urlings.
- 5.380 Prior to visiting the Netherlands, Mr Duma visited Switzerland for what appears to be TIA business. Mr Duma decided to visit the Netherlands when he was in Switzerland. In addition to the claims of R3 764.73 above, TIA paid Mr Duma's flights and transport costs from Switzerland to the Netherlands:

Type of expense	Park travel invoice	Amount paid	Supporting documents
Flight cost form Geneva, Switzerland to Dusseldorf, Germany	00A5285	R19 812	<b>Annexure F16</b>
Transport cost from Dusseldorf to Bastion Hotel Group, Netherlands	00A5406	R12 826	<b>Annexure F17</b>
<b>Total</b>		<b>R32 638</b>	



5.381 During his interview Mr Duma stated that he travelled to the Netherlands on official TIA business. Mr Duma maintains that he visited certain Professors from Universities in Maastricht, Netherlands on official TIA business. Mr Duma also maintains that the Rendamax meeting was ultimately for the benefit of TIA (he was however unable to demonstrate how TIA benefitted from this).

5.382 On 15 October 2013, we received a written submission (**Annexure A5**) from Mr Duma. In this response, Mr Duma stated the following regarding his visit to Universities: *"I have attached an email that confirms my visit to the UNU-MERIT and Maastricht Graduate School of Governance written on 1 November 2011 by Eveline in de Braek.*

a) *It is not unusual for me to visit institutions outside the country that have programmes that will add value to TIA and its community. Since the commencement of my travels in June 2011 on behalf of TIA, I have managed to negotiate for colleagues to attend programmes at:*

- i. INSEAD, France*
- ii. IMD, Switzerland*
- iii. Harvard Business School, USA*
- iv. MIT (MISTI Programme)"*

5.383 We reviewed the email which Mr Duma refers to in his correspondence above and the email include the following:

*"Dear Simphiwe*

*Thanks for visiting our institute today and your interest in our PhD programmes. Please find all relevant information about the GPAC (dual career) programme via [http://mgsog.merit.unu.edu/prospective\\_students/phd/gpac/](http://mgsog.merit.unu.edu/prospective_students/phd/gpac/).*

*Deadline for applications here is 1 December 2011.*

*The full programme will be advertised soon via [www.merit.unu.edu/training](http://www.merit.unu.edu/training) and will have an application deadline 1 February 2011.*

*Note that I will be more than happy to answer any questions you might have.*

*Best,*

*Eveline*

*Secretary to the Training Programmes*

*UNU-MERIT and Maastricht Graduate School of Governance"*

5.384 We found a presentation on Mr Duma's emails which suggests that Mr Duma presented to the Board on 17 November 2011 regarding different TIA matters. Mr Duma specifically referred to his Netherlands trip as follows:

*"Visited Maastricht University in Netherland to look at Innovation Programmes for Sustainability that are conducted with the United Nations University".*

- 5.385 In the same written and signed response, Mr Duma explained the following regarding his Rendamax visit:

*"I have confirmed with Tembi at Psidot that whilst we did not take full minutes of the meeting that we had at Rendamax, my proposal for a TIA – Africa wide license for Rendamax products was roundly rejected by her on behalf of Psidot and Roger on behalf of Rendamax. On my side, it would not have been unusual to seek such a license for TIA as I have signed on behalf of TIA, a similar agreement with CONRAD, that gives the organisation the rights of the IP for the entire African Continent. Such a license would be made available to smaller entities within South Africa and the rest of the continent. A similar arrangement had been sought with the MIT technology Licensing Office and the European Space Agency/Open Sky Technology Fund that was approved by the previous Board of TIA."*

- 5.386 Mr Duma included the purpose of his trip, on the claim form, as "TIA Visit to Netherlands". Based on Mr Duma's response and in the absence of substantive evidence in support of his statement pertaining to his visit to Rendamax, we were unable to establish whether his visit to Rendamax on 31 October 2011, was in the best interest of TIA. The total cost of Mr Duma's trip to the Netherlands was R36 402.73 (the claim of R3 764.73 added to the flight and shuttle cost of R32 638).

