SPPRA
ANNUAL REPORT
2017 / 2018

SPPRA
Swaziland
Public
Procurement
Regulatory

"New Thinking. New Beginning!"

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ABBREVIATIONS AND ACRONYMS

SPPRA	Swaziland Public Procurement Regulatory Agency
AGENCY	SPPRA
ORGANISATION	SPPRA
ESWATINI	Swaziland
REMCO	Remuneration Committee
ICT	Information & Communication Technology
MINISTRY	Ministry of Finance
MSH	Medical Science of Health
RSTP	Royal Science & Technology Park
SBDs	Standard Bidding Documents
PEs	Public Entities
UNESWA	University of eSwatini
IDE	Institute of Distance Education
Mou	Memorandum of Understanding
NIDCS	National Industrial Development Corporation of Swaziland
SRA	Swaziland Revenue Authority
SEC	Swaziland Electricity Company
SNHB	Swaziland National Housing Board
CSTCP	Capacity Strengthening and Technical Cooperation Project
SADC	Southern African Development Community
ERP	Enterprise Resource Planning
SLAs	Service Level Agreements
PEU	Public Enterprise Unit
SGTB	Swaziland Government Tender Board
SUPREM	Supply Positioning & Risk Evaluation Matrix
IRC	Independent Review Committee
PPRA	Public Procurement Regulatory Authority
FESBIC	Federation of Swaziland Business Community
FSE&CC	Federation of Swaziland Employers& Chamber of Commerce
SBIS	Swaziland Broadcasting & Information Services
CTC	Consultancy & Training Centre
SNHB	Swaziland National Housing Board
EEC	Eswatini Electricity Company
ETB	Entity Tender board

DR. GIDEON MAHLALELA (F.Inst.D)

BOARD CHAIRPERSON

STATEMENT FROM BOARD CHAIRPERSON

The financial year 2017/18 was filled with mixed emotions. At the tail end of the year, in March 2018, the Agency was unfortunate to lose the substantive Chairperson of the Board, Dr. Gideon Mahlalela, may his soul rest in peace. This happened exactly a year the Board had accepted the resignation of the founding Chief Executive Officer of the Agency who resigned in May 2017. This meant that the Agency needed to strategically fill these vacancies. As the then Acting Chairperson of the Board, I would like to take this opportunity to thank the incumbent Chief Executive Officer and the Chief Finance Officer the latter having joined the Agency in August 2017 for taking the baton from the CEO during their acting periods from June 2017 to March 2018. They did not disappoint. I would have not done justice not to thank my fellow Board Members who supported both my acting and those of the CEOs.

OPERATIONAL PERFORMANCE

In terms of operational performance, the Agency's aspirations were not entirely met due to funding challenges. This was necessitated by the fact that the country was going through fiscus challenges. As the Agency is fully subvented by government, it came as no surprise that there were limited resources directed to the operations of the Agency. Notwithstanding these circumstances, the Agency remained operational throughout the financial year. I would like to commend management for coming up with self-funding initiatives that have ensured the continued existence of the Agency. I can only urge them to expand these initiatives with the view of self-sustenance as there is no guarantee that government will continue to fully finance its operations due to the competing needs.

FINANCIAL PERFORMANCE

The financial performance of the Agency needs to be closely monitored in light of the dwindling and unstable financial support from the government. With this in mind, there is an urgent need to lobby for the passage of the regulations as they contain key provisions on how the Agency can be funded. The Board is committed to ensuring that the regulations are passed very early during the session of the 11th Parliament.

With the support of the shareholder, staff commitment and all the interest groups including the 91 entities that we regulate, government will realize visible savings that will cure the fiscus ills that the country is currently facing.

GOVERNANCE

The Board has continued to exercise its oversight function through its sub committees which include the Audit Committee, Risk Committee and the Remunerations Committee. As per the prescripts of the PEU Act, the Board performed its governance role by ensuring full attendance to standing meetings of the Board.

FUTURE PROSPECTS

The current economic meltdown that the world economies are facing re-affirms the importance of the mandate of the Agency. In such trying economic times, governments need to ensure that they strengthen expenditure controls. This is the mandate for which the Agency was established and it is an opportune time for the Agency to display its role in achieving this mandate. This will call for lobbying in all facets of governance to ensure that the Agency plays this role unperturbed. This is the commitment of the Board.

