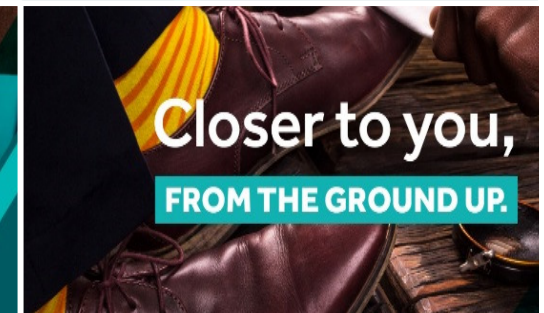


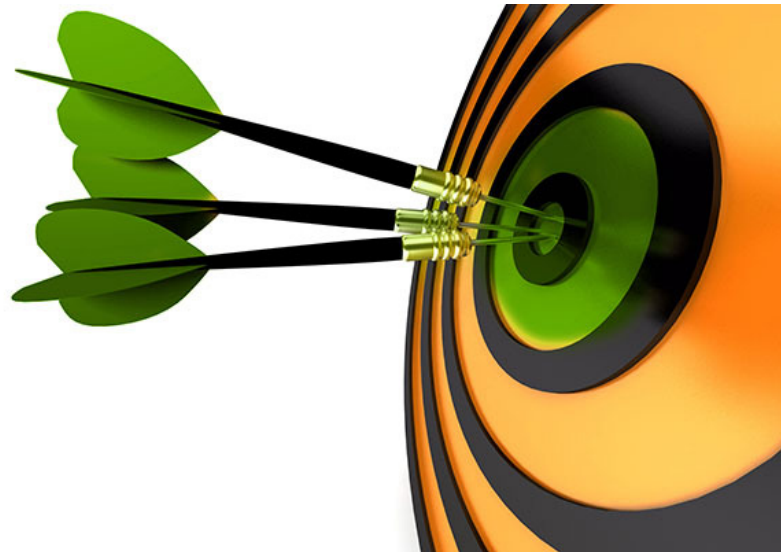
## Department of Home Affairs

# Forensic Investigation into the Appointment of EOH Mthombo (Pty) Ltd for the Automated Biometric Identification System (ABIS)



# Purpose of the Presentation

- Provide feedback in respect of the findings, conclusions and recommendations for the investigation conducted on the Accreditation Phase (RFB1412/2016) and Award Phase (RFP1498/2016) relating to the ABIS contract



# Contents

- Background
- Scope of Investigation
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- Findings - RFB 1412/2016
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- Recommendations
- AGSA Findings vs Nexia SAB&T Findings
- The End



# Background

- The DHA, together with SITA as procurement agent, concluded a tender process and appointed a service provider to design, provision, customization, integration, migration of existing data, commissioning, maintenance, and support of ABIS and business process for a period of five years.
- The audit performed by the AGSA during 2018/2019 declared that the contract was awarded irregularly.
- DHA appointed Nexia SAB&T to conduct a forensic investigation and to provide responses to the findings made by the AGSA on the process followed by both SITA and DHA on the appointment of the service provider.

# Scope of Work

The scope of the investigation were as follows:

- Conduct interviews with DHA & SITA staff members to get an understanding of the SCM process
- Review the findings of the AGSA that led to the irregularity on the ABIS contract
- Review compliance with SCM regulations
- Hold interviews with all stakeholders
- Review of all relevant documentation
- Review the impact of the change of sub-contractors during the contracting stage of the evaluation process

# Limitations

We experienced the following limitations during the investigation:

- DHA provided us with a reconstructed Masterfile in respect of the accreditation phase as the original file cannot be located. The file contained minutes of meetings that appears to be created for the purpose of the file; minutes are not approved; attendees of meetings are not listed; resolutions are not captured; declaration of interest & secrecy declaration were not completed by attendees.
- According to SITA they only keep the mimecast data for employees for 6 months after termination of their employment - we were unable to obtain information for the erstwhile CFO of SITA & Chairperson of the EPC.
- SITA indicated that the digital imaging for SITA Programme manager (now deceased) was not done after he had retired & therefore not available.
- We cannot guarantee the authenticity of the information as we were provided with copies and not original documentation
- Not all documentation requested for analysis was made available.

