



A U D I T O R - G E N E R A L



Report of the Auditor-General

to parliament on a performance audit of entities
that are connected with government employees
and doing business with national departments

August 2008

Published by authority

RP 242/2008

Report of the Auditor-General to

Parliament on a

performance audit of entities that
are connected with government
employees and doing business
with national departments

A u g u s t 2 0 0 8

TABLE OF CONTENTS

TITLE	PAGE
1. Executive summary	3
2. Purpose and content of the report	8
3. Audit scope	8
4. Modus operandi	10
5. Scope exclusion	10
6. Overview of employee-related companies and/or close corporations (CCs) doing business with national departments	11
7. Findings, recommendations and comments from departments	11
7.1 Performance of remunerative work	11
7.2 Declaration of registrable interests	17
7.3 Declaration of interest in standard bidding documentation	19
7.4 Deviation from the supply chain management process and cases where a conflict of interest existed	22
7.5 Non-compliance with certain Treasury Regulations	29
7.6 Non-compliance with value-added tax legislation	31
8. General comments from the Department of Public Service and Administration	33
9. Appreciation	34
Abbreviations and acronyms	35
Annexure A: Employee-related companies and/or CCs doing business with own departments	36
Annexure B: Employees' spouse-related companies and/or CCs doing business with own departments	37
Annexure C: Employee-related companies and/or CCs doing business with other national departments	38

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON A PERFORMANCE AUDIT OF ENTITIES THAT ARE CONNECTED WITH GOVERNMENT EMPLOYEES AND DOING BUSINESS WITH NATIONAL DEPARTMENTS

1. EXECUTIVE SUMMARY

- 1.1 The Auditor-General issued a report to Parliament in January 2006 regarding approval for government employees to perform other remunerative work and the disclosure of financial interests by ministers, deputy ministers and senior managers. This report indicated that designated employees (senior managers) and certain ministers failed to declare their interests and that the majority of government employees did not have approval to perform remunerative work outside their employment in government, as prescribed by the relevant legislation and regulations.
- 1.2 Based on the above, a transversal performance audit was conducted on government employee-related entities doing business with national and provincial departments. This report only focuses on government employee-related entities doing business with national departments. This report was compiled after the audits at provincial level were completed during the period August 2007 and July 2008.
- 1.3 During the audit specific emphasis was placed on:
 - 1.3.1 performance of remunerative work
 - 1.3.2 declaration of registrable interests
 - 1.3.3 declaration of interest on standard bidding documentation (SBD)
 - 1.3.4 deviation from the supply chain management process and cases where a conflict of interest existed
 - 1.3.5 non-compliance with certain Treasury Regulations
 - 1.3.6 non-compliance with value-added tax legislation.
- 1.4 The audit revealed, inter alia, the following:
 - 1.4.1 A total of 49 employees were identified who were directors or members of companies or close corporations (CCs) doing business with national departments. Forty-six of these employees did not have approval to perform other remunerative work. The total amount paid to these companies and CCs during the period under review was approximately R35,7 million (paragraph. 7.1.2).

1.4.2 Employees who are directors or members of companies or CCs that did business with national departments amounting to R30,6 million during the period under review had failed to declare their interest on the financial disclosure forms submitted to the Public Service Commission (PSC) (paragraph. 7.2.2).

1.4.3 Tenderers made misrepresentations by not declaring in the tender documentation that employees are related to the companies and CCs that are tendering (paragraph. 7.3.2).

1.4.4 Supply chain managers in national departments did not adhere to the supply chain management procedures and regulations in awarding tenders and contracts to employee-related entities (paragraph 7.4.2).

1.5 The following actions were taken by the affected entities or are in the process of being taken as a result of the audit:

1.5.1 Approval to perform remunerative work

(a) Cases of non-compliance with regulations pertaining to approval for remunerative work outside official duties are being followed up by departments in order for them to take action (paragraph 7.1.4).

(b) The Accountant-General indicated that companies should be requested to mention their shareholding, and not only directorships, in the tender documentation to allow departments to identify related-party transactions (paragraph 7.1.5 (b)).

(c) The PSC proposed changes to the financial disclosure form and also recommended that where a designated official had obtained approval to perform remunerative work outside of the public service, such approval must accompany the financial disclosure form (paragraph 7.1.6 (b)).

1.5.2 Declaration of interest by designated employees

(a) With regard to the submission of financial disclosure forms to the PSC, the PSC has established a directorate to scrutinise the completeness of financial disclosure forms and the management of conflict of interest (paragraph 7.1.6 (c)).

(b) The Department of Public Service and Administration (DPSA) indicated that the department was currently investigating the implementation of a similar disclosure form to be completed by employees on salary levels 1 to 12 (non-designated employees) (paragraph 7.2.4).

1.5.3 Declaration of interest in bidding documentation

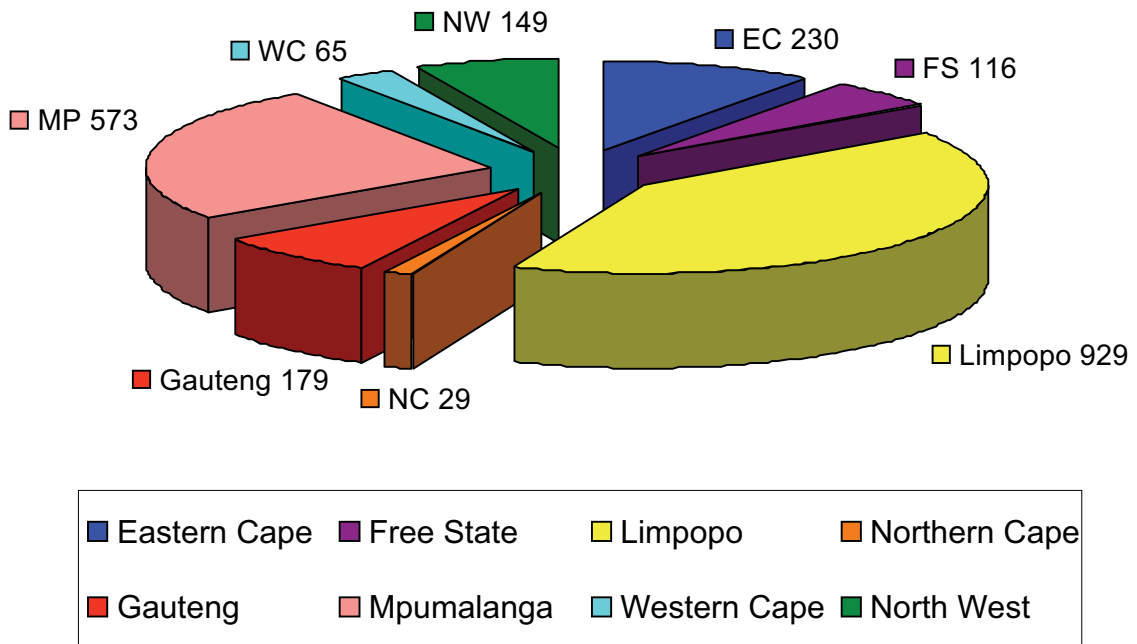
- (a) The Accountant-General indicated that disclosure of interest should be compulsory for employees and their related parties, including family members and close friends (paragraph 7.3.4).
- (b) The SBD 4 declaration of interest form would be amended to include spouses' directorships/shareholding/memberships in companies that had transacted with the state in the previous 12 months of the financial year and an integration of the PSC system and Companies and Intellectual Property Registration Office (CIPRO) must be considered (paragraph 7.3.4).