#### **Findings on Mr Duma's remaining expense claims**

- 5.387 We reviewed the available documentation in support of Mr Duma's expense claims as paid to him by TIA (in respect of the 17 trips undertaken for TIA business). We grouped Mr Duma's expense claims in the following categories for the period 1 April 2010 to 8 August 2013:

Category	Amount paid
Local Travel: Incidental costs	R 1 744.12
Foreign Travel: Incidental costs	R 57 158.13
Foreign travel: Subsistence/all-inclusive daily claims	R 93 773.10
Entertainment costs (Not whilst travelling abroad)	R 20 745.51
<b>Total of Mr Duma's claims</b>	<b>R 173 420.86</b>

#### **Approval process of claims**

- 5.388 TIA policies are silent regarding who needs to approve the CEO's expenses.
- 5.389 During our review of Mr Duma's expense claims, we noted that Ms Kortjass and Mr Van der Merwe at times, approved all Mr Duma's expense claims.
- 5.390 During an interview with Ms Kortjass on 21 August 2013, we enquired about any formal delegation allowing her to approve Mr Duma's expenses. Ms Kortjass stated that the Board never formally delegated the duty of approving the CEO's expenses, to her. Ms Kortjass did however inform us that there was an informal verbal agreement, between the Chairperson and the CEO that someone senior in the organization may in fact sign off on CEO's expense claims. As a result, the CEO would always let the Chairperson know when he would be out of the country or on leave. The same principle was applied with the Interim CEO before Mr Duma. She explained that this was seen as an operational matter and that she had always approved the CEO's expenses.

- 5.391 Ms Kortjass informed us that the Board never had any oversight of the CEO's expenses. From our perusal of the Board Minutes since TIA's inception, we could not find any indication to the contrary. Dr Ramphele confirmed during her interview that she never approved any expense claims in respect of Mr Duma.
- 5.392 It is our view that the CEO's trips and related expenses should have been approved by the Board and not by the CFO. The CEO also approves the CFO's expenses in line with the reporting structure. As the CFO reports to the CEO, it is improper for the CFO to approve the CEO's expenses.
- 5.393 We recommend that the Board approves the CEO's expense claims and trips undertaken. The Board can formally delegate this approval to the CFO. They however remain ultimately responsible and should at a minimum have oversight of the CEO's expenses.

#### **Local Travel: Incidental costs**

- 5.394 Paragraph 2.8 of the Travel and Subsistence Policy regulate the reimbursement rates for travel, accommodation, subsistence allowances and minor purchases. The relevant subparagraphs of paragraph 2.8 relating to local subsistence claims provide as follows:

*"Reimbursement of actual costs (not exceeding maxima) of meals and receipts submitted if employee is more than 50km away from home and work who are:*

1. *Absent for more than 5 hours, spanning a normal mealtime OR*
2. *Absent for more than 10 hours, spanning 2 normal mealtime"*

- 5.395 Mr Duma claimed a total amount of R1 744.12 in respect of local travel (**Annexure F18**). Included in this amount is the following claim in respect of toll fees, parking and fuel:

Location	Date(s)	Description of claim	Amount paid	Type of claim
Limpopo and Cape Town	31 Jan to 2 Feb 2012	Limpopo launch and staff address @ Cape Town	R 1 194.12	Toll fees, parking and fuel

- 5.396 The Guidelines sent to employees on 7 July 2010 stipulated that fuel costs can be claimed as part of incidental costs but only in respect of a rented motor car. The fuel slip indicated that the registration number of the vehicle, used by Mr Duma, was BL19BDGP. We performed a vehicle ownership search on eNatis (**Annexure F19**) on this registration number. We noticed that Kwela Fleet Management was the owner of the vehicle during January/February 2012.
- 5.397 It therefore appears that this was a rented vehicle. Mr Duma would not have been allowed to claim these costs had he travelled with his own vehicle due to him receiving a monthly travel allowance.
- 5.398 We conclude that Mr Duma's incidental costs claimed in respect of local travel was not in contravention of the Travel and Subsistence policy and relevant guidelines.

#### **Foreign Travel: Incidental costs**

- 5.399 We summarise below, per category, Mr Duma's incidental cost claims related to foreign travel (The detail of these claims are attached to the report as **Annexure F20**):

Category	Amount
1. Taxi and refreshment/entertainment costs	R 36 105.00
2. Roaming costs {a}	R 17 016.10
3. Visa payments	R 3 509.00
4. Gadgets	R 528.00
<b>Total</b>	<b>R 57 158.13</b>

{a} Included in the Roaming costs of R17 016.10, is a claim dated 23 January 2013 (**Annexure F21**) to the amount of R2 710.11. This claim pertained to Mr Duma's roaming costs whilst travelling to Europe in September 2012 and to Jordan in November 2012. The Europe portion of the claim was R2 236.23.