# Limitations Continued

- The copies of physical bid documents do not correspond to the electronic version, and were incomplete.
- Various employees from both SITA and DHA involved in the procurement process are no longer employed by the entities.
- Various (17) versions of contracts were made available by ENSafrica which we had to review to determine the reasons for the change of sub-contractors at contracting stage.

# Findings – RFB 1412/2016

## Supply Chain Management Compliance:

- RFB 1412/2016 was advertised on 22 April 2016 on the National Treasury eTender Publication, Government Tender Bulletin & SA-Tenders
- The briefing session was held on 06 May 2016
- Amendments to the RFB and the bid closing date were not published in the media originally utilised for publishing the RFB
- *SITA submitted a request for Business Case to DHA (12 May 2016), more than one year after the request for assistance to SITA, and after the advertisement for the bid was published and the compulsory briefing session held*
- The delay in submitting the business case was caused by the specifications that had to be drafted and included in said document
- 16 Proposals were received – 1 disqualified as it was received late
- *Bidders who did not submit their B-BBEE and Tax Clearance Certificates had 7 days to provide same from the closing date of the tender. No evidence was found to confirm whether bidders did submit same*



# Findings Continue – RFB 1412/2016

## Supply Chain Management Compliance:

- The administrative compliance process indicated at all 15 bidders qualified in terms of the process. We found that Supercom, Indra Technology and Thornburn was not compliant as they did not supply all the required documentation
- During the Technical Evaluation we found that attendance registers of meetings were provided but minutes of meetings were not kept and the Technical Scoresheets provided were illegible which prohibited us from conducting a recalculation.
- Bidders had to be financially solvent and had to provide 3-years audited financial statements (AFS)
- On 17 July 2016, the BEC members deliberated on whether it should be allowed to request bidders to provide individual AFS as group/consolidated AFS were provided
- BEC Facilitator advised that clarification is allowed in the SITA SCM policy.
- SITA SCM, IA and Legal advised that the information can be requested from the bidders.

# Findings Continue – RFB 1412/2016

## Supply Chain Management Compliance:

- Technical Evaluator – CFO DHA noted that the re-evaluation process followed did not constitute clarification but a request for addition information, and should not be allowed. He stated that it was going to give an unfair advantage to these bidders and that the process was compromised.
- On 04 August 2016, 3-years AFS were requested from Altron, Accenture, Indra and EOH.
- The re-evaluation on 01 September 2016, indicated that Accenture, Sizwe Africa, Supercom, NEC, Mediro, E&Y, EOH and Barone, Budge & Dominick (BBD) were solvent
- Our analysis indicated that –
  - MVT (EOH sub-contractor) submitted financial statement for BBD
  - EOH provided group financial statements and not bidder financial statements
  - E&Y did not submit financial statements as they indicated that it was confidential and was later provided to a designated SITA official
  - Accenture provided group financial statements
  - No irregularities were identified for NEC

# Findings Continue – RFB 1412/2016

## Supply Chain Management Compliance:

- The additional information requested from the four bidders does not constitute clarification as additional information was provided. These bids should have been declared non-responsive as they did not provide the correct information
- The request was inconsistent as bidders who did not submit AFS for the whole period, was not requested to provide same
- The FEC was negligent in that they requested additional information, which was conflicting to the SITA SCM policy, where information for clarification can be requested
- BBD declared their interest in MVT, a sub-contractor for EOH. EOH did however not declare their interest in MVT
- A Director BBD & MVT did not declare his interest into EOH, who also submitted a bid for RFB 1412/2016. This poses a potential risk of collusive bidding or potential bid rigging.

# Findings Continue – RFB 1412/2016

## Supply Chain Management Compliance:

- Despite failing to adhere to the prescripts of the legislation, policies and documents, Accenture, EOH, EY and NEC were recommended to participate in RFP1498/2016 by the BEC
- Our review performed indicated that only NEC complied with the requirements and should have been accredited
- DHA implemented several precautions i.e. appointing ARMS & relied on the recommendation from SITA
- We do not agree that the process was fair as the information requested from the four bidders does not constitute clarification but additional information.
- We reviewed the SITA Internal Audit report and found that no finding was made in respect of the request for additional information.
- SITA Internal Audit applied their discretion on the conflict issue and deemed it immaterial. We disagree, the respective director was an active Director for MVT and BBD during both the accreditation and award phases.

