



national treasury

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Dear Ms Bengu

REVIEW OF PROCESS - ENGAGEMENT BETWEEN SASSA AND SAPO ON THE PAYMENT OF SOCIAL GRANTS

Your letter dated 1 November 2017 as well as the directive from the Joint Committee meeting of the Portfolio Committee on Social Development and Standing Committee on Public Accounts (SCOPA) to review the engagement process between the South African Post office (SAPO) and South African Social Security Agency (SASSA) has reference.

The assessment of the engagement process is summarised as below:

Deviation letter from SASSA dated 29 June 2017

1. SASSA requested a deviation to engage SAPO in a letter dated 29 June 2017. The following facts were indicated in the letter:
 - 1.1. *After extensive and frank examination of its internal capacity and considering the time and process required for takeover, SASSA is convinced that they would not be ready to take over the full payment function value chain immediately after 12 months extension period. SASSA resolved to engage the services of the SAPO as a Service Integrator (SI) to take over from CPS on a Build Operate and Transfer (BOT) principle. The BOT approach will facilitate the takeover by SASSA at the end of the contract with SAPO.*
 - 1.2. *The collaboration with SAPO (Government to Government) was therefore considered to be the best option to minimize SASSA's dependence on external parties to execute its constitutional mandate and guarantee the eventual insourcing of the payment function with SASSA. The risk of illegal sharing of beneficiary data would be minimized and therefore beneficiaries' personal information will be protected from abuse. The collaboration will ensure optimal utilization and minimize duplication of government infrastructure.*
 - 1.3. *Furthermore, the planned collaboration with SAPO is considered exceptional as they are an Organ of State that has the capacity to partner with SASSA in the delivery of social grants. The National Integrated ICT Policy White Paper which Cabinet approved during September 2016, also states that "SAPO should be tasked with the responsibility of disbursing social grants working with SASSA as the lead agency".*

- 1.4. *There have been numerous engagements with SAPO to obtain a deeper understanding of its service offering in light of SAPO's presentation to both the Constitutional Court and SCOPA. A workshop was convened on the 17 May 2017 with all the SASSA executives' managers and the Minister of Social Development's Chief of Staff to gain further get clarity on SAPO's service offerings. Following this workshop SASSA was convinced that SAPO has the ability and capacity to take over from CPS. SAPO also indicated its willingness to collaborate on a Build Operate and Transfer arrangement.*
- 1.5. *SASSA would, once approval for deviation was granted, issue a terms of reference to SAPO to enable it to provide a proposal detailing how the project will be implemented and the cost implications. The terms of reference were developed by dully appointed Bid Specification Committee and approved by delegated authority in line with Supply Chain Management processes. The result of the evaluation of the proposal from SAPO would determine whether SAPO had the necessary capacity to deliver on all the aspects of the payment value chain.*

Response letter from National Treasury dated 4 July 2017

- 2.1 The National Treasury approved the deviation on condition that the 2017/18 procurement plan was amended to include the timelines of this project and that the financial proposal from SAPO was considered by bid committees.
- 2.2 SASSA was directed to conclude the scope as soon as possible to have sufficient time if necessary to develop another scope for competitive bidding.
- 2.3 National Treasury supported the deviation as this was the optimum method of acquiring services from a government agency.

SASSA - SAPO engagements on payment of social grants

- 3.1. SASSA and SAPO discussed the collaboration from May 2017.
- 3.2. SASSA issued a request for a proposal to SAPO on 24 July 2017 with a closing date of 7 August 2017.
- 3.3. Some requirements in the RFP did not provide sufficient clarity on what the bidder is being requested to provide in some areas.
- 3.4. The Council for Scientific and Industrial Research (CSIR) held a meeting with the SASSA Bid Evaluation Committee (BEC) on 08 September 2017 to gain a better understanding of some of the requirements in the RFP as well as the rationale behind them.
- 3.5. The score sheets prepared by panel members of the BEC were signed on 26 August 2017. Members of the BEC allocated scores prior to receipt of the CSIR report. It is not clear why BEC members did not wait for the due diligence report to confirm the material facts in the SAPO RFP before allocating the points.
- 3.6. The CSIR report was presented to the BEC on 15 September 2017.
- 3.7. Members of the BEC supplemented their remarks or comments on the evaluation of the tender on 16 September 2017. The addenda for most of the members indicates

that the CSIR report corroborates their findings. The remarks in the addenda confirm that CSIR report was not considered by BEC members when allocating functionality scores or points.