Dr Gideon Mahlalela
Chairperson of the Board of Directors

MR. MADODA MNGOMEZULU
CHIEF EXECUTIVE OFFICER

MESSAGE FROM OUR CHIEF EXECUTIVE OFFICER

I am delighted to present the second annual report of the Agency. In this report operational and financial performance will be highlighted including challenges and possible mitigation plans. The Board has decided that the Agency will do a deep-dive into the strategic plan in the ensuing year. This, with the view of gauging whether the strategic objectives are still in synchrony with the operating environment and whether there is satisfactory evidence that these are being achieved within the strategic period.

FINANCIAL PERFORMANCE

The financial performance of the Agency needs to be closely monitored in light of the dwindling and unstable financial support from the government. With this in mind, there is an urgent need to lobby for the passage of the regulations as they contain key provisions on how the Agency can be funded. The Board is committed to ensuring that the regulations are passed very early during the session of the 11th Parliament.

OPERATIONAL PERFORMANCE

Due to inadequate financial resources, it comes as no surprise that the operational performance of the Agency has not been to the desired levels during the reporting period. The Agency has however been able to achieve certain milestones regardless. Following is a summary of the operational achievements which are detailed under the respective directorates' performance reports:

CAPACITY BUILDING

- Training of 314 public officers on public procurement regulatory framework
- Stakeholder workshops were conducted to get buy-in
- Media awareness workshop conducted

POLICY, LEGISLATION AND INVESTIGATION

- Procurement Manual for Health in final draft form
- Standard Bidding Documents for Health procurement in final draft form
- Issuance of 3 Circulars
- Issuance of Final draft procurement regulations
- Conducted 6 investigations related to procurement fraud
- Reviewed 55 deviation applications
- Conducted 4 capacity workload assessments and set levels of authority
- 3 IRC cases reported and adjudicated

INFORMATION COMMUNICATIONS TECHNOLOGY

- Establishment of a tender review portal
- 94 tenders reviewed for compliance
- Developed an E-Learning Platform
- Increased website visits from 99 at the begging of the year to 1608 at the end of the financial year

MONITORING AND OVERSIGHT

- Conducted 5 procurement audits ranging from E2 million to E103 million
- Monitoring of 13 local government and 39 parastatals

FINANCE AND ADMINISTRATION

- Set up of a resource mobilization committee
- Introduction of training fees
- Introduction of tender review and advertising fees
- Secured funding from the European Union (EU) to conduct Change Management Training.
- Secured Technical Assistance from Medical Science for Health (MSH) for development of and Procurement Manual and Standard Bidding Documents for the Health Sector

CHALLENGES

Budget Constraints: The single most challenge that the Agency faced during the reporting period is insufficient budget. Although this is expected given the fiscal position of the country, it did negate efforts that the Agency is making in assisting government with expenditure controls aimed at saving government money.

I**nadequate Human Resources:** Linked to the budget constraints challenge is the inadequate human resources. This has contributed to the slower achievement of the mandate. The Agency has however adopted an organic growth strategy in this regard.

Passage of Regulations: The protracted passage of the regulations by parliament contributed to the slowed achievement of the Agency's mandate. Key among our priorities in the next financial year is to push for the passage of the regulations. The Board has assured us of their support in this regard.

PROSPECTS FOR THE FY 2018/19

Passage and Rollout of the Public Procurement Regulations: The Public Procurement Regulations should have been passed by the end of the 2018/19 financial year.

Eswatini Public Procurement System: Supplier Eligibility Criteria (E-Eligibility): The Agency aims to complete the E-Eligibility module of the Eswatini Public Procurement System. This will assist in curbing the systemic forging of eligibility documents by tenderers.

Tangible Government Savings: The Agency aims at coming up with a system of measuring and reporting on savings that accrue to government due to the expenditure controls interventions it will put in place.

Industry Specific Research and Practice Notes: Following the successful conduct of the Private Security Study, the Agency will continue to do industry-specific studies which inform policy in public procurement which will be communicated to the relevant stakeholders through quarterly practice notes.