# Findings Continue – RFB 1412/2016

## Supply Chain Management Compliance:

- Our review of the ARMS Compliance Review report has the same findings as we made against the SITA Internal Audit report.
- *SITA misrepresented their own policy when they requested the bidders to submit additional information whereas the bid document was clear in that the bidder had to submit their AFS.*

# E-mail Communication from ENSafrica – leak of information

- ENSafrica was appointed by the EOH CEO to investigate EOH’s dealings with government bodies. ENSafrica provided us with correspondence found on the EOH server in respect of the ABIS project.
- *Communication were found between the Strategic Account Executive – EOH, Principal IT Manager / Architect – SITA, EOH Executives. All correspondence with Principal IT Manager / Architect – SITA was through his Gmail account and not his official SITA email account.*
- *The communication found occurred between 25 August 2015 and 22 February 2017*
- *Topics, including the budget, strategic projects, EOH SITA Priority Projects, advertisement for RFP1498/2016, were discussed*
- *On 25 August 2015, Strategic Account Executive – EOH forwarded correspondence to Principal IT Manager / Architect – SITA with EOH’s focus areas, indicating SAPS AFIS and DHA AFIS.*

# E-mail Communication from ENSafrica – leak of information

- On 08 September 2015, Strategic Account Executive – EOH wanted to know how it was going with 'friecken DHA' on which the Principal IT Manager / Architect – SITA responded that they were discussing modernization and that there was something for them.
- The Principal IT Manager / Architect – SITA identified several opportunities to EOH Executive including the HANIS ABIS project at DHA (08 October 2015).

Opportunities that we need to plan and action asap

| Department Home Affairs    |               |               |          |
|----------------------------|---------------|---------------|----------|
| Project                    | Action        | Team          | deadline |
| Hanis Avis                 | Business Case | IH and EOH BU | asap     |
| Satellite Vehicle Tracking | Business Case | IH and EOH BU | asap     |

- On 19 October 2015, Strategic Account Executive – EOH provided EOH Executive with the key projects and key areas that EOH needed to focus on. This included the DHA – Population Register. The Principal IT Manager / Architect – SITA was copied in this communication.
- On 24 November 2015, Strategic Account Executive – EOH submitted a PowerPoint presentation to The Principal IT Manager / Architect – SITA, referring to priority projects. This included –