1.5.4 Conflict of interest

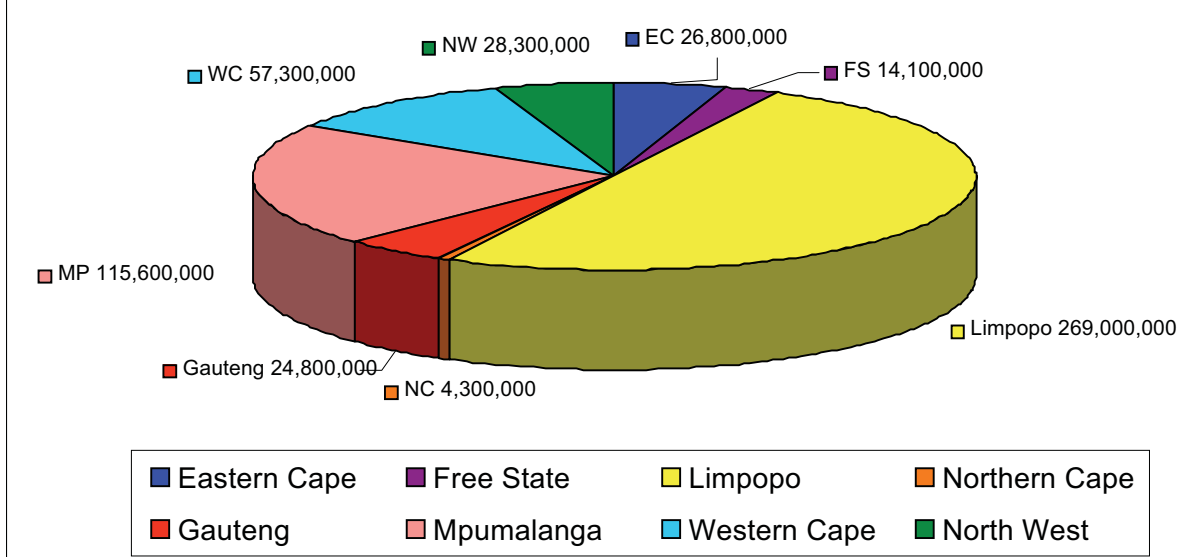
The national departments in general indicated that transactions would be followed up to determine whether there had been preferential treatment or possible fraudulent actions (paragraph 7.4.7).

- 1.6 For the performance audits conducted at provincial level, separate reports will be tabled in the relevant provincial legislatures. The findings made at provincial level are similar to those reported in this report. The graphs below depict the total number of government employees with directorships or memberships in companies and/or CCs that did business with provincial departments, excluding the Provincial Administration of KwaZulu-Natal, as the audits have not yet been finalised.

Graph 1: Number of government employees with directorship or membership in companies or close corporations



Graph 2: Amount paid to companies or close corporations that are related to government employees
R



- 1.7 Summary of transversal findings made and actions taken by provincial department with regard to audits conducted on employee-related companies and/or CCs doing business with provincial departments:
- 1.7.1 The extent of business done by employee- or spouse-related companies at provincial level for the period 1 April 2005 to 31 January 2007 amounted to approximately R540,2 million. Although some of the provincial departments are still determining whether employees who are directors and/or members of companies and/or CCs that did business with provincial departments had approval to do so, in the majority of cases such employees did not have approval to perform other remunerative work.
- 1.7.2 Tenderers made misrepresentations by not declaring in the tender documentation that employees were related to the companies and CCs that were tendering.
- 1.7.3 The following transversal findings were made where provincial departments had deviated from the supply chain management process without the necessary approval and had awarded tenders or quotations to employee-related entities. This could be an indication of preferential treatment of such employee-related entities or of fraudulent activities in the awarding of tenders or contracts.
- (a) Provincial departments did not always obtain three quotations for transactions with a value above R10 000 but not exceeding R200 000, in line with the regulations for the procurement of goods and services.
 - (b) Provincial departments did not always apply the prescripts of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) (PPPFA) when evaluating quotations that exceeded R30 000.
 - (c) In certain instances provincial departments did not invite competitive bids for procurement where the value of the goods or services exceeded R200 000, in accordance with the regulations, and had awarded the contracts to employee-related entities.
 - (d) Bids were not always scored correctly by the evaluation committees of provincial departments and as a result the bids were incorrectly awarded to employee-related entities.
 - (e) Provincial departments awarded contracts to employee-related entities that had not scored the highest points during the evaluation process, without providing reasonable and justifiable grounds for doing so.
- 1.7.4 There are inconsistencies between departments in rectifying these problems. In some instances departments charged employees with misconduct and discharged

them or issued final warnings, while others indicated that disciplinary steps could not be taken as employees were not aware that they should have obtained approval to perform other remunerative work. A consistent approach, which includes awareness, training, disciplining and legal action as well as the blacklisting of entities, should be encouraged.

2. PURPOSE AND CONTENT OF THE REPORT

- 2.1 A performance audit was conducted of entities that are connected with government employees and doing business with national departments, as per section 188(4) of the Constitution of the Republic of South Africa, 1996, read in conjunction with sections 5(3) and 20(3) of the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA). The purpose of this report is to facilitate public accountability by bringing to the attention of Parliament the findings of the performance audit.
- 2.2 Sufficient audit work was performed to provide substantiating audit evidence for the findings set out herein.
- 2.3 It is anticipated that this report, which reflects comments received from various national departments, would give rise to corrective steps that would contribute constructively to the establishment and implementation of appropriate management measures and controls, and consequently to improved value for money.
- 2.4 The responsibility for instituting these measures rests with management. The primary objective of performance auditing is to confirm independently that these measures do exist and are effective, and to provide the executive and legislative bodies with findings and examples of the effects thereof, by means of a structured reporting process.

3. AUDIT SCOPE

- 3.1 This performance audit focused on the following aspects:
 - 3.1.1 Employees of national departments who are directors or members of companies and/or CCs that did business with the national departments where such employees work (annexure A refers).
 - 3.1.2 Transactions by employees' spouses who are directors or members of companies and/or CCs that did business with national departments where the husband/wife is employed (annexure B refers).
 - 3.1.3 Employees of national departments who are directors or members of companies and/or CCs that did business with other national departments (annexure C refers).

- 3.1.4 Departments that paid companies and/or CCs, of which the directors or members are employed at other national departments, were also tested on a sample basis. This was limited to transactions in excess of R200 000.
- 3.2 The transactions included in this report cover the 2005-06 financial year. Transactions pertaining to the 2004-05 financial year for the national Departments of Agriculture, Correctional Services, Health and Public Works were tested on a sample basis. With respect to transactions in the 2004-05 financial year, the scope was limited to companies and CCs with transactions in excess of R200 000 per company or CC.
- 3.3 The declarations of interest made by designated employees to the PSC were limited to declarations for the 2005-06 financial year. Only declarations by designated employees (senior managers) who have an interest in companies and/or CCs that did business with national departments were verified.
- 3.4 The scope was limited to the procurement process up to the approval of payments. The scope also included determining whether employees who had an interest in the company or CC which rendered the service or supplied the goods to the department, were involved in the procurement process.
- 3.5 The objective of the performance audit was to identify companies and CCs that are primarily profit driven and transacted with national departments. For this reason the following types of companies were excluded from the scope of the performance audit:
- 3.5.1 Section 21 (not for profit) companies as defined in the Companies Act, 1973 (Act No. 61 of 1973).
- 3.5.2 Public entities listed under the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA).
- 3.5.3 Companies where the person is appointed as an independent contractor or board member in an executive capacity at the national department. The reason for this is that in those cases the person's details are loaded on the Personnel and Salary System (Persal) for income tax purposes, and not because he/she is a permanent employee of the national department.
- 3.5.4 Employees who hold shares in listed companies.
- 3.6 The objectives of the procedures performed were the following:
- 3.6.1 To identify the extent of employee-related entities that did business with national departments

- 3.6.2 To enhance transparency and adherence to relevant legislation
- 3.6.3 To identify and report on findings in the current processes and systems
- 3.6.4 To possibly reduce the risk of corruption.