- 5.400 Mr Duma had however already claimed this R2 236.23 as part of another claim, totalling R6 474.37 (**Annexure F22**) submitted by him during October 2012. Both the claims were paid to Mr Duma.
- 5.401 Mr Duma maintained during his interview that he was unaware of any such duplicate claim submitted by him. On two separate occasions, 10 and 22 September 2013, he committed to investigate the claim and revert back to us. He further agreed to refund TIA if he indeed submitted a duplicate claim in error.
- 5.402 On 15 October 2013, we received a written and signed response (**Annexure A5**) from Mr Duma. In this response, Mr Duma stated the following: *"Whilst I have not managed to verify this with Ms Mzobe owing to her long leave and the other arrangement that I have to make to discuss with her, on the present documentation provided by Deloitte the R2 710.11 includes payments that were made already. This would be an error from my office that would necessitate a reimbursement to the organisation. I have calculated the total to be R1 961.60. Until I get new information from Ms Mzobe, I concede that this error should be rectified by reimbursing the organisation"*.
- 5.403 Mr Duma's finding that the amount is that only R1 961.60 is incorrect as this is the amount excluding VAT. Mr Duma was reimbursed for the total amount initially, including VAT and therefore, it is recommended that he refund TIA with the total amount of R2 236.23 (R1 961.60 plus VAT).

**Travel Policy and guidelines regulating incidental costs:**

- 5.404 Paragraph 2.8 of the Travel and Subsistence Policy regulates the Reimbursement Rates for Travel, Accommodation, Subsistence Allowance and minor purchases. The relevant subparagraphs of paragraph 2.8 relating to foreign accommodation and subsistence claims provide as follows:

*"Reimbursement of actual costs of accommodation, meals and incidental costs with receipts OR All inclusive daily allowance for which no receipts are needed"*

5.405 The Travel and Subsistence Guidelines applicable to travelling, subsequent to 11 February 2011, is silent about the definition of incidental costs. Per discussion with Mr Mangwane, Mr Hlaethwa and Mr Mpofu on 26 August 2013, we established that the practice followed in TIA when guidelines are silent about a specific aspect, is to revert back to the latest set of guidelines which addressed the aspect.

5.406 The latest set of guidelines prior to the ones mentioned above, were the guidelines sent out to TIA staff on 7 July 2010. The relevant paragraphs pertaining to foreign travel incidental costs provide as follows:

*"4.6.5.1 TIA will reimburse an employee for the following expenses incurred in respect of international travel, provided the expenses are supported by original supporting documentation:*

- *The cost of travelling to and from the airport in the RSA*
- *The actual cost of parking*
- *The actual cost of **business telephone calls**, faxes and photocopies made*
- *The actual cost of refueling a rented motor vehicle which was hired for business purposes*
- *The actual cost of reasonable business travel expenses when travelling by **taxi**, bus, or train*
- *The actual cost of reasonable laundry expenses (on condition that the period of the business trip is more than 4 days)*
- *The fees charged when exchanging foreign currency or obtaining travelers cheques*
- *The actual cost of reasonable business entertainment expenditure, excluding the pro-rata portion of the expense that relates to an employee. The names of the individuals entertained must be provided as well as the reason why those individuals were entertained*
- *The cost of obtaining a **visa** for the countries to be visited."*

5.407 We summarise below our findings on Mr Duma's incidental claims:

**Taxi, entertainment and roaming costs:**

5.408 Based on the Travel and Subsistence policy and the relevant guidelines, these expenses are included in the definition of incidental costs.

5.409 We have considered Mr Duma's subsistence/all-inclusive daily claims in conjunction with the expense claims discussed above. Based on the fact that Mr Duma claimed a subsistence/all-inclusive daily allowance prior to travelling, it is our view that he should not have claimed incidental costs (R57 158.13) as well.

5.410 We discussed this apparent contravention of the Travel and Subsistence policy and the relevant guidelines with Ms Kortjass on 20 August 2013. Ms Kortjass was of the opinion that visa costs, roaming costs, taxi fees and entertainment were excluded from the definition of incidental costs, despite the fact that the guidelines state differently. We include below Ms Kortjass' response to our enquiry:

- **Roaming**

*"Currently at TIA, when an employee travels abroad, that person's 3g card (i.e. the 3g card allocated to him/her by the organisation) is enabled so that that particular employee can be able to gain electronic access. However, in the past we have had incidents whereby people had experienced issues with their work allocated 3Gs and in such instances they will roam and claim when they come back. In some instances, the 3g cards will work perfectly and when this happens, this doesn't affect one's subsistence allowance. Hence the claim is based on the fact that this is something that the organisation would have provided over and above the subsistence provided."*

- **Transportation costs (i.e. bus, train or car) abroad**

*"It has been generally a standard practice that these costs are compensated for outside the subsistence allowance provided to an individual irrespective of their levels. Hence such items, including the roaming charges as explained above, are never considered as part of incidentals covered by the subsistence allowance. The Department of Science and Technology (DST) as well as the NRF (which is a schedule 3A entity reporting to DST like TIA) apply the same principle."*