Madoda Mngomezulu
Chief Executive Officer

INTRODUCTION

A.WHO WE ARE?

The Procurement Act No. 7 of 2011 established the Swaziland Public Procurement Regulatory Agency (SPPRA) as an independent regulatory body. It is listed as a Category A public enterprise, administratively, reporting to the Ministry of Finance. The Act empowers the SPPRA or the "Agency" with responsibility for policy formulation, regulation, oversight, capacity building and professional development, information management and dissemination in the field of public procurement in the Kingdom of Eswatini.

- **Ensure Transparency and accountability** in public procurement while maintaing appropriate confidentiality of information
- **Achieve economy, efficiency & maximum competition** ensure Value for money in the use of public Funds
- **Promote More diverse private sector participation** through fair and non-discriminatory treatment of tenders
- **Develop economic capacity in Eswatini** through the provision of Opportunities for swati companies to participate in Public procurement
- **Promote regional and international trade** in accordance with agreement entered into by the Goverment of Eswatini

B.WHAT WE DO?

Without prejudice to the generality of section 9 (2), the functions of the Agency are;

A) POLICY FORMULATION, IN PURSUANCE OF WHICH THE AGENCY SHALL—

i. advise the Government and procuring entities on procurement policy and all other matters relating to public procurement; and,
ii. report on the performance and functioning of the public procurement system and recommend changes;

B) REGULATION, IN PURSUANCE OF WHICH THE AGENCY SHALL—

i. formulate regulations governing the procurement of goods, works and services for the Government and recommend these to the Minister;
ii. issue public procurement manuals, circulars and instructions to PE's
iii. provide further guidance on the interpretation and application of this Act and public procurement regulations issued under this Act;
iv. issue standard tender documents and other standard procurement documents whose use shall be mandatory in all procurement proceedings by procuring entities, unless otherwise specified by the Agency;

v. promote measures to facilitate participation by Eswatini companies in public procurement; and,

vi. consider applications for deviations to public procurement processes, methods and rules in accordance with section 6;

C) OVERSIGHT OF PUBLIC PROCUREMENT, IN PURSUANCE OF WHICH THE AGENCY SHALL –

i. monitor compliance with this Act and procurement performance by procuring entities;

ii. conduct audits of any procurement activities governed by this law;

iii. investigate the conduct of any procurement activities that are suspected to involve violations of this law or public procurement regulations

iv. constitute and provide secretariat services to Independent Review committees, where required for the purposes of administrative review; and,

v. maintain a list of tenderers and suppliers who are suspended from participation in public procurement;

D) CAPACITY BUILDING IN, AND PROFESSIONALIZATION OF THE PUBLIC PROCUREMENT SYSTEM, IN PURSUANCE OF WHICH THE A GENCY SHALL –

i. coordinate and promote capacity building and professional development in the public procurement system;

ii. work with the appropriate human resources authorities to set standards and professional qualifications requirements for staff involved in procurement activities;

E) DATA AND INFORMATION MANAGEMENT, IN PURSUANCE OF WHICH THE AGENCY SHALL - maintain systems for the management and public dissemination of procurement data, statistics and information.

CHAPTER 1

ORGANIZATIONAL OVERVIEW

1.1 OUR PROFILE

OUR INNOVATIVE SLOGAN

"New Thinking New Beginning"

OUR VISION

"A world leader in public procurement regulation"

OUR MISSION

"We promote, protect and enforce equity and maximum competition in the market place in pursuit of value for money, transparency and accountability, through innovative solutions; capacity building and oversight in public procurement"

OUR STRATEGIC GOAL

"A well-established systematic approach to public procurement and compliance by 31 st March 2020" .

OUR CORE VALUES

Excellence

SPPRA aspires to excel in the way we deliver our services

Integrity

The SPPRA team shall adhere to the highest ideals in all its dealings with customers, stakeholders and employees.