6. HOME AFFAIRS (replace POP REG biometrics movement control)

# E-mail Communication from ENSafrica – leak of information

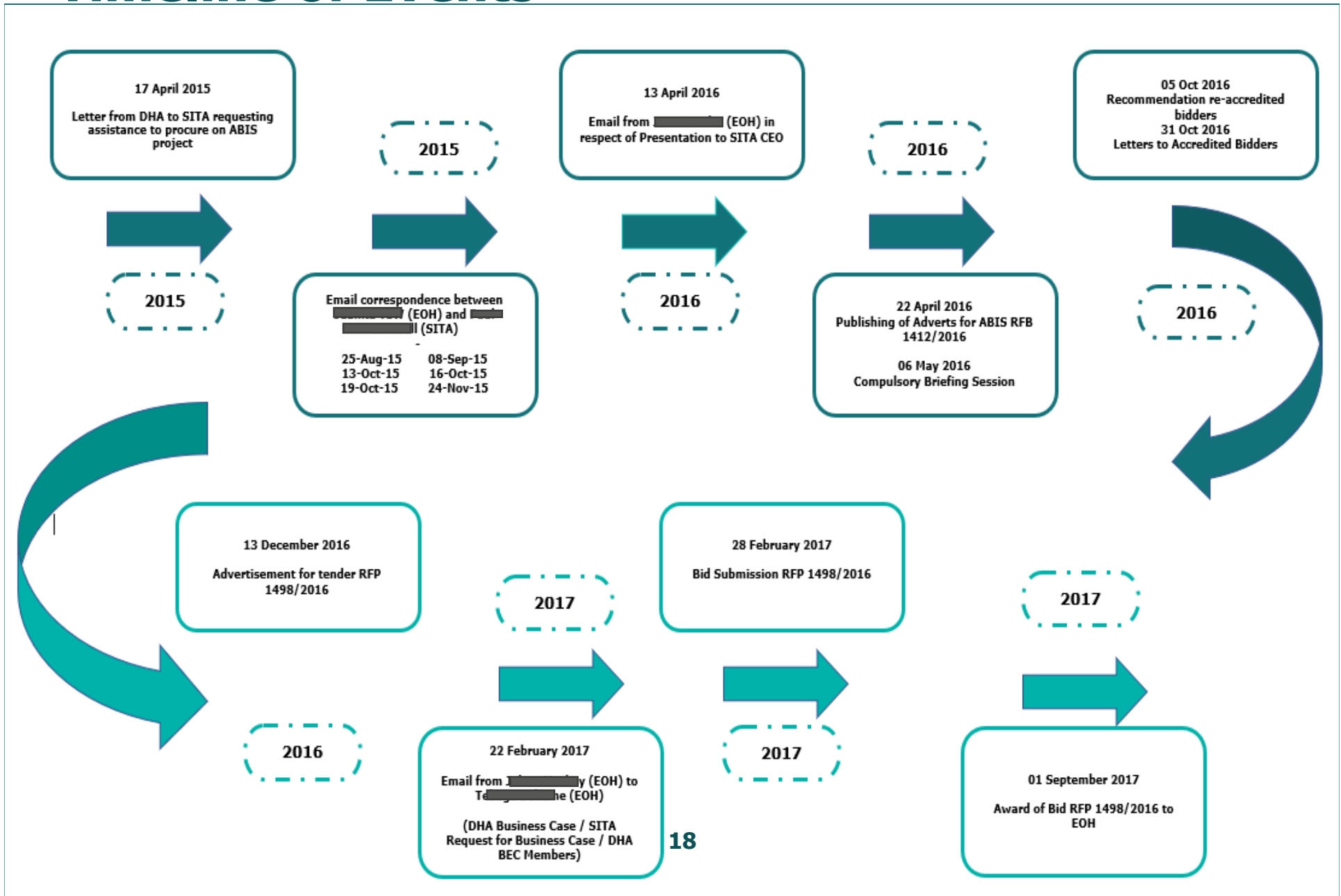
- In correspondence 03 April 2016, Strategic Account Executive – EOH discussed a retainer for Mr. Louw (alias for SITA: IT Manager) with EOH Executive. The correspondence also contained information in respect of "Mr. Louw's" imperative involvement moving forward, and his protection.
- This can be seen as compensation for the confidential information supplied to EOH.
- On 13 April 2016, Strategic Account Executive – EOH forward a PowerPoint presentation to SITA: IT Manager named Presentation DHA.
- The presentation referred to the Population Register / Biometric Identification Documentation / Movement Control / Administration.
- On 15 December 2016, Strategic Account Executive – EOH forwarded correspondence received from the Former CEO – EOH ICT Business to SITA: IT Manager, where DHA concerns were discussed. The initial correspondence stated that "Regarding DHA Louw shared his view regarding which products to use as this is his direct responsibility. He offered his help doing the tender"



# E-mail Communication from ENSafrica – leak of information

- On 22 February 2017, EOH Executive forwarded correspondence to EOH Managed Services/Public Sector. Attached to this correspondence was –
  - The appointment letters dated 16 March 2016, for DHA officials serving on the BEC for the HANIS Technology Upgrade project
  - Letter dated 12 May 2016, from SITA to the erstwhile DG: DHA requesting a business case for the HANIS Refresh project. This letter contained information in respect of the deliverables for the said project
  - Undated Business Case for "The provision of a request for accreditation (RFA) and a Request for Proposal (RFP) of a new multi-modal Biometrics Identification System for DHA". The Business Case was on what seems to be a DHA letterhead and contained the **bill of material; financial implications to DHA; BEC members from DHA and contact details of the DHA Project Manager.**

# Timeline of Events



# Findings – RFP 1498/2016

- The Specifications were not approved in line with the SCM policy
- The RFP advertisement fully met the requirements to advertise as per the SITA SCM Policies and the requirements in terms of National Treasury Regulations
- The Bid Closing and Opening process was in accordance with requirements of the SITA SCM Policy. At least 3 officials from SITA tender office were present during bids closing and opening
- Since we did not receive all relevant documentation, we could not confirm whether the NDAs and Declaration forms of members of the BSC and BEC were not completed or whether they were merely outstanding
- For transactions valued between R100 million and R500 million, where SITA acts as a procurement agency, the EPC has to refer its recommendations to BPC in terms of the DOA.
- The BPC supported the recommendation by the EPC to submit the recommendation for the award of the contract to EOH, to the DG of DHA for approval