4. MODUS OPERANDI

- 4.1 Performance audits are conducted in accordance with the internal guidelines for the planning, execution, reporting and follow-up of performance audits.
- 4.2 Computer assisted audit techniques (CAATs) were used extensively to compile exception reports, and procedures were developed for following up on these exceptions. The following databases were used in the compilation of exception reports during the performance audit:
 - 4.2.1 CIPRO database of directors of companies and members of CCs as at 31 January 2006. Actual dates of appointment and resignation were confirmed with CIPRO.
 - 4.2.2 Persal payroll data for March 2006.
 - 4.2.3 Consolidated Basic Accounting System (BAS) payment data for the 2005-06 financial year. This file included accounts payable data for government departments on BAS during this period. For the South African Police Service (SAPS), the data was extracted from the South African Police Service Financial System (Polfin).
- 4.3 The relevant supporting documentation was requested from the departments and audited. After the performance audit of each of the departments had been finalised, a management letter was submitted to the department for comments. The comments received were considered and incorporated in this report. Despite several reminders and correspondence, the Department of Labour did not submit comments on the management letter.

5. SCOPE EXCLUSION

- 5.1 The scope of the performance audit did not include the verification of shares held in companies as this information is not available on the CIPRO database. Consequently, where an individual resigned as a director of a company, it was not possible to confirm that the employee had also sold his/her shares in the company unless this was discovered by chance. Therefore a risk exists that employees might have resigned as directors from companies, but had not sold their shares in the companies. If the shareholding was not declared, or the employee did not

request permission to perform other remunerative work outside his/her employment at the department, it was not possible to identify employees who held shares in companies that conducted business with national departments.

5.2 Similarly, the procedures performed in this performance audit could not identify collusion between employees employed at a department and the company/CC that did business with the department. This relates to employees who may be receiving another form of gratuity or emolument from the company/CC that did business with the department.

6. OVERVIEW OF EMPLOYEE-RELATED COMPANIES AND/OR CLOSE CORPORATIONS (CCs) DOING BUSINESS WITH NATIONAL DEPARTMENTS

6.1 During the audit a significant number of cases were identified where the employee had resigned as a director or member of the company or CC. This could possibly be attributed to the impact of the report of the Auditor-General on the declarations of interest by ministers, deputy ministers and government employees that covered the 2004-05 financial year [RP 19/2006]. Where the employee resigned before the transaction occurred, the information was omitted from the final summary. Table 1 is a summary of the number of employees, number of companies and amounts paid to companies and/or CCs that transacted with national departments. Refer to annexures A to C for details.

Table 1: Summary of employee-related companies and/or CCs doing business with national departments

	Number of employees	Number of companies	Amount paid R	Annexure
Employee-related companies and/or CCs doing business with own national departments	30	30	32 123 890	A
Employees' spouse-related companies and/or CCs doing business with own departments	19	20	1 966 148	B
Employee-related companies and/or CCs doing business with other national departments	19	22	42 208 015	C

7. FINDINGS, RECOMMENDATIONS AND COMMENTS FROM DEPARTMENTS

7.1 Performance of remunerative work

Regulations with respect to the conduct of remunerative work by government employees differ in certain instances between national departments. Where relevant, these differences were taken into account.

7.1.1 Regulations

- (a) Chapter VII, sections 30 and 31 of the Public Service Act, 1994 (Act No. 103 of 1994) (PSA) stipulates: *Unless it is otherwise provided for in his or her conditions of employment every officer and employee shall place the whole of his or her time at the disposal of the State. No officer or employee shall perform or engage himself or herself to perform remunerative work outside his/her employment in the public service, without permission granted by the relevant executing authority or officer authorised by the said authority. If an officer receives any remuneration, allowance or other reward, other than in accordance with this act, an amount equal to such remuneration received should be paid into the revenue account.*
- (b) Paragraph 4.5.5 of the *Explanatory manual on the code of conduct for the public services* (a practical guide to ethical dilemmas in the workplace) deals with employees who undertake remunerative work outside their official employment without approval, and states: *Employees are expected to place their undivided attention, time and skills at the disposal of the public service as employer. The nature and demands of the job in the public service are such that the interests of both the public service and community may be prejudiced by a public servant undertaking remunerative work outside official duties. It is therefore mandatory to obtain prior approval to perform remunerative work outside official hours.*
- (c) With regard to the Department of Correctional Services, section 118 of the Correctional Services Act, 1998 (Act No. 111 of 1998) states the following:
- (1) *No correctional official or custody official and no other person acting or employed by him or her may directly or indirectly-*
- (a) *sell, supply or derive any benefit or advantage from the sale or supply of any article to or for the use of any prisoner or prison; or*
- (b) *have an interest in any contract or agreement for the sale or supply of any such article.*
- (5) *Any person who contravenes any provision of this section is guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment for a period not exceeding two years, or to such imprisonment without the option of a fine, or both.*

According to the definition of a correctional official as per the Correctional Services Act, 1998, it includes an employee of the department appointed under section 3(4) of the Correctional Services Act, 1998 as well as employees appointed in terms of the PSA.

- (d) With regard to SAPS, *National instruction 7/2000* dealing with the performance of remunerative work states that the SAPS disciplinary regulations provide that a member is guilty of misconduct if he/she, without the written permission of the national or provincial commissioner:
- (i) engages directly or indirectly in any trade or business
 - (ii) undertakes or takes part in any commercial, industrial, farming or other agricultural activity
 - (iii) is involved in any private agency or undertakes private work connected with the performance of his/her functions or duties in the service
 - (iv) performs any remunerative work, except his/her functions in the service.

It further states that SAPS employees may not be granted permission to perform any remunerative work or to engage in any activity for gain if such work or activity is in any manner connected to a business or industry that has contracted with or submitted a tender to the state to render a service or to supply a product to the service.

7.1.2 Findings

- (a) A total of 30 employees were identified who are directors or members of companies or CCs that did business with the national department where the person is employed. With respect to obtaining approval to perform remunerative work, none of the 30 employees had approval to perform other remunerative work. The total amount paid to these companies and CCs during the period under review was R32 123 890 (annexure A refers).
- (b) Four employees of the Department of Correctional Services were identified who are directors or members of companies and/or CCs that transacted with the Department of Correctional Services. This is in contravention of the Correctional Services Act, 1998. The total amount paid to these companies and CCs during the period under review was R1 037 526.
- (c) Five employees of SAPS were identified who are directors or members of companies and/or CCs that transacted with SAPS. This is in contravention of *National instruction 7/2000*. All the transactions were based on quotations and the total amount paid during 2005-06 was less than R200 000 per employee-related company or CC. The total amount paid to these companies and CCs during the period under review was R144 006.
- (d) In addition, 19 employees were identified who are directors or members of companies or CCs that did business with other national departments. Of the

19 employees, 16 (84%) did not have approval to perform other remunerative work. The total amount paid to companies and CCs related to the 16 employees during the period under review was R3 603 000 (annexure C refers).

- (e) Of the three employees who had approval as mentioned above, one was employed at the Department of Foreign Affairs and had an interest in a company that did business amounting to R20 954 545 with other national departments. The Director-General of the Department of Foreign Affairs indicated that he had taken cognisance of the extent of the business conducted and would assess the impact thereof on the employee's ability to effectively perform his duties at the Department of Foreign Affairs. Another person, employed on a part-time basis at the Department of Housing, has interests in companies that did business with other national departments amounting to R17 210 512.
- (f) Non-compliance with the regulation requiring employees to seek approval for remunerative work outside official duties could be ascribed to the following:
 - (i) The majority of national departments do not have a system of control in place to manage the performance of other remunerative work by employees. This situation had already been reported to Parliament in the Report of the Auditor-General on the declarations of interest by ministers, deputy ministers and government employees [RP 19/2006].
 - (ii) National departments do not have a database or register in place to monitor other remunerative work.
 - (iii) Designated employees did not seek approval to perform other remunerative work as they were under the impression that the financial declaration form submitted to the national departments and the PSC was sufficient.
 - (iv) The national departments rely on the integrity of employees to seek approval to perform other remunerative work and to declare their interest in a company or CC, as it is not always possible to verify compliance and completeness of the declarations.