Respect

We respect those that we work with and the contributions that they make

Professionalism

At all times, we shall ceaselessly commit ourselves to professionalism

Adding Value

We are a value adding organisation and aim to improve the way in which state owned enterprises in Eswatini engage with public procurement practice

1.2 BOARD OF DIRECTORS

CHAIRMAN **Dr. Gideon Mahlalela (F.Inst.D)**

- Doctorate (Honorary) – University of California, USA. BA
- Liberal Studies Artrs – Antioch University, USA
- Diploma (Accounting and Finance) Seneca College of Applied Arts and Technology, (Canada)
- Leadership Programme (Burlington Northern Railway Leadership Centre, Certificate, USA)
- Senior Management Programme (Mananga, Swaziland)

VICE CHAIRMAN **Mr. Harry S. Nxumalo**

- American High School Diploma - Englewood in Denver, Colorado
- Management Development & Leadership (London) Leadership Development, Management Skills, Train-the-Trainer, Focus 2000 (Strategic Planning) and Performance Management (all in Harare, Zimbabwe).
- Senior Management Development & Leadership (Nairobi, Kenya)

MEMBER **Mr. Jabulani Z. Hlatshwako**

- Book keeping and Accounts – Pitman Examination Institute
- Assistant Accountant General - Ministry of Finance (Treasury Department)
- Central GovernmentTender Board Member

MEMBER **Ms. Reginah N. Masilela**

- MSc Leadership and Change Management – Leeds Metropolitan University,London
- Graduate Diploma in Purchasing and Supply Management – CIPS, London
- Diploma in Secretariat – Swaziland College of Technology
- Certificate in Stores Management
- Certificate in Accounting and Management

MEMBER **Mr. Albert Mhlanga**

- Diploma in Business Administration (Accounting and Economics) College of Business Education, Tanzania
- International Accounting Standards (IAS) and International Financial Reporting Standards
- (IFRS) - Price Water House Coopers, Mbabane Advanced
- Treasury Management For Reserves Management – World Bank, Washington DC
- Treasury Management for Reserves Management – World Bank

SECRETARY **Mr. Madoda Mngomezulu**

- Masters in Public Procurement Management for Sustainable Development, University of Turin, Italy
- Master of Business Administration (MBA), MANCOSA
- Bachelor of Education (Commerce), UNISWA

1.2 MANAGEMENT

EXECUTIVE DIRECTOR

MR. MADODA MNGOMEZULU

The Executive Director, who is the Chief Executive Officer is responsible for the day to day affairs of the Agency and is in charge of the overall planning in the organization, coordination of other departments and with other Category A Procuring Entities, public relations and research activities of the Agency among others. The Executive Director oversees the following Directorates;

PROCUREMENT POLICY, LEGISLATION AND INVESTIGATIONS DIRECTORATE

MR. BUHLE DLAMINI

Advises the Government of Eswatini in procurement policy formulating regulations and issue public procurement manuals, circulars and instructions in accordance with section 66 of the Act and further provide guidance on the interpretation and application of the Act and public procurement regulation issued under the Act.

MONITORING AND OVERSIGHT DIRECTORATE

MR. SIBUSISO SIBANDZE

Monitor procurement performance of procuring entities and compliance with the provision of the Act and the Regulations issued under the Act. Exercise the competence, the authority, power and responsibility of the Agency for enforcement of the provisions of the Act and the Regulations.

FINANCE AND ADMINISTRATION DIRECTORATE

MR. MUSA SIKHONDZE

Responsible for all finance and administration related matters of the Agency including the day to day management and administration and providing administrative support to all directorates of the Agency.