- 3.8. Members of the BEC forfeited the benefit of confirming material facts in the SAPO RFP before allocating the scores or points.

Purpose and Objectives of Council Scientific and Industrial Research (CSIR) report

- 4.1. The CSIR report detailed the outcome of the due diligence performed on the proposal submitted to SASSA, by SAPO, in response to the RFP referred to in Section 1. The purpose was to provide the SASSA BEC (convened to evaluate the response by SAPO) with the understanding of the technical information contained in the response. The report indicated that the term 'due diligence' could be understood differently and therefore in the context of the report it would be used in reference to the review, interpretation and analysis of the solution proposed by SAPO. As the report was not a bid evaluation report, the outcome of the activities undertaken would form part of the many inputs that the SASSA BEC would interrogate in its evaluation of the proposal provided by SAPO.
- 4.2. The following were SASSA's objectives that were to be achieved through this due diligence process:
- a) To confirm the material facts presented in the RFP response by the Post Office.
 - b) To aid SASSA in reducing the risks and opportunities in the proposed solution as well as the partnership.
 - c) To help SASSA reduce the risk of unpleasant discoveries post-contracting.
 - d) To confirm that SAPO is what it appears to be in its response with regards to satisfying SASSA's current and future requirements throughout the duration of the contract.
- 4.3. The main undertaking of the due diligence process was to confirm the facts that were relevant in the process.

CSIR recommendations on Card Production (Pages 18 -19)

- 5.1. SAPO and SASSA are required to have discussions that would clarify requirements on the card personalisation as this would have an impact on the issuance process for the card. It was not clear whether SASSA preferred the embossing of beneficiary details on the surface of the card.
- 5.2. SAPO currently has a contract with Gemalto as a contracted vendor for production of EMV compliant Postbank cards. To support the envisaged SASSA volumes, SAPO was aware that it might have to engage with the current service provider regarding production increase or negotiate with other vendors so as to meet SASSA's requirements. This might be required mainly for the bulk enrolments, as the capacity provided by the current service provider would be enough to service the monthly continuous enrolments.

National Treasury comments on Card Production

- 6.1. There was no evidence that SASSA and SAPO engaged on the card production recommendations.

CSIR recommendations on Phase-Out plan

- 7.1 The CSIR required additional information to fully understand the client's response.
- 7.2. It was recommended that a task team looking at all legalities, implications and systemic challenges of the BOT model be setup. At this stage, it was not clear if all the requirements for transferring the technologies, capabilities and human resources would be feasible and adhere to all legal requirements.

National Treasury comments on phase out plan

- 8.1. It was identified that five members of the BEC consistently allocated 2 points out of five scores. (Two is allocated if the response falls short of achieving expected standards in a number of respects).
- 8.2. There was no evidence that SAPO and SASSA engaged on the phase out recommendations.
- 8.3. The penalization or allocation of less points to SAPO because of insufficient information was prejudice because SASSA should have prescribed the phase out plan or requested additional information during the presentation stage.

Reasons why SAPO was penalized for card production

9. The bidder did not demonstrate the capacity and capability to perform card production. It did not disclose sub-contracting arrangement on SBD6.1 form and that the proposed phase-out does not provide a detailed framework.

National Treasury comments on penalisation of SAPO for card production

- 10.1 It was noted that five members of the Bid Evaluation Committee allocated two out of five points. (Two points are allocated if the response falls short of achieving expected standards in a number of respects.)
- 10.2 In addition, one member allocated one out of five points. (One is allocated if the response significantly fails to meet the standards required.)
- 10.3 The penalisation or allocation of less points to SAPO because of sub-contracting arrangement is deemed unfair because the current service provider CPS does not render all the services on its own.
- 10.4 This is the case in many other government agencies.
- 10.5 The penalization or allocation of less points to SAPO without considering the recommendations of the CSIR is not justifiable.