7.1.3 Recommendations by the Auditor-General

- (a) The relevant departments should take disciplinary action against employees who perform other remunerative work without the approval of the national departments where they are employed. Cognisance should be taken of the fact that a number of employees included in the report have since resigned from the departments.

- (b) The departments should implement and actively monitor the systems of control to manage the performance of other remunerative work by employees. This could include the annual issuing of letters to employees, informing them of the requirement to obtain approval to perform other remunerative work. Copies of the letters of approval should be either kept centrally or placed on the employees' files. Where possible, the completeness of certain aspects of the declarations should also be verified by, for example, conducting CIPRO searches to confirm the completeness of the declared directorships and memberships of companies and/or CCs.
- (c) Designated employees should be informed of the requirement that they should also request approval to perform other remunerative work. The fact that disclosure in the financial disclosure forms is not sufficient, should be emphasised.
- (d) The Department of Correctional Services and SAPS should take disciplinary action against employees employed by these departments, who are directors and/or members of companies or CCs that did business with the departments where they were employed.

7.1.4 Responses from national departments

- (a) The departments indicated that they would implement and actively monitor the systems of control to manage the performance of other remunerative work by employees.
- (b) Designated employees would be informed of their responsibility to obtain approval to perform other remunerative work.
- (c) The departments are following up on the cases with a view to taking action.
- (d) The Department of Correctional Services indicated that to ensure compliance with the Correctional Services Act, 1998, the content thereof would be communicated to all employees. They will be informed of the actions that would be instituted in case of contravention. An investigation will also be conducted to determine whether there were any deficiencies, and action would be taken against those who did not comply.
- (e) The view of SAPS with respect to *National instruction 7/2000* regarding the performance of remunerative work is that this provision is limited to contracts and tenders in excess of R200 000, as defined in the Preferential Procurement Policy Framework Act (PPPFA). The Auditor-General obtained a legal opinion to determine whether quotations as referred to in *Practice note number SCM 2 of 2005* are included under the definition of

“tender” according to the PPPFA. The legal opinion indicated that the definition of a tender as per the PPPFA would include quotations.

7.1.5 Response from the Accountant-General

- (a) The main issue is whether government employees can do business with their employer. In terms of sections 30 and 31 of the PSA, it is acceptable to have business dealings with your employer provided that the employee has permission to do so. Once permission has been granted, processes surrounding business etiquette could be investigated.
- (b) Companies should be requested to mention their shareholding, and not only directorships, in the tender documentation to allow departments to identify related-party transactions.

7.1.6 Response from the PSC

- (a) The fact that employees obtain contracts from their own departments is cause for concern and should be regarded as an actual conflict of interest. The PSC produced a report entitled *Managing conflicts of interest in the public service*. In this report a policy on the management of such conflict is proposed. Regulations on managing conflicts of interest, with the proposed PSC policy as baseline document, will be published in the near future as it is currently in the work plan of the DPSA.
- (b) The PSC proposed changes to the financial disclosure form and also suggested that where a designated official has obtained approval to perform remunerative work outside of the public service, such approval must accompany the financial disclosure form. The PSC supports the Auditor-General’s view that designated officials be informed of the requirement that they should request approval to perform other remunerative work.
- (c) A directorate has been established in the PSC to scrutinise the completeness of the financial disclosure forms. The PSC is also in the process of establishing rules for the scrutiny of financial disclosure forms and for the management of conflicts of interest.

7.2 Declaration of registrable interests

7.2.1 Regulations

Chapter 3, regulation C of the Public Service Regulations, 2001 (PSR) prescribes as follows: *Every designated employee shall, not later than 30 April of each year, disclose to the relevant executing authority, on the form determined for this purpose by the Commission, particulars of all her or his registrable interests in respect of the period 1 April of the previous year to 31 March of the year in question. Any person who assumes duty as a designated employee after 1 April in a year shall make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her or his assumption of duty.*

7.2.2 Findings

- (a) Of the 30 employees who were directors or members of companies or CCs that did business with the department where they were employed (annexure A refers), five were designated employees. Of these five employees, one had not submitted a financial disclosure form to the PSC, three had not declared their interest in the company or CC on the financial disclosure form, and one incorrectly indicated on the financial disclosure form that he had resigned from the CC. The total amount paid in this regard during the period under review was R30 644 013 (table 2).

Table 2: Employees who are directors or members of companies or CCs that did business with national departments and did not declare their interest on the financial disclosure forms

	Department	Number of employees	Number of companies	Amount paid for the 2005-06 financial year R
1	Arts and Culture	1	1	287 000●
2	Correctional Services	2	2	29,102♣
3	Education	1	1	30 307 163♣
4	Social Development	1	1	20 748♦
	Total	5	5	30 644 013

- 2005-06 financial disclosure form not submitted.
- ♣ Employee did not declare his/her interest on the financial disclosure form.
- ♦ Employee indicated that he had resigned from the CC, but according to CIPRO records he is still a member.

- (b) Of the 19 employees who were directors or members of companies or CCs that did business with other national departments (annexure C refers), two were designated employees. Both of these employees had disclosed their interest in the companies or CCs that did business with other national departments on the financial disclosure forms that were submitted to the

PSC. The total amount paid in this regard during the period under review was R21 394 503.

- (c) It should be noted that as per chapter 3 of the PSR, non-designated employees do not have to disclose their financial interests. Non-designated employees only need to obtain permission for the performance of other remunerative work, if applicable.

7.2.3 Recommendations by the Auditor-General

- (a) The relevant departments should consider taking disciplinary action against designated employees who had not declared their interest in companies or CCs that did business with national departments.
- (b) Consideration should be given to amending the existing regulations with regard to the declaration of interests and the performance of other remunerative work by government employees as follows:
 - (i) Non-designated employees should disclose their directorships and memberships of companies and/or CCs. These disclosures need only be submitted by non-designated employees who hold directorships or memberships of companies and/or CCs.
 - (ii) Non-designated and designated employees should specifically disclose details of directorships and memberships of companies and/or CCs that had previously transacted with government. An overview of the transactions with government should also be provided.
 - (iii) Non-designated and designated employees should disclose their spouses' directorships and memberships of entities that are transacting with the specific government institutions where they are employed.
- (c) Newly appointed government employees should make the disclosures within 30 days of appointment, while government employees who are transferred from one government department to another should again make the required disclosures at the new department within 30 days of transfer.
- (d) The policy should require government employees to disclose changes in circumstances that could have an impact on the completeness or accuracy of the declarations they provided. Such disclosure should be made within 30 days of the change in circumstances. For example, a newly acquired directorship or membership should be disclosed by a government employee within 30 days of acquiring it.

- (e) Non-designated and designated employees should take personal responsibility for ensuring that CIPRO processes their resignation or termination of directorships and memberships.

7.2.4 Response of the DPSA

The DPSA indicated that the department was investigating the possibility of a similar disclosure form to be completed by employees on salary levels 1 to 12 (non-designated employees).

7.2.5 Response of the Accountant-General

The extent of designated employees not declaring their registrable interests is an area of concern. This control has to be made effective and punitive measures could be introduced. The control in place needs to be reviewed for effectiveness, as officials are not adhering to it. Information must be obtained regarding the outcome of the investigations and disciplinary cases.