INFORMATION AND COMMUNICATION TECHNOLOGY DIRECTORATE

MR. MBUSO DLAMINI

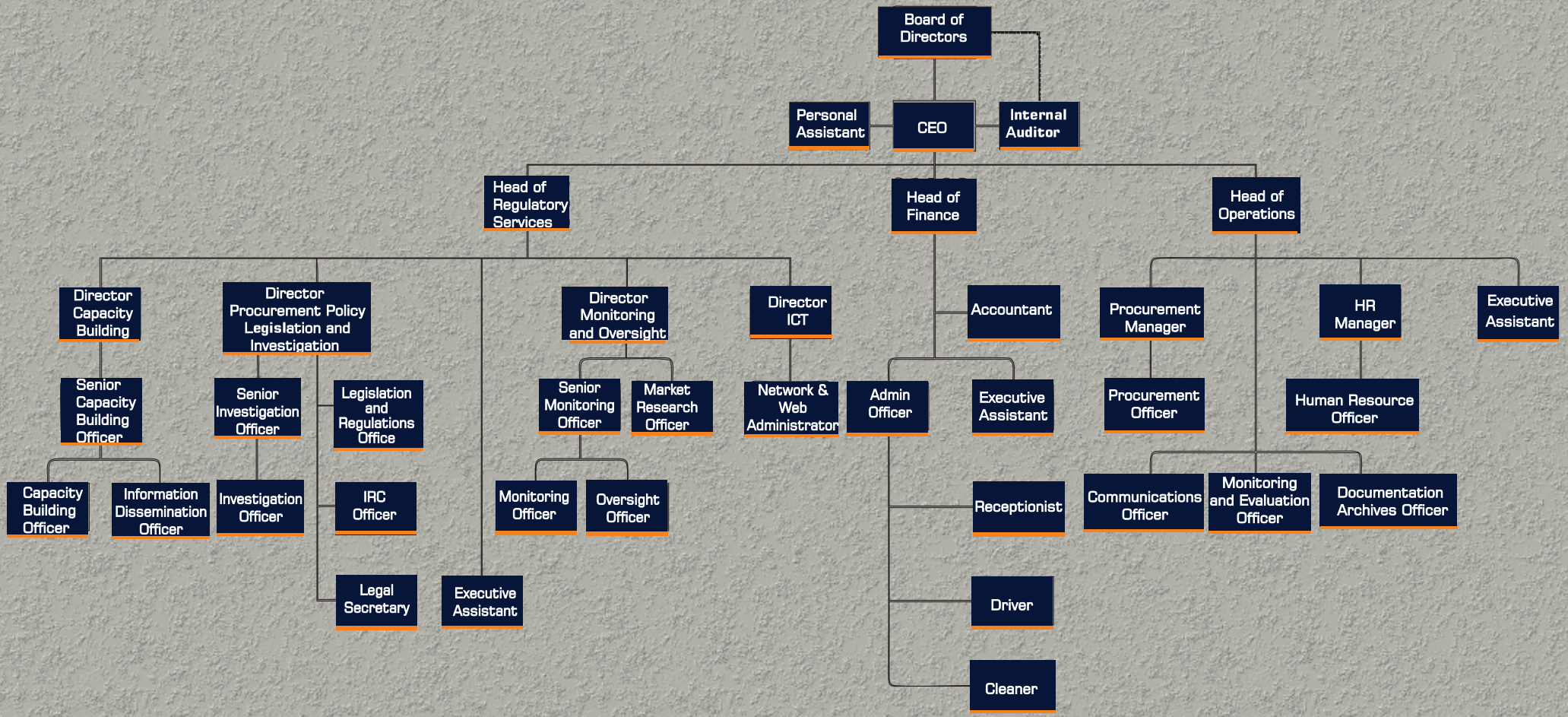
Promotes the introduction and use of information and communication technology (ICT) and public procurement by procuring entities.

CAPACITY BUILDING DIRECTORATE

MS. NOKUPHUMULA MAYISELA

Co-ordinates and promotes capacity building and professional development in the public procurement system and work with appropriate human resources authorities to set standards and professional qualification requirements.

SPPRA ORGANIZATIONAL STRUCTURE



CHAPTER 2

REGULATORY FRAMEWORK AND POLICY FORMULATION

OVERVIEW

The Procurement Act No. 7 which was enacted in September 2011, with the purpose to "establish public procurement institutions, basic principles, policy and procedures applied to regulate the procurement of goods, works and services by Procuring Entities". The Agency responds to the mandate of the Act through advising the Government and Procuring Entities (PEs) on procurement policy and all other matters relating to public procurement and report on the performance and functioning of the public procurement system and recommend changes. This regulatory framework and policy formulation in accordance with Section 3 (2) of the Act seeks to:

- Ensure transparency and accountability in public procurement while maintaining appropriate confidentiality of information;
- Achieve economy, efficiency and maximum competition to ensure value for money in the use of public funds;
- Promote more diverse private sector participation, through fair and non-discriminatory treatment of tenderers;
- Develop economic capacity in Eswatini, through the provision of opportunities for Eswatini companies to participate in public procurement; and
- Promote regional and international trade in accordance with agreements entered into by the Government of Eswatini.