# Findings Continue – RFP 1498/2016

- The SITA SCM Policy, provides that all tenders to a value of R100 million and above must be subjected to External Audit process integrity review and probity check before submission for approval by the adjudication committee
- SITA appointed Business Innovation Group (BIG) to conduct the external audit
- The DHA appointed a service provider called Audit and Risk Management Solutions (ARMS) to audit the procurement processes for the ABIS contract
- ARMS indicated that the SCM processes to appoint EOH were found compliant with SITA SCM Policy.
- The TEC as well as our IT experts confirmed that all the bidders complied with the technical mandatory requirements which were:
  - Multiple biometric modalities support
  - Commercial-off-the-shelf components
  - Compliance with international Biometrics standards
  - Life Cycle requirements

# Findings Continue – RFP 1498/2016

- It was a mandatory requirement that all hardware and software proposed in the solution must have a life cycle of at least five (5) years from the date of procurement
- Our IT Experts indicated that IT equipment usually come with a 3-year warranty. The suppliers and/or OEMs do not provide an end of life. In order for the equipment to have a 5-year lifespan, and an extended warranty must be purchased
- EOH indicated in their submission that all hardware is supplied with an extended warranty
- It was found that all the bidders complied with the technical functionality criteria
- One of the technical functional criteria was the requirement of an active / active solution
- Various differing viewpoints were raised on the bidder's submissions regarding this requirement by the external auditors and technical experts appointed by the DHA and SITA.

# Findings Continue – RFP 1498/2016

- Our interview with EOH Mthombo who won the bid, and the evaluation by our IT Experts indicated that EOH complied with this requirement
- SITA appointed a company called Core Focus as technical advisors.
- During our interview with the Director from Core Focus, he indicated that Core Focus were not technical experts in this specific area
- Core Focus submitted three reports, each differed in material ways.
- The reports were changed after the EPC meetings, as requested by the EPC. This statement was made by the Director of Core Focus
- The BEC (made up of the TEC and PEC), evaluated the bid on three occasions since it was referred back for re-evaluation by the EPC on two occasions.
- In the first submission by the BEC to the EPC, on 22 May 2017, certain exclusions were made by some bidders regarding the hardware and software licencing and the training structure. This resulted in all three (3) bidders being requested to clarify their pricing.

# Findings Continue – RFP 1498/2016

- EOH listed some exclusions and the PEC concluded that EOH was disqualified due to their pricing being incomplete.
- The pricing report contained a price breakdown which indicated that all the bidders had exclusions. The EPC therefore found that the decision to disqualify EOH for exclusions was not justifiable, and the EPC referred it back to the BEC.
- The second submission by the BEC to the EPC was made on 26 May 2017
- SITA – HOD tactical sourcing, informed the EPC that the price evaluators did not update its price report as they were of the opinion that the bidders were disqualified for non-responsiveness.
- She also stated that the document on exclusions were not compiled by all Price evaluators as some were not available for reconvening
- The EPC felt that the BEC did not address the issues that were raised by the EPC on 23 May 2017 and referred the submission back to the BEC to be re-evaluated.

# Findings Continue – RFP 1498/2016

- During the 3rd evaluation, the TEC conducted a due diligence exercise where after they found that the exclusions were not material & that EOH complied with the technical specifications.
- In the 3rd submission by the BEC to the EPC, they recommended that the contract be awarded to EOH.
- The EPC then sent a submission to the BPC to recommend the award to EOH, to the DG of DHA.
- The DHA appointed a company called Gartner to review the RFP process, incl the Bill of Materials.
- The BAC of the DHA supported this recommendation to the DG of the DHA
- The subcontractors indicated in the contract between EOH and the DHA differed from the subcontractors based on which EOH was accredited.
- EY was a main bidder during the 1412 accreditation phase however during the 1498 closed tender process, EY did not submit a proposal, instead they were listed as a subcontractor for EOH as part of their submission.