7.3 Declaration of interest in standard bidding documentation

7.3.1 Regulations

- (a) The National Treasury issued *Practice note number SCM 1 of 2003* on 5 December 2003. This practice note included SBD. In this regard the SBD 4 form replaced the standard tender 12 (ST 12) form.
- (b) The SBD 4 form, issued as part of the SBD utilised for tenders, requires the bidder to declare the following:
 - (i) Whether any person connected to the bidder is employed by the principal.
 - (ii) Whether any person connected to the bidder has any relationship with a person employed by the principal who may be involved with the evaluation and/or adjudication of the bid.
 - (iii) Whether any person connected to the bidder is aware of any relationship between the bidder and any person employed by the principal who may be involved with the evaluation and/or adjudication of the bid.
- (c) The previously used ST 12 form, issued as part of the SBD utilised for tenders, required the bidder to declare the following:
 - (i) Whether any person connected to the bidder is employed by the state.

- (ii) Whether any person connected to the bidder has any relationship with a person employed by the state who may be involved with the evaluation and/or adjudication of the bid.
 - (iii) Whether any person connected to the bidder is aware of any relationship between the bidder and any person employed by the state who may be involved with the evaluation and/or adjudication of the bid.
- (d) Therefore, with the implementation of the SBD 4 form, the scope of the declaration of interest was limited. With the ST 12 forms, the bidder had to indicate whether there was a connection with a person employed by the state. The SBD 4 form only requires a declaration if the bidder has a relationship with a person employed by the principal. The principal in this regard refers to the department that issued the tender. In other words, if an employee of a department is a director and/or member of a company and/or CC and that company or CC conducts business with another department, there is no obligation to disclose his/her own or his/her spouse's interest in the company or CC.

7.3.2 Findings

- (a) With respect to employee-related companies and CCs involved in transactions with other national departments included in the sample audited, tenders to the value of R2 897 593 were approved, but companies and CCs did not disclose the employees' or their spouses' interest. This was because the tendering company used the prescribed SBD 4 form, which requires the disclosure of interest with the "principal" and not the "state". Of the total amount included in the sample audited, R27 027 226 was in respect of transversal contracts, in which case no disclosure is required in terms of an SBD 4 form.
- (b) With respect to employee-related companies and CCs involved in transactions with the department where the person is employed, two tenders were identified. In the first instance a tender to the value of R30 303 249 was approved by the Department of Education, but the company did not disclose the employee's interest. In the second case a tender amounting to R645 795 was approved by the Department of Correctional Services, and although the tendering company indicated on the SBD 4 form that an employee of the department was connected to that CC, no particulars of the employee were provided. There was also no indication in the supporting documents provided that the department had followed up on this declaration.
- (c) With respect to the transactions listed in annexures A and B, amounts totalling R2 962 843 were in respect of quotations where directorships or

memberships of companies and CCs were not disclosed, as no regulations currently require the declaration of interests in the case of procurement through quotations.

7.3.3 Recommendations by the Auditor-General

- (a) National Treasury should extend the declaration of interests on the SBD 4 form to include all relationships with the state, similar to the requirements of the previous ST 12 form.
- (b) Declarations of interest by employees and their spouses should be made compulsory if the company or CC in which they have an interest submits a quotation to departments.

7.3.4 Response from the Accountant-General

- (a) The Accountant-General concurs with the Auditor-General's recommendations. The current form only compels tendering companies and CCs to disclose an interest with the principal, leaving room for collusion among employees in different departments. However, disclosure of interest should not only be compulsory for employees and their spouses, but also for employees and their related parties, which include close family members and close friends.
- (b) Form SBD 4 would be amended to also indicate the position occupied by the shareholder/director/member in the department, as well as the name of the department. Directors/members/shareholders of companies tendering should also declare their interests in other related companies, whether or not such related companies are tendering.
- (c) Spouses' directorships/shareholding/membership of companies that had transacted with the state in the 12 months of the previous financial year should be declared. A database should be maintained of all closed projects, with their performance results. Where a tender is subsequently received from companies that had previously submitted tenders to state departments, reference to their previous performance should be made and the decision to award the tender should be influenced by the latter.
- (d) An integration of the PSC system and CIPRO must be considered. An investigation will have to be conducted to establish whether the forms are kept manually or electronically. If the system is manual, a feasibility study on whether to change from manual to electronic is recommended.

7.4 Deviation from the supply chain management process and cases where a conflict of interest existed

7.4.1 Regulations

- (a) *Practice note number SCM 2 of 2005* prescribes the procurement process of goods and services for the different thresholds as follows:
- (i) Paragraph 2 - above the value of R2 000 but not exceeding R10 000 (VAT included): the accounting officer may procure goods and services by obtaining at least three verbal or written quotations.
 - (ii) Paragraph 3 - above the value of R10 000 but not exceeding R200 000 (VAT included): the accounting officer should invite and accept written price quotations from as many suppliers as possible.
 - (iii) Paragraph 4 - the accounting officer should invite competitive bids for all procurement above R200 000.
 - (iv) Paragraph 4.2, which covers the procurement of goods and services above R200 000: goods, works or services may not be deliberately split into parts or items of a lesser value merely to avoid complying with the prescribed thresholds, and must as far as possible be treated and dealt with as a single transaction.
- (b) Paragraph 3.4 of *Practice note number SCM 2 of 2005* prescribes that the accounting officer/authority should apply the prescripts of the PPPFA and its associated regulations for all procurement equal to or above R30 000 (VAT included).
- (c) Paragraph 4.4.5 of the *Explanatory manual on the code of conduct for the public service* (a practical guide to ethical dilemmas in the workplace), which deals with employees who engage in transactions or actions that are in conflict with or infringes on the execution of their official duties, states: *In order to bring about and maintain trust in the public service, all employees are expected to serve in a loyal and dedicated manner. This requires employees not to get involved, either on or off duty, in matters or activities that could:*
- (i) *be regarded as being fraud or theft;*
 - (ii) *interfere with the carrying out of their duties;*
 - (iii) *influence the way in which they do their work;*
 - (iv) *influence their objectivity in making decisions;*
 - (v) *create embarrassment for the State as employer or*
 - (vi) *be perceived to potentially prejudice or favour certain parties.*

Furthermore, example 2 states that *an employee may not serve on the board of an organisation/business with which his or her department does business.*

- (d) Treasury Regulation (TR) 16A8.4 states the following: *If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must –*
- (i) *disclose that interest; and*
 - (ii) *withdraw from participating in any manner whatsoever in the process relating to that contract.*

7.4.2 Findings relating to deviations from the supply chain management process

Cases were identified where the departments did not comply with the prescripts of *Practice note number SCM 2 of 2005* and the PPPFA. The majority of the amounts relating to these transactions were immaterial. The following cases were identified:

- (a) Five cases were identified where three verbal or written quotations were not obtained where the value was above R2 000 but not exceeding R10 000.
- (b) Two cases were identified where three written quotations were not obtained where the value was above R10 000 but not exceeding R200 000.
- (c) In two cases a list of prospective suppliers was not available and in three cases the lowest quotations were not accepted.
- (d) Non-compliance with paragraph 4.2 of *Practice note number SCM 2 of 2005* was identified. The said paragraph states that goods, works or services may not be deliberately split into parts or items of a lesser value merely to avoid complying with the prescribed thresholds. At the Department of Social Development a case was identified where a company rendered similar services on 24 occasions, with a quotation being obtained each time. The total amount of the 24 transactions was R649 412 for the 2005-06 financial year. At the Department of Arts and Culture a company rendered similar services on eight occasions, with a quotation being obtained each time. The total amount of the eight transactions was R231 046 for the 2005-06 financial year.
- (e) Three cases were identified where transactions were split to remain below the R30 000 threshold. For example, two or more quotations with a total

value in excess of R30 000 were issued within a short period for the same product or service.

- (f) Two cases were identified where the 80/20 preference point system was not correctly applied.