Pursuant to Section 66 of the Act, the Agency may issue public procurement manuals, circulars and instructions to provide further guidance on the interpretation and application of the Act and public procurement regulations issued under the Act.

2.1 CIRCULARS

The Agency has issued the following circulars to compliment the Act in the absence of regulations issued under the Act;

i. **SPPRA Circular 1 of 2015** *(CONTROL OF PRICES PAID BY PROCURING ENTITIES TO PREVENT AWARDING OF CONTRACTS TO TENDERERS THAT OFFER PRICES ABOVE MARKET)…Section 3 (2)(b)*

ii. **SPPRA Circular 2 of 2015** *(SUBMISSION OF REPORTS TO THE AGENCY IN TERMS OF SECTION 11 OF THE ACT). Section 11*

iii. **SPPRA Circular 3 of 2015** *(NOTICES OF INTENTION TO AWARD CONTRACTS)…Section 45*

iv. **SPPRA Circular 4 of 2015** *(FEES FOR LODGING APPLICATIONS FOR ADMINISTRATIVE REVIEW AND APPEALS AGAINST SUSPENSION)…. S46(2), 48(2) AND 57(7)*

v. **SPPRA Circular 1 of of 2016** *(PUBLIC PROCUREMENT PROCEDURES)…Section 66*

vi. ***SPPRA Circular 1 of 2017*** *(TRAINING SERVICES FEES ON PUBLIC PROCUREMENT)...Section 66*

vii. ***SPPRA Circular 2 of 2017*** *(ADVERTISEMENT OF TENDER OPPORTUNITIES ON SPPRA WEBSITE AND INCIDENTAL MATTERS)*

Furthermore, a set of standard bidding documents, manuals and regulations have been drafted to facilitate public entities in carrying out their procurement activities in compliance with the Act.

2.1 DRAFT REGULATIONS

The Agency completed the stakeholder consultation technical review of the draft Regulations and identified clauses in the Act that ought to be complied with. This was part of the final exercise including sequencing to be done with the Ministry of Finance. The Agency engaged the Minister with a view to appraise him about the urgent need to have the regulations tabled in Parliament.

2.3 STANDARD BIDDING DOCUMENTS (SBD'S)

The Agency worked with the Medical Sciences for Health (MSH) consultancy in developing these documents. The Ministry of Health has been engaged to validate the SBD's before their roll-out.

CHAPTER 3

REVIEW OF PUBLIC PROCUREMENT SYSTEM OPERATIONS

OVERVIEW

This section presents the progress made by the Agency as its mandate under section 10 of the Procurement Act, 2011.

3.1 CAPACITY BUILDING

Section 10 of the Act mandates the Agency to implement measures aimed at building procurement capacity in the country. During the year under review, the Agency continued to conduct various training and stakeholder engagement workshops aimed at increasing awareness and impacting public procurement knowledge and best practices as hereby explained.

3.1.1 TRAININGS

During the year under review, the Agency continued to conduct various training and workshops aimed at increasing awareness and building capacity to procurement stakeholders. The Agency has developed a public procurement short training course dedicated to the needs of the public sector. This training is intended to bring about knowledge in public procurement reform and is aimed at staff working in the procurement function, staff who have had no formal procurement training or who would like to update their knowledge and skills. It further extends to other staff that have responsibility for making procurement decisions, tender evaluation and contract management.

3.1.1.1 TRAININGS TO PE's

Due to the fiscal situation faced by the Government of Eswatini, the year under review the Agency issued and implemented Circular No.1 of 2017 which introduced training services fees on public procurement. Under this circular, the Agency conducted trainings on public procurement regulatory framework, processes and methods for 314 participants.