# Findings Continue – RFP 1498/2016

- EY withdrew from the subcontractor agreement with EOH after meeting with representatives of EOH, where EY realized that subcontracting for EOH was not financially worthwhile.
- EOH appointed ABACUS in the place of EY.
- Erstwhile CFO of SITA until September 2018, and the Chairperson of the EPC for the ABIS tender process, informed us that after leaving SITA, she did training "for EOH through ABACUS"
- We could not confirm the date on which EOH appointed ABACUS however, we established from EOH that the first work order for ABACUS was dated 22 January 2018
- ABACUS charged EOH approximately R15 million, of which R7 million was an overcharge.
- The removal of the PM work from the scope of EY resulted in only R8.1 million in fees for EY which was not financially feasible for EY.

# Financial Implications

- Evaluation of the tenders received indicated that the lowest acceptable tenderer was EOH who quoted R409 885 716, to implement the ABIS project in 12 months
- EOH's proposed costing was the closest to the budget of R380m, whereas the proposed costing from Accenture and NEC were over R200 million more than the proposed budget
- Based on the findings the entire contract is irregular and as such all payments made to date should be regarded and reported as irregular expenditure.
- Payments made to EOH in respect of this project up to 26 February 2020 amounted to R 283 431 120.63

# Overpayment to EOH

- Analysis of the payments revealed that on 27 March 2018, DHA made an overpayment of R5 711 700.00 to EOH
- This occurred when the invoice amount was captured as R 6 346 324.89 instead of R 634 624.89
- The CFO of the DHA, confirmed that the DHA account from which the overpayment was made was an interest-bearing account
- The overpayment was ultimately refunded by EOH to the DHA on 16 September 2019, which was approximately eighteen (18) months after the overpayment
- This means that the DHA lost interest on this amount and that EOH may have benefited due to the overpayment.

# Conclusion - 1412

- The system of internal control at DHA / SITA is ineffective as documentation requested was not readily available and files had to be reconstructed
- Employees that left the employment of DHA / SITA were blamed for documentation/information not being available
- EOH, E&Y and Accenture should have been disqualified as their bids were unresponsive and did not comply with the procurement principles.
- The available evidence indicate that SITA Principal IT manager communicated with EOH before the ABIS project commenced and during the drafting of the specifications.
- Confidential DHA documents, including the proposed budget for the project were provided to EOH and should not have been made available to them. This information placed EOH in an advantageous position and rendered the process unfair and non-competitive.
- Applying the procurement legislation and policy prescript all bidders except for NEC should have been disqualified during the accreditation phase (RFB 1412/2016).
- EOH, EY and Accenture should not have gone through to the second phase of this project (RFP1498/2016), by virtue of the fact that they did not pass phase 1, the Accreditation phase

# Conclusion - 1498

- The specifications were not approved before the bid was advertised.
- The evaluation process followed was in order.
- However EOH received the project business case (including Budget) prior to the closing date for the bid and as such their bid price was closest to the project budget.
- The possibility exists that EOH may have been privy to further confidential information regarding this bid since there was communication between EOH representatives and a SITA employee.
- The project did not comply with the expected time-frames, and is still in progress.
- The DHA implemented several precautions i.e., appointing ARMS / Gartner. They relied on recommendations from SITA as procurement agency even though DHA officials were present on several committees during the evaluation processes for both phases

# Recommendation - General

- The DHA should closely monitor the processes followed by Procuring Agencies to ensure that they comply with legislation and regulations as well as all internal policies and procedures.
- Procurement Committees should ensure that all mandatory conditions of a bid is adhered to and that bidders are disqualified immediately should they not comply with any of the said requirements.
- The terms in the RFB / RFP should be written clearly in respect of documentation to be submitted as it can cause confusion and lead to unjustified qualification / disqualification of bidders.
- *We recommend that the DHA investigate the overpayment to EOH further and identify the official/s who should be held accountable and be disciplined.*
- Although EOH may take disciplinary action against the employees who were in its' employ at the time of the irregularities, EOH can still be held vicariously liable for the actions of their employees.
- *Cognizance must be taken of the fact that EOH assisted in the investigation, when of the above are considered. EOH has advised that they be consulted for assistance and support during any criminal investigation and legal action that may be instituted against the relevant parties. We are aware that EOH is in the process of taking the necessary appropriate action against employees who have identified in irregularities relating to contracts with the State.*

# Recommendation - Systemic

- DHA management should improve the control environment to ensure that legislation and regulations are followed for the retention of documentation and all information relevant to the tender process.
- The Senior Procurement Officers should file all tender documentation in respect of bids in the Master File.
- The Project Manager must be copied in all correspondence for each bid in order to ensure that information received from all parties relevant to the tender process (such as prospective bidders, procuring agencies, committee documentation, etc.) is available should the Senior Procurement Officer not be available to provide such.