*"In fact, at the moment we have a Subsistence and Travel Allowance Policy that hasn't been approved because the current Audit and Risk Committee have tasked us with benchmarking with other agencies in order to determine how and what they do where subsistence allowance is concerned. This process is still pending, however, we can confirm that DST and NRF apply the same principle as we do."*

*Entertainment*

*"...we don't have a Policy, however due to the nature of the business of TIA, the CEO is allowed to claim reasonable entertainment expenses (since we don't use a credit card for the organisation), as stipulated in his contract. Now, in terms of the quantum, this is not explicit, however, we check the reasonableness of the claim in terms of the number of people who were at the lunch or dinner meeting and obviously the rate used in that particular country."*

- **Visa costs**

*"Visa costs are costs that are incurred by the business in necessitating a particular employee/individual to undertake a trip. These costs in most cases are incurred way before a particular trip is undertaken and cannot be viewed as incidentals."*

### **Gadgets**

- 5.411 Mr Duma claimed “gadgets” amounting to R528. These were accessories for his iPad/iPhone. Mr Duma claimed these expenses prior to his Europe trip during June 2012. The Travel and Subsistence policy is applicable to costs claimed whilst travelling and therefore, the Travel and Subsistence policy does not regulate this claim.
- 5.412 Upon enquiry from Ms Kortjass, she explained to us that there is no specific policy regulating such expenses but that she approved the expense as it related to Mr Duma’s iPhone/iPad, which are both TIA property. She further explained that Mr Duma would return these accessories to TIA together with the iPad/iPhone should his services with TIA end.

### **Conclusion**

- 5.413 We took Ms Kortjass’ responses into consideration. However, in the absence of any policy, guidelines or communication to TIA employees regarding these exclusions from the definition of incidental costs, we consider Mr Duma’s claims to be incidental costs. Our conclusion is based on the approved policy and guidelines communicated to all TIA employees. Mr Duma claimed meals, accommodation and incidental costs amounting to R57 158.13 in respect of his 17 business related trips. It is our view that Mr Duma was not permitted to claim these expenses based on the approved Travel and Subsistence policy and related guidelines. Ms Kortjass in turn should not have approved these costs as she had already approved subsistence/all-inclusive daily allowances claimed by Mr Duma prior to the trips undertaken.

### **Recommendations**

- 5.414 We recommend that the policy and guidelines be amended to be specific regarding the definition of incidental costs and that these definitions are consistently applied to all TIA employees. We further recommend that the Board of TIA consider appropriate disciplinary action against both Mr Duma and Ms Kortjass for contravening the Travel and Subsistence Policy and guidelines.

**Foreign Travel: Subsistence/all-inclusive daily claims**

- 5.415 From our review of Mr Duma's subsistence claims in respect of his 17 foreign trips (**Annexure F23**), we noted that Mr Duma claimed a total of R93 773.10 in this regard. We identified irregularities pertaining to R57 370.13 of this total amount of R93 773.10. We summarise below the different categories of irregularities which we discuss in detail in the table below:

Category of irregularities	Amount included in claims
Incorrect DPSA rates used	R 30 558.43
Calculation error/incorrect amount paid	R 26 811.70
<b>Total</b>	<b>R 57 370.13</b>

- 5.416 TIA makes use of the DPSA guidelines on subsistence rates per country. The DPSA updates these rates annually on 1 March, but it is effective from 1 July. We reviewed all of Mr Duma's claims and compared the rates included on the claim forms, to the rates issued by DPSA and applicable at that stage. We identified the following five discrepancies:

Location	Date(s)	Rate claimed	DPSA rate	Over/(Under) claim in Rand Value
Paris	18 to 22 June 2011	€197 per day	€96 per day	R 4 931.72
Brussels	23 to 24 June 2011	€113 per day	€73 per day	R 780.97
Trieste	25 to 28 June 2011	€112 per day	€83 per day	R 1 131.92
San Francisco and Washington DC	9 to 17 May 2012	\$109 per day	\$97 per day	R 846.43
Washington DC	9 to 15 May 2013	\$106 per day	\$109 per day	(R 188.86)
<b>Total</b>				<b>R 7 502.19</b>

- 5.417 This amount of R7 502.19 constitutes fruitless and wasteful expenditure. If the claim form had been reviewed and approved appropriately, TIA could have avoided this expenditure.