7.4.3 Recommendations by the Auditor-General

- (a) The relevant departments were requested to strengthen measures to ensure that the required number of quotations are obtained and that the lowest quotation is accepted.
- (b) When departments prepare lists of prospective suppliers, they should request companies and CCs to disclose whether any of their directors, shareholders or members are employed in government. This includes disclosure of spouses and close relatives.
- (c) For all goods and services procured in excess of R200 000, the accounting officers should invite competitive bids. Quotations and tenders should not be split into parts or items of a lesser value to avoid complying with the prescribed thresholds. Furthermore, goods and/or services that are procured on a regular basis should not be split, for example, the monthly procurement of stationery. Better prices and conditions can be negotiated for goods and services procured over a long period.
- (d) The bid evaluation committees and bid adjudication committees should ensure that the 80/20 and 90/10 preference point system is correctly applied, taking into account the threshold values.

7.4.4 Findings relating to cases where a conflict of interest existed

Cases were identified where a conflict of interest existed with respect to the transactions as set out below:

- (a) **Department of Agriculture**
 - (i) Four quotations amounting to R33 040 were submitted by a CC of which an employee was a member, for the attention of the senior administrative officer (SAO) in the directorate of procurement and asset management. Three of the payments were approved by the same individual who certified the notice of receipt: goods/services form indicating that the item(s) or service(s) had been received in good order and that payment should be made. It was established

that this SAO was the father of the CC member. The member of the CC was also employed at the department, but has since resigned.

- (ii) It also appeared that the above procurement was split into four transactions in order to avoid having to comply with the PPPFA, which should apply to all procurement equal to or above R30 000.
- (iii) Furthermore, the code of conduct for supply chain management practitioners was signed by the SAO who failed to adhere to this code or to Treasury Regulation (TR) 16A8.3 as he had not disclosed the conflict of interest that existed when he evaluated quotations obtained for the contract and when he approved payment to the CC in which his son has an interest.
- (iv) In a separate case, a quotation for catering services was faxed to an individual in the finance division. On the same day, the CC in which the individual in the finance division has an interest, also submitted a quotation for catering services. It appears that this individual had access to confidential information regarding the procurement which she could have used to the advantage of her CC. The amount paid in this regard was R20 000.

(b) **Response from the Department of Agriculture**

The department investigated the transactions and recommended that the above officials be formally charged with misconduct for failing to declare their conflict of interest, and with contravention of the PSA.

(c) **Department of Arts and Culture**

A designated employee did not complete and submit his financial disclosure form for the 2005-06 financial year, nor did he apply for approval from the relevant executing authority to perform remunerative work outside the public service. His involvement was declared on the financial disclosure form for the 2004-05 financial year. However, an agreement was signed in the 2005-06 financial year between his CC and the department with regard to financial support granted by the department to the CC. The grant of R287 000 was made to enable the CC to stage a show. The designated employee signed the agreement with the CC as representative of the department, while he also had a 50% membership in the CC.

(d) **Department of Communications**

The departmental information technology committee is responsible for selecting and approving vendors from the management service tender of the State Information Technology Agency (SITA). A spouse-related company provided information technology (IT) services amounting to

R551 002 to the department during the period under review. It was found that the chairperson of the committee is the husband of a person with an interest in this company, but had not declared the conflict of interest. Payments to this company amounting to R403 240 were approved while he was the chairperson of the committee.

(e) **Department of Correctional Services**

- (i) A CC in which a non-designated official of the department has a 50% membership was awarded a contract and was paid R645 795 by the department during the period under review. The CC indicated on its SBD 4 form that an employee of the department was connected to the CC. However, no particulars of the employee were provided, and the supporting documents did not indicate whether the department had followed up on this declaration. This employee did not have approval to perform other remunerative work.
- (ii) A CC, of which a non-designated official of the department was a member, was awarded a contract amounting to R72 000. The CC did not declare the financial interest of this employee, as the bid documentation indicated that no employee of the department had a financial interest in the CC. It was confirmed with CIPRO that this employee had been a member of the CC at that time, but had subsequently resigned from the CC.
- (iii) Another CC in which the spouse of an employee of the department has a 100% membership did business with the department to the value of R211 802. It was found that the quotations and invoices had been signed in her maiden name.

(f) **Department of Education**

A designated official was identified who had resigned as director from a company (subsidiary) that did business with the department, but she still held her shares. It was also found that she was a director of the holding company of the company that did business with the department. According to the financial disclosure form signed by the employee, she did not disclose her directorship of the holding company, nor did she disclose the shares held in the subsidiary that did business with the department. The subsidiary received a tender to the value of R30 303 249 from the department. There was no indication on the declaration of interest form signed by the regional manager of the company that employees working at the department had an interest in the company.

(g) **Department of Labour**

According to *Practice note number SCM 2 of 2005*, a list of prospective suppliers per commodity must be compiled. Once the list had been compiled, price quotations should be invited from the list on a rotational basis in such a manner that ongoing competition between suppliers is promoted. Prospective suppliers must be allowed to submit applications for listing at any time. In this regard the following was noted:

- (i) A particular CC in which an employee of the department has an interest was not on the list of prospective suppliers, but quotations were requested from this CC. The department did business with this CC on nine occasions, with transactions totalling R68 465.
- (ii) In a separate case, three quotations were received for a catering service. All three quotations were faxed from the same number at the same date and time, which is an indication that the quotations from all three entities were sent by the same person. Although no value-added tax (VAT) was charged by the CC on the invoice amounting to R3 600, a VAT number was included on the invoice. According to the database of the South African Revenue Service (SARS), the entity was not registered for VAT.

(h) **Department of Trade and Industry**

A company, of which the spouse of an employee of the department is a director, successfully tendered for a contract to the value of R360 900. The company indicated on the declaration of interest form submitted with the tender that there was no relationship (family, friend or other) between the company and any person employed by the department.

(i) **Department of Water Affairs and Forestry**

- (i) Tax invoices from a CC were made out to the department for the attention of the chief industrial technician (CIT). The CIT's spouse is a member of the CC that did business with the department during the financial year. In two instances the invoices were approved for payment by the CIT. In total R171 369 was paid to the CC.
- (ii) An employee of the department has a 50% interest in a CC that successfully quoted to cater for a workshop for an amount of R23 400. Although three quotations were received, the dates of the other two quotations were the same and both were marked for the attention of the official who has a 50% interest in the CC. The successful quotation was not dated and the risk existed that the employee had access to privileged information regarding the

amounts quoted, which is in contravention of paragraph 1.3 of *Practice note number SCM 4 of 2003*. It also appears that this employee was involved in the procurement, as he had prepared and signed the VA 7 (issue/receipt document) that was attached to the payment documentation. On further investigation it was found that the other two companies that submitted quotations were both owned by the same person (not an employee of the department), which is in contravention of the Competition Act, 1998 (Act No. 89 of 1998) with regard to collusive tendering.

7.4.6 Recommendations by the Auditor-General

- (a) The relevant departments were requested to follow up on these transactions to determine whether there had been preferential treatment and/or fraudulent actions in the allocation of the tenders and contracts. The departments should also consider blacklisting these entities and their directors/members at the National Treasury.
- (b) Where a government employee (designated or non-designated) is in a position to influence the process whereby contracts or tenders are allocated to entities at other government departments, spousal directorships or memberships of entities transacting with these departments should also be disclosed.
- (c) Disciplinary action should be taken if it is discovered that preferential treatment was given to a specific employee or his/her company or CC, or if fraudulent activities took place.

7.4.7 General responses from the above departments

The departments indicated that they would follow up on the transactions to determine whether preferential treatment and/or possible fraudulent actions had been involved.

7.4.8 Response from the Accountant-General

Information on the outcome of the investigations should be obtained and disciplinary action taken where it is discovered that preferential treatment and/or fraud took place. The responses received from the departments in this regard were insufficient.