# Recommendations – Disciplinary Action

- DHA to discuss possible disciplinary action with SITA against the relevant employees for failing to ensure that the amendments to the bid document for bid RFB 1412/2016, was published on the media where it was originally advertised:
- DHA to discuss possible disciplinary action with SITA against the relevant employees for recommending the approval of the bid specification to the DG of DHA on 13 December 2016, although the specifications were not approved by the BSC to whom the specifications were presented on 12 December 2016 and for contravening Clause 13.5.2.1 of the 2016 SCM Policy of SITA which provides that the BSC must provide verification and approval of the bid specifications prior to publication.



# Recommendations – Disciplinary Action

- DHA and SITA should consider disciplinary action in terms of paragraph 28.11.1 of the SITA SCM Policy against the following officials for requesting additional information, instead of clarifying information, which resulted in the substance of the bids being changed:
- Possible disciplinary action should be instituted against any DHA officials involved in the overpayment and for failing to prevent the overpayment of R5 711 700.00 to EOH, which resulted in a loss of revenue to the DHA since the overpayment was made out of a DHA interest-bearing account
- *DHA to consider investigating the overpayment and instituting possible disciplinary action against any DHA officials involved in the overpayment and for failing to prevent the overpayment of R5 711 700.00 to EOH, which resulted in a loss of revenue to the DHA since the overpayment was made out of a DHA interest-bearing account.*
- Disciplinary action to be taken against BEC Facilitator for her role during the Accreditation Phase, in terms of paragraph 13.14 of the SITA SCM Policy (2015) – Secretariat Function for Bid Committees, for failing to ensure that comprehensive minutes were kept for the meetings held on 17 July 2016, 28 August 2016 and 01 September 2016, in that the minutes did not hold the names of attendees or any signatures.

# Recommendations – Disciplinary Action

- Disciplinary action to be considered against the applicable officials in terms of paragraph 13.12.1 of the SITA SCM Policy (2015) – Adjudication / Award Functions, in that they did not ensure that the scoring was fair, consistent and correctly applied, whilst conducting the Financial Status Evaluation:
- Disciplinary action to be considered by SITA against the persons consulted during the Evaluation process in that they failed to apply the SITA SCM policy correctly when they conducted the integrity assessment for Internal Audit, and this resulted in additional information requested from four bidders

# Recommendations – Disciplinary Action

- Disciplinary action to be considered by DHA and SITA against the BEC members employed by the DHA and SITA respectively, in that they did not ensure that the Technical Evaluation was fair, consistent and correctly applied and for failing to adhere to the prescripts of the bid document and relevant legislation when they recommended the accreditation of Accenture, E&Y and EOH Mthombo, whilst they did not comply with the bid requirements.

# Recommendations – Criminal Action

- The evidence indicates clearly that there was correspondence relating to the tender, between SITA Principal IT Manager (ex-employee of SITA), who was referred to the alias “Louw” or “Mr. Louw”, / and the Strategic Account Executive – EOH (ex-employee of SITA, current employee of EOH). The correspondence took place while SITA Principal IT Manager was employed by SITA and while the Strategic Account Executive – EOH was employed by EOH and prior to the tender being advertised for both phases.
- The correspondence shows that information regarding the ABIS tender was leaked to EOH, giving EOH an unfair advantage over the other bidders. This resulted in the tender process not being fair, equitable, competitive or transparent in terms of Section 217 of the Constitution of the Republic of South Africa, Act 108 of 1996.
- Further, correspondence from Strategic Account Executive – EOH to EOH: Executive of EOH, refers to a “retainer” to be paid to SITA Principal IT Manager. There is a possibility that the reference to a “retainer” may be construed as “gratification” as defined in the PRECCA Act, and same can be confirmed or refuted through a criminal investigation into this matter.