Bid Evaluation Committee (BEC) meetings

- 11.1. The BEC report does not include vital details of the meetings, e.g. names of members who attended the meetings, whether a quorum was achieved and declarations made.
- 11.2. The BEC members did not guarantee that valid and accountable reasons / motivations were furnished for penalizing or allocating less points to SAPO in some critical areas.
- 11.3. The BEC members did not ensure that scoring was fair, consistent and correctly calculated and applied. For example, the chairperson of the BEC did not allocate scores for Reconciliation under Account Management Criteria in her score sheet. It is not clear where the three in the consolidated report emanated from.
- 11.4. The BEC members did not recognize that capacity gaps identified during evaluation should not result in automatic disqualification of SAPO but warrant a discussion of measures to close the gaps. For example, agreeing on startup costs, outsourcing certain services in the interim or requesting capitalization from National Treasury.
- 11.5. The BEC members did not recognize that there is no government agency that may render all services without outsourcing certain services.
- 11.6. The BEC members should not have recommended the disqualification of SAPO in three areas (card-body and distribution, banking services and provision of cash payment services). In our view, they should have recommended and explored measures to close the capacity gaps or seek the intervention of the IMC to fund such measures.

Bid Adjudication Committee (BAC) meetings

- 12.1 The BAC members did not ensure that valid and accountable reasons / motivations were furnished for penalizing or allocating less points to SAPO in some critical areas.
- 12.2 The BAC members did not to ensure that scoring was fair, consistent and correctly calculated and applied.
- 12.3 The BAC members did not recognize that capacity gaps identified during adjudication should not result in automatic disqualification of SAPO but warrant a discussion of measures to close the gaps. For example, agreeing on startup costs, outsourcing certain services in the interim or requesting capitalization from National Treasury.
- 12.4 The BAC members did not recognize that no government agency may render all services without outsourcing certain services.
- 12.5 The BAC members should not have recommended the disqualification of SAPO on three areas; but recommend discussions to explore measures to close the capacity gaps or seek the intervention of the IMC to fund such measures.

Implication of section 217(1) of the Constitution

- 13.1 The principles of section 217(1) are not applicable in the identification and selection of SAPO as a supplier.

- 13.2 Acquiring services through negotiations is allowed in terms of the Treasury Regulations and guidelines on demand management.
- 13.3 Acquiring services through negotiations is also supported in terms of paragraph 3.4.3 of National Treasury practice note SCM 8 of 2007/2008.
- 13.4 The fairness, competitiveness and cost effectiveness principles are applicable when identifying capacity gaps and considering the financial proposal. (Analysis of Cost v Benefit).

Memorandum of understanding between SAPO and SASSA

- 14.1 SASSA and SAPO signed a letter of agreement in July 2009.
- 14.2 SASSA agreed to contribute to the startup costs to close the capacity gaps.
- 14.3 The letter of agreement was challenged by Cash Paymaster Services (Pty) Ltd T/a (Paymaster). CPS launched an application in the High Court in which it sought to review the decision taken by SASSA to enter into the Letter Agreement, and interdict SASSA from entering into the proposed final agreement with SAPO to render banking or payment services, relating to social security beneficiaries, without having followed a procurement process which complies with s 217(1) of the Constitution, s 51(1)(a)(iii) of the Public Finance Management Act 1 of 1999 (the PFM Act) and the Treasury Regulations made thereunder, or with SASSA's own supply chain management policy.
- 14.4 The decision of the High Court was challenged by SASSA and SAPO resulting in the appeal being upheld.

Conclusion

- 15.1. SASSA should not have approved the disqualification of SAPO on three areas but rather seek to engage and explore options on possible ways to close the capacity gap or seek the intervention of the IMC.
- 15.2. The specification developed by SASSA was biased.
- 15.3. The CSIR report was not used for its intended purpose.
- 15.4. SASSA took more than 60 days to evaluate and adjudicate one proposal.

Remedial action

The meeting of the 07th November 2017 attended by SAPO, SASSA, South African Reserve Bank (SARB) and the National Treasury (NT) concluded and noted the following:

- 16.1. The process to finalize the matter has been delayed.
- 16.2. SAPO will not be in a position to start paying grants on their own as from the 01st April 2018.
- 16.3. SASSA will also not be able to finalize all their processes to ensure that grants are paid by 01st April 2018.

it was therefore resolved that:

- 16.4 SASSA, SAPO, SARB and the NT meet with the Banking Association of South Africa and Payment Association of South Africa to seek an interim solution. (This meeting is scheduled for Friday, 10th November 2017.)
- 16.5 A hybrid model where all banks, SAPO included, can play a role in distributing grants. The hybrid model should include all modes of payment e.g. cash payments, electronic payments and other methods to be agreed upon.
- 16.6 SASSA makes arrangement with a clearing and settlement bank to utilize the national payment system infrastructure to distribute social grants.

Kind regards



DONDO MOGAJANE
DIRECTOR GENERAL

DATE: 07/11/2017.

cc Mr M Barnes
Chief Executive Officer: SAPO