Category	Name of Entity	Target Audience	Training Description	No- of People Trained
Central Government	Royal Eswatini Police	Eswatini Police Officers under the Commercial Fraud Unit	The Mandate and functions of the Agency; Introduction to Public Procurement methods and processes; Procurement planning, monitoring and audit; Public Procurement Act,and Procurement fraud	36

Table 1.1: List of Entities trained within Central Government

Category	Name of Entity	Target Audience	Training Description	No- of People Trained
Public Enterprises	National Agricultural Marketing Board	Management and Senior Officers	The mandate and functions of the Agency; Introduction to Public Procurement methods and processes; Procurement planning, monitoring and audit; Public Procurement Act, and Procurement Fraud	12
	National Industrial Development of Swaziland	Management and Senior Officers	The mandate and functions of the Agency; introduction to Public Procurement methods and processes; Public Procurement Act, and Procurement planning, monitoring and audit	10
	Southern African Nazarene University	Management and Senior Officers and Procurement officers	The mandate and functions of the Agency; introduction to Public Procurement methods and processes; Public Procurement Act, and Procurement planning, monitoring and audit	26
	Swaziland Water and Agricultural Development Enterprise	Executive Management, Entity Tender Board, Evaluation Committe, Procurement and Finance Staff	The Mandate and functions of the Agency;Public Procurement Act, Procurement fraud, roles and responsibilities of the Entity Tender Board	72
	Swaziland Electricity Company	Executive Management/ETB Heads of Departments, Procurement and Finance staff	The Mandate and functions of the Agency;Public Procurement Act, Procurement fraud, roles and responsibilities of the Entity Tender Board	54
	Swaziland Tourism Authority	Management and Senior Officers and Procurement officers	The mandate and functions of the Agency; introduction to Public Procurement methods and processes; Public Procurement Act, and Procurement planning	20
	Swaziland Post and Telecommunications Corporation	Entity Tender Board (ETB)	The Mandate and functions of the Agency;Public Procurement Act, Procurement fraud, roles and responsibilities of the Entity Tender Board	8

Category Audience	Name of Entity	Target	Training description	No- of People Trained
Public Enterprises	Swaziland National Trust Commission	Management and Senior Officers and Procurement officers	The Mandate and functions of the Agency; Introduction to Public Procurement methods and processes; Procurement planning, monitoring and audit; Public Procurement Act, and Procurement fraud	37
	Pigg's Peak Hotel and Casino	Management and Senior Officers and Procurement officers	The Mandate and functions of the Agency; Introduction to Public Procurement methods and processes; Procurement planning, monitoring and audit; Public Procurement Act, and Procurement fraud	15
	Swaziland Revenue Authority	Entity Tender Board	The Mandate and functions of the Agency;Public Procurement Act, Procurement fraud, roles and responsibilities of the Entity Tender Board	8

Table 1.2: List of Entities trained within Public Enterprises

Category	Name of Entity	Target Audience	Training Description	No- Of People Trained
Local Government	Municipal Council of Manzini	Entity Tender Board	The mandate and functions of the Agency; Public Procurement Act and procurement fraud, Roles and responsibilities of the ETB	6
	Mankayane and Malkerns Town Board (combined group)	Management and Senior Officers and Procurement officers	The Mandate and functions of the Agency; Introduction to Public Procurement methods and processes; Procurement planning, monitoring and audit; Public Procurement Act, and Procurement fraud	10

Table 1.3: List of Entities trained within Local Government

3.1.1.2 PRIVATE SECTOR TRAINING

The Agency conducted one private sector training (Computronics) where 7 people were trained. The aim of this training was to create awareness of the procurement Act sector and present activities of the Agency within the context of the private sector and its implications to the private sector.

3.1.1.3 MEDIA TRAINING

In recognition of the role played by the media fraternity in public procurement related issues, the Agency conducted a media awareness workshop with the purpose to enhance the authenticity and balance of reporting, the ACT, and the activities of the Agency. The training covered the following topics; public procurement regulatory framework, new policies, government procurement processes and procurement monitoring audits. The training was attended by participants from; Nation Magazine, The Swazi Observer, The Times of Swaziland and Swaziland Broadcasting and Information Services (SBIS).