# Recommendations – Criminal Action

- We have also indicated that the Strategic Account Executive – EOH communicated to the former CEO of EOH, who informed her that Louw shared his views regarding which product to use and that he offered his help “doing this tender”. Here again, it appears that there is *prima facie* proof of possible corruption by the Strategic Account Executive – EOH, former EOH CEO and “Louw” (alias for SITA Principal IT Manager), and we therefore recommend that a criminal investigation be conducted into this matter.
- Our investigation reveals further that on 22 February 2017, prior to the bid closing, EOH: Executive sent an email to EOH: Managed services/ Public sector, providing him with the appointment letters of the DHA officials who were serving on the BEC, information regarding the deliverables of the ABIS project and the updated Business Case which was drawn up on a letterhead of the DHA. **The communication also contained the bill of materials, financial implications and the details of the project manager.** This information regarding the ABIS tender that was provided to EOH: Managed services/ Public sector by EOH: Executive gave EOH an unfair advantage over the other bidders. This resulted in the tender process not being fair, equitable, competitive or transparent in terms of Section 217 of the Constitution of the Republic of South Africa, Act 108 of 1996.
- The correspondence found indicates *prima facie* proof of corruption between SITA Principal IT Manager, Strategic Account Executive – EOH, EOH: Executives, EOH: Managed services/ Public sector and EX EOH CEO, and a criminal investigation is recommended in terms of the relevant sections of the Prevention and Combatting of Corruption Act, (No 12 of 2004) (PRECCA Act), and/or other applicable relevant legislation.

# Recommendations – Criminal Action

- The investigation has revealed possible criminal conduct by EOH employees, SITA (current and previous) employees and employees (current and previous) of the DHA and as such, a detailed criminal investigation is recommended.
- It is important that any person/s who may be identified as having committed any crime, or benefitting from criminal activity, based on the findings of the criminal investigation, should be charged and prosecuted. It is emphasized that these recommendations do not pronounce on the guilt of any person and all persons should be presumed innocent until proven guilty in a competent court of law.
- We did not establish whether any DHA officials were possibly implicated in any criminal activities; however, this could be discovered during the criminal investigation.
- We therefore recommend that a criminal case be opened by the DG of the DHA with the Directorate for Priority Crime Investigation (DPCI, the Hawks) so that can be established whether corruption, theft or fraud has been committed regarding the ABIS tender. It will also be imperative to identify perpetrators and persons who may have benefitted from any of these crimes.

# Recommendations – Criminal Action

- In terms of Section 34 of the PRECCA Act, there is a duty on the Accounting Officer of DHA to report certain offences. Failure to report is an offence in itself.
- We recommend that the criminal investigation conclude on the actions of the erstwhile CFO of SITA. After resigning from SITA in September 2018, she “did training for EOH via ABACUS”, a subcontractor of EOH for the ABIS project. We established that ABACUS has received approximately R15 million, which is R7 million more for the same work for which EY would have charged R8 million. The criminal investigation should determine whether the Erstwhile SITA CFO was possibly involved or not involved in any corruption regarding the ABIS project and the subsequent training performed.

# Recommendations – Legal Proceedings

- The DHA should consider the possibility of instituting legal action against the implicated entities and/or person(s) who may be found to be implicated in the DHA incurring irregular expenditure, and/or who may have received payments not due to them.
- The DHA should consider obtaining a formal legal opinion on the question of whether or not a valid contract was ever concluded and if the contract between DHA and EOH should be declared null and void. This can also be addressed together with the civil action against the various parties.
- The DHA should consider obtaining legal advice on the possible action to be taken (if any) against SITA in respect of the irregular expenditure that was incurred
- The DHA should consider obtaining legal advice on whether it may be in a position to recover the fees that were paid to SITA to act as the Procurement Agency for the DHA.
- The DHA should consider recovering the interest loss of R 299 864.25 (simplified calculation) through the overpayment of R5 711 700.00 to EOH from the DHA officials who were responsible for the overpayment.



# AGSA Findings vs Nexia SAB&T Findings

- Based on the findings in this report we either confirm or refute some of the AG findings. (However the refuted findings do not have a material impact on the overall conclusion.)
- However overall we agree that the entire contract is irregular.

**THE END...**

Thank You!!