- 5.418 Mr Duma submitted a subsistence claim form on 4 June 2012 (**Annexure F24**) in respect of his trips to London, Munich and USA. The detail of the claim form was as follows:

Country visited	Dates	Subsistence rate	Rand value
London	9 to 12 June 2012	£85 per day for 4 days	R 4 453.45
Munich	13 to 15 June 2012	€73 per day for 3 days	R 2 333.90
USA	16 to 24 June 2012	\$97 per day for 8 days	R 6 618.50
<b>Total of detail</b>			<b>R 13 405.85</b>

- 5.419 The total amount payable to Mr Duma was included as R26 811.70 on the claim form. We reviewed TIA's Standard Bank audit trail and noticed that Mr Duma received R26 811.70 into bank account, number 1014923581, on 8 June 2012. Ms Roos verbally confirmed that she erroneously included the total amount of R26 811.70 on the claim form before they made the payment. Ms Hechter investigated this and explained to us that it was a calculation error made by Ms Roos. Both Ms Roos and Ms Kortjass signed off on the claim form.
- 5.420 This was not corrected by TIA and Mr Duma was not informed of the overpayment. TIA only became aware of this error at the time of our investigation. Mr Duma however also failed to inform TIA finance of this duplicate payment made into his bank account.
- 5.421 Ms Kortjass and Ms Roos contradicted each other as to whether the incorrect amount was included before or after Ms Kortjass approved the payment. Ms Roos was of the opinion that she added the amounts before Ms Kortjass signed and approved the form for payment. We could not establish what the true version of events were.
- 5.422 This duplicate payment of R13 405.85 made to Mr Duma constitutes negligence on the part of both Ms Roos and Ms Kortjass. This is also fruitless and wasteful expenditure for TIA as it could have been avoided had reasonable care been taken by the reviewer and approver.
- 5.423 During an interview with Mr Duma, he claimed that he was not aware of this duplicate payment into his bank account.
- 5.424 On two separate dates, 10 and 22 September 2013, Mr Duma undertook to investigate this on his part and committed to refunding TIA (at their cost) if he was satisfied that he indeed received a duplicate payment in error.
- 5.425 As of the date of this report, Mr Duma has not reverted back to us on this matter.

### **Recommendations**

- 5.426 We recommend that the Board consider appropriate disciplinary action against Ms Kortjass (Ms Roos is no longer a TIA employee). We further recommend that TIA recover the duplicate payment, of R13 405.85, from Mr Duma.
- 5.427 This is also fruitless and wasteful expenditure for TIA as it could have been avoided had reasonable care been taken by the reviewer and approver.

5.428 We could not find a policy or set of guidelines regulating entertainment costs.

5.429 Mr Duma submitted 10 entertainment claims amounting to a total of R20 745.51 (refer **Annexure F25**) for detail) for the period 1 April 2010 to 8 August 2013. All these claims were supported by invoices or slips. Mr Duma also indicated the nature of the claims on the forms.

5.430 We conducted an interview with Ms Kortjass on 20 August 2013 to discuss Mr Duma's entertainment costs. Ms Kortjass stated that in practice Mr Duma, as the CEO of TIA, was allowed to claim entertainment costs. She indicated to us that in the absence of policies or guidelines regulating entertainment costs, she evaluates these costs for reasonability before approving. She explained that she reviews the supporting documents, purpose of the entertainment, individuals present and cost per individuals to determine reasonability.

5.431 Due to the fact that there are no policies or guidelines regulating entertainment costs and what constitutes "reasonable", we were unable to conclude whether Mr Duma's entertainment costs were reasonable and in the best interest of TIA. It should however be noted that the total amount of R20 745.51 incurred over a period of roughly 3 years, does not appear to be excessive.

5.432 Included in the R20 745.51, Mr Duma claimed alcohol to the amount of R3 622 (17% of the total entertainment expenses). During interviews conducted with Ms Hechter, Mr Mpofo and Mr Mangwane, we established that there is no policy regulating whether alcohol can be claimed. This was however not a material amount claimed in alcohol.

5.433 We recommend that a policy be drafted, approved and communicated to all TIA employees to be applied consistently for entertainment costs.

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We have the following general

### Appendix 1. Field and Laboratory Methods

- An entity level Fraud Risk Assessment should be conducted at TIA in order to assist in identifying and addressing any fraud and/or corruption related risks.
- Fraud Awareness training should be provided to all TIA employees. Such training should be focused on the key risk areas identified as part of this report and any Fraud Risk Assessment undertaken.
- TIA should consider initiating a field verification exercise in respect of all Special Projects and that such a monitoring function incorporate specific focus on fraud risks.
- Consideration should be given to conducting a Fraud Health Check survey amongst employees.