7.5 Non-compliance with certain Treasury Regulations

7.5.1 Regulations

- (a) TR 16A8 regulates compliance with ethical standards. In accordance with TR 16A8.2 and *Practice note number SCM 4 of 2004*, all employees and other role players involved in supply chain management must adhere to the National Treasury's code of conduct for supply chain management practitioners.
- (b) TR 16A8.5 states that an official in the supply chain management unit who becomes aware of a breach of, or failure to comply with, any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer in writing.
- (c) TR 16A9.2 states that the accounting officer may disregard the bid of any bidder if that bidder or any of its directors had abused the institution's supply chain management system; had committed fraud or was guilty of any other improper conduct in relation to such system, or had failed to perform on any previous contract.
- (d) *Practice note number SCM 5 of 2004* states in paragraph 3.1(b) that accounting officers should make provision for the training of at least the practitioners who are involved in the day-to-day operations of supply chain management.

7.5.2 Findings

- (a) Although the National Treasury's code of conduct must be adhered to, there is no legal requirement for employees working as supply chain management officials to sign a code of conduct. Departments generally did not have a signed code of conduct.
- (b) Of the 20 national departments, 17 (85%) indicated that supply chain management officials had not been aware of any breach of, or failure to comply with, any aspect of the supply chain management system during the 2005-06 financial year, while supply chain management officials at two departments (10%) reported cases to the accounting officer. One department did not respond. Of the two departments where cases were reported to the accounting officer, one indicated that no action was taken by the accounting officer as required by TR 16A9.1(b).
- (c) Of the 20 national departments, 19 (95%) indicated that the accounting officer did not disregard bids, as no cases were identified where a bidder or

any of its directors had abused the institution's supply chain management system. One department did not respond.

- (d) In general, the majority of national departments trained the relevant staff members in accordance with *Practice note number SCM 5 of 2004*. Cases were identified where training had been cancelled, which was beyond the departments' control. Cases were also identified where regional supply chain management employees had not been trained. Staff turnover also impacted on the departments' ability to retain trained supply chain management employees.

7.5.3 Recommendations by the Auditor-General

- (a) All departments should request supply chain management employees to sign a code of conduct. Newly appointed staff or staff transferred to the supply chain management unit should also be required to sign the code of conduct.
- (b) All departments should implement measures to ensure compliance with TR 16A8.5 and TR 16A9.2.

7.5.4 Responses from departments

The departments generally indicated that a process would be implemented whereby supply chain management employees will be required to sign a code of conduct.

7.6 Non-compliance with value-added tax legislation

7.6.1 Regulations

- (a) Section 23(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991) (VAT Act) states that all trading entities must register for VAT if taxable supplies or services rendered during a 12-month period exceeded or are likely to exceed R300 000.
- (b) Section 59(1)(g) to (i) of the VAT Act states: *Any person who with intent to evade the payment of tax levied under this Act or to obtain any refund of tax under this Act to which such person is not entitled or with intent to assist any other person to evade the payment of tax payable by such other person under this Act or to obtain any refund of tax under this Act to which such other person is not entitled –*

- g) *knowingly issues any tax invoice, credit note, or debit note required under this Act which is in any material respect erroneous or incomplete; or*
 - h) *knowingly issues any tax invoice showing an amount charged as tax where the supply in respect of which the tax is charged will not take place; or*
 - i) *for the purposes of section 16(2), fabricates, produces, furnishes or makes use of any tax invoice, debit note, credit note, bill of entry or other document contemplated in that section knowing the same to be false, shall be guilty of an offence ...*
- (c) In terms of section 20(4) of the VAT Act, the following information must be reflected on a tax invoice for it to be considered valid:
- (i) The words "tax invoice" in a prominent place
 - (ii) Name, address and VAT registration number of the supplier
 - (iii) Name and address of the recipient
 - (iv) Serial number and date of issue
 - (v) Accurate description of goods and/or services
 - (vi) Quantity or volume of goods or services supplied
 - (vii) Price and VAT.

7.6.2 Findings

- (a) The following cases were identified where companies and CCs, of which employees are directors or members, did business with national departments in excess of R300 000 while not registered for VAT (table 3):

Table 3: Companies doing business in excess of R300 000 but not registered for VAT

Department	Amount paid	Number of companies
Home Affairs	R423 203	1
Minerals and Energy	R1 662 753	3
Total	R2 085 956	4

- (b) The following cases were identified where companies or CCs that are registered for VAT did not disclose the VAT amount and/or VAT number, or where companies or CCs charged VAT although they are not registered for VAT (table 4):

Table 4: Invalid tax invoices

Department	Amount paid	Shortcoming
Public Service and Administration	R835 164	No VAT number on invoice
Housing	R43 776	VAT amount and VAT number not on invoice, but registered for VAT
Land Affairs	R302 100	VAT number on invoice differs from information on SARS website
Agriculture	R20 000	Charged VAT, but not registered
Water Affairs and Forestry	R44 962	Charged VAT, but not registered
Total	R1 246 002	

7.6.3 Recommendations by the Auditor-General

- (a) Where a contract in excess of R300 000 is approved, departments should ensure that the company or CC is registered for VAT with SARS.
- (b) Departments should ensure that invoices comply with the VAT Act before authorising payments.
- (c) Departments should withhold payments until proof of registration is obtained from the company or CC. The proof of registration should first be verified with SARS before payment is made.
- (d) Employees should be trained to identify non-compliant institutions and insist that they comply with the VAT Act before payment is effected.

7.6.4 Responses from departments

The companies were informed of the VAT Act requirement to register if the taxable supplies exceed R300 000.

7.6.5 Response from the Accountant-General

A follow-up review should be performed to determine the outcome of disciplinary actions. If accounting officers receive this information but do not address the problem, it will not improve the overall control measure.

8. GENERAL COMMENTS FROM THE DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

8.1 General comments

The DPSA welcomed the report in light of the projects undertaken on the management of conflict of interest, as well as reforms to the system of declaration of interests. These projects are planned to be completed in the 2007-08 financial year. This report highlighted challenges regarding the application of the existing regulatory framework in a very practical manner, which in turn informs policy improvements.

8.2 Performance of remunerative work

8.2.1 A key question to address is whether a directorship can be regarded as remunerative work. The DPSA commented that a legal opinion would be obtained to clarify section 30 of the PSA, which is not specific as to what constitutes remunerative work. Section 118 of the Correctional Services Act, 1998, is clearer about conduct that is prohibited, but does not deal with the question of what constitutes remunerative work. SAPS's *National instruction 7/2000* is clearer as it deals with a prohibition in a more comprehensive manner by including concepts of engaging in business and commercial activity.

8.2.2 Employees should not participate in any activity that represents a conflict of interest and, as such, the matter of deriving an interest from a directorship, serving on a board or just owning shares will form part of the conflict of interest project under review.

8.3 Declaration of interests

8.3.1 There are indeed challenges with application, as highlighted by the Auditor-General and the PSC. Although compliance remains one such challenge, limitations also exist when it comes to assessing and monitoring declarations. These challenges and limitations were considered as part of a review of the system for declarations of interest.

8.3.2 The possibility of extending the system to non-designated employees and supply chain management officials had been considered before and it was decided not to extend the system. However, in light of the recommendations and findings made in this report, the extension of the system would be reconsidered.

9. APPRECIATION

The assistance of all role players involved during the performance audit is sincerely appreciated.

Auditor-General

Pretoria

August 2008



A U D I T O R - G E N E R A L

ABBREVIATIONS AND ACRONYMS

Word or phrase	Description
Auditor-General	(a) As an institution, means the institution contemplated in section 181(1)(e) of the Constitution (b) As an individual, means the individual appointed as Auditor-General, Mr Terence Nombembe
BAS	Basic Accounting System
CAATs	Computer-assisted audit techniques
CIT	Chief industrial technician
CIPRO	Companies and Intellectual Property Registration Office
CC	Close corporation
Designated employee	Any person occupying a post on SMS grade C (13) or higher in a national department
DPSA	Department of Public Service and Administration
Employee-related companies/CCs	Companies/CCs that are connected with government employees in terms of directorship or membership
Government employee	A person in the public service who holds a post on the fixed establishment of a state institution
IT	Information technology
National department	Any national department
Non-designated employee	Employees other than designated employees
PAA	Public Audit Act, 2004 (Act No. 25 of 2004)
Persal	Personnel and Salary System
PFMA	Public Finance Management Act, 1999 (Act No. 1 of 1999)
Polfin	South African Police Service Financial System
PPPFA	Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
PSA	Public Service Act, 1994 (Act No. 103 of 1994)
PSC	Public Service Commission
PSR	Public Service Regulations, 2001
SAO	Senior administrative officer
SAPS	South African Police Service
SARS	South African Revenue Service
SBD	Standard bidding documentation
SCM	Supply chain management
SITA	State Information Technology Agency
SMS	Senior management staff
ST	Standard tender
TR	Treasury Regulation
VAT Act	Value-Added Tax Act, 1991 (Act No. 89 of 1991)
VAT	Value-added tax

ANNEXURE A

EMPLOYEE-RELATED COMPANIES AND/OR CCs DOING BUSINESS WITH OWN DEPARTMENTS

Table 5 is a summary of the number of employees who are directors or members of companies and/or CCs that did business with the departments where they are employed.

Table 5: Employee-related companies and CCs doing business with own departments

		List of employees doing business with own departments without approval		
	Department	Number of employees	Number of companies	Amount paid for the 2005-06 financial year
1	The Presidency	♣	♣	♣
2	Parliament	♦	♦	♦
3	Foreign Affairs	♣	♣	♣
4	Home Affairs	1	1	5 680
5	Provincial and Local Government	♣	♣	♣
6	Public Works ●	♣	♣	♣
7	Government Communication and Information System (GCIS)	♦	♦	♦
8	National Treasury	♣	♣	♣
9	Public Enterprises	♣	♣	♣
10	Public Service and Administration	♣	♣	♣
11	Public Service Commission	♦	♦	♦
12	South African Management Development Institute (SAMDI)	♣	♣	♣
13	Statistics South Africa	2	2	13 044
14	Arts and Culture	2	2	298 859
15	Education	2	2	30 325 063
16	Health ●	♣	♣	♣
17	Labour	4	4	78 626
18	Science and Technology	1	1	730
19	Social Development	1	1	20 748
20	Sport and Recreation South Africa	♦	♦	♦
21	Correctional Services ●	4	4	1 037 526
22	Defence	■	■	■
23	Independent Complaints Directorate	♦	♦	♦
24	Justice and Constitutional Development	♣	♣	♣
25	South African Police Service	5	5	144 006
26	Agriculture ●	2	2	55 164
27	Communications	♣	♣	♣
28	Environmental Affairs and Tourism	♣	♣	♣
29	Housing	1	1	43 776
30	Land Affairs	♣	♣	♣
31	Minerals and Energy	♣	♣	♣
32	Trade and Industry	♣	♣	♣
33	Transport	♣	♣	♣
34	Water Affairs and Forestry	5	5	100 668
	Total	30	30	32 123 890

- Includes payments for 2004-05 and 2005-06.
- ♣ Although cases were identified in the exception reports, it was confirmed that the employees had resigned from the companies or CCs as directors or members prior to the transaction occurring and such cases are therefore not included.
- ♦ No cases were identified in the original exception reports.
- Audit to be conducted by the regularity auditors and findings, where appropriate, will be included in the regularity audit report.

ANNEXURE B

EMPLOYEES' SPOUSE-RELATED COMPANIES AND/OR CCs DOING BUSINESS WITH OWN DEPARTMENTS

Table 6 is a summary of the number of employees' spouses who are directors or members of companies and/or CC that did business with the departments where their spouses are employed.

Table 6: Employees' spouse-related companies doing business with own departments

	Department	Number of employees	Number of companies	Amount paid for the 2005-06 financial year
1	The Presidency	♣	♣	♣
2	Parliament	♣	♣	♣
3	Foreign Affairs	♣	♣	♣
4	Home Affairs	♣	♣	♣
5	Provincial and Local Government	♣	♣	♣
6	Public Works	1	1	139 970
7	GCIS	♣	♣	♣
8	National Treasury	1	1	11 172
9	Public Enterprises	1	1	25 136
10	Public Service and Administration	♣	♣	♣
11	Public Service Commission	♣	♣	♣
12	SAMDI	♣	♣	♣
13	Statistics South Africa	●	●	●
14	Arts and Culture	♣	♣	♣
15	Education	♣	♣	♣
16	Health	●	●	●
17	Labour	3	3	99 692
18	Science and Technology	♣	♣	♣
19	Social Development	1	2	187 928
20	Sport and Recreation South Africa	♣	♣	♣
21	Correctional Services	1	1	211 802
22	Defence	♦	♦	♦
23	Independent Complaints Directorate	♣	♣	♣
24	Justice and Constitutional Development	♣	♣	♣
25	South African Police Service	1	1	71 583
26	Agriculture	●	●	●
27	Communications	1	1	569 592
28	Environmental Affairs and Tourism	1	1	9 897
29	Housing	1	1	26 209
30	Land Affairs	♣	♣	♣
31	Minerals and Energy	♣	♣	♣
32	Trade and Industry	1	1	360 890
33	Transport	♣	♣	♣
34	Water Affairs and Forestry	6	6	252 277
	Total	19	20	1 966 148

- Although cases were identified in the exception reports, it was confirmed that the employees had resigned from the companies or CCs as directors or members prior to the transaction occurring and such cases are therefore not included.
- ♣ No cases were identified in the original exception reports.
- ♦ Audit to be conducted by the regularity auditors and findings, where appropriate, will be included in the regularity audit report.

EMPLOYEE-RELATED COMPANIES AND/OR CCs DOING BUSINESS WITH OTHER NATIONAL DEPARTMENTS

Table 7 is a summary of the number of employees who are directors or members of companies and/or CCs that did business with other national departments.

Table 7: Employee-related companies and CCs doing business with other national departments

	Department that paid the company	List of employees doing business with approval			Amount paid for the 2005-06 financial year	List of employees doing business without approval	
		Number of employees	Number of companies	Amount paid for the 2005-06 financial year		Number of employees	Amount paid for the 2005-06 financial year
1	The Presidency	●	●	●			
2	Parliament	●	●	●			
3	Foreign Affairs	1	1	20 954 545			
4	Home Affairs	●	●	●			
5	Provincial and Local Government	●	●	●			
6	Public Works	●	●	●			
7	GCSIS	●	●	●			
8	National Treasury	●	●	●			
9	Public Enterprises	0	0	0	1	53 000	
10	Public Service and Administration	●	●	●			
11	Public Service Commission	●	●	●			
12	SAMD	●	●	●			
13	Statistics South Africa	0	0	0	1	2 003	
14	Arts and Culture	●	●	●			
15	Education	0	0	0	2	1 041 403	
16	Health	●	●	●			
17	Labour	●	●	●			
18	Science and Technology	●	●	●			
19	Social Development	●	●	●			
20	Sport and Recreation South Africa	●	●	●			
21	Correctional Services	●	●	●			
22	Defence	●	●	●			
23	Independent Complaints Directorate	●	●	●			
24	Justice and Constitutional Development	0	0	0	6	1 487 002	
25	South African Police Service	0	0	0	5	140 652	
26	Agriculture	●	●	●			
27	Communications	●	●	●			
28	Environmental Affairs and Tourism	●	●	●			
29	Housing	1	4	17 210 512	1	878 940	
30	Land Affairs	●	●	●			
31	Minerals and Energy	●	●	●			
32	Trade and Industry	●	●	●			
33	Transport	1	1	439 958			
34	Water Affairs and Forestry	●	●	●			
	Total	3	6	38 605 015	16	3 603 000	

● Although cases were identified in the exception reports, it was confirmed that the employees had resigned from the companies or CCs as directors or members prior to the transaction occurring and such cases are therefore not included.

● No cases were identified in the original exception reports.

● Audit to be conducted by the regularity auditors and findings, where appropriate, will be included in the regularity audit report.