3.1.1.4 KEY ISSUES FROM THE TRAININGS

	Issues	Recommendations
1	Currently local government operates in a grey area as their procurement processes are governed by both Urban Government Act and the Act, 2011 which has conflicting clauses and there has not been any engagement to harmonise the conflicting clauses.	The Agency will conduct Capacity building for affected stakeholders such as councillors to enhance understanding of the spirit of the Act
2	How are gifts given in good faith differentiated from gifts received because of corruption activities?	A zero tolerance stance to acceptance of gifts is the best approach. The Agency to conduct awareness on Section 59 and 60 of the Act which addresses the conduct of Public Officers and Politicians involved in procurement
3	The Act clearly spells out disciplinary measures to be taken against a supplier who will be found to be involved in corrupt practices, however, it is silent on measures to be taken against controlling officers. There is need to review the Act and incorporate a provision that will have disciplinary measures for controlling officers found to have been implicated in corrupt practices	This will be a priority in the first request for amendments to the Act
4	The nature of the environment within which some entities operate, makes it difficult for those PEs to follow the procurement processes stipulated in the Act. Such in case are those PEs that operate in the business environment and yet that are expected to follow government lengthy procurement procedures as such they always miss business opportunities since their competitors operate in the private sector	The Agency to consider a different set of regulations to arrest this situation

Table 1.4: List of Key Issues and Recommendations

3.1.2 CONSULTATIVE MEETINGS

The Agency had consultative meetings with Swaziland National Housing Board (SNHB), Eswatini Electricity Company (EEC) and the Dental and Medical Council on the Agency's expectations regarding compliance.

3.1.3 STAKEHOLDER WORKSHOPS

The conducting of awareness workshops on existing regulatory frameworks as well as new policies continued in the year under review. The Agency participated and presented on the requirements of the Act and role of Councillors in public procurement during a Councillors' induction workshop. Upon the implementation of Circular No.1 and No.2 of 2017 the Agency conducted a stakeholder engagement workshop. This workshop was conducted over two days and drew a massive 60 participants and the purpose was to inform about the mandate of the Agency and its expectations from the procuring entities. The Agency also conducted a contract management workshop for Central Medical Stores (Hospitals and Clinics). The purpose of the workshop was to to emphasize that contract management is an important aspect of the procurement cycle.

3.1.4 LEVERAGING AND ENHANCING PARTNERSHIPS AND COLLABORATIONS

SPPRA cooperates with other institutions to ensure that public procurement brings about expected outcomes. Such cooperation is based on special agreements with those institutions.

3.1.4.1 COLLABORATION WITH UNIVERSITY OF ESWATINI–(UNESWA) CONSULTANCY AND TRAINING CENTRE (CTC)

Section 10(d)(i) of the Procurement Act, 2011 mandates the Agency to coordinate and promote capacity building and professional development in the public procurement system. To achieve this, the Agency has collaborated with UNESWA-CTC to deliver skills based Public Procurement short courses. To fortify this collaboration, a Service Level Agreement for capacity building specialized interventions has been signed.

Furthermore, discussions with UNESWA Institute of Distance Education have commenced with the prospects of developing a Memorandum of Understanding (MoU) and introduction of a diploma in public procurement programme to cater mainly for identified gaps within the in-service practitioners.

3.1.4.2 PARTNERSHIPS WITH OTHER INSTITUTIONS

The Agency has signed and activated an MoU with the Federation of Swaziland Employers & Chamber of Commerce (FSE&CC) in order to develop a joint training programme for the private sector. MoU's have also been concluded with ESwatini Competitions Commission and Federation of the Swaziland Business Community (FESBC). The MoU's awaits an official signing ceremony .

3.1.4.3 KNOWLEDGE SHARING WITH OTHER COUNTRIES

A delegation of two officials from the Agency visited Public Procurement Regulatory Authority (PPRA) in Tanzania during the year under review. The aim of the benchmark visit was to gain insight on the competencies required to operate a Public Procurement Regulatory body, gain insight on how to best reform and the ability to generate our own income to fund the Agency's various projects. The PPRA is a regulatory body with a mature Independent Review Process, income Generation Activities as well as strategic partnerships with other developed public procurement bodies.

3.2 MONITORING COMPLIANCE

In accordance with Section 38 (Procurement Principles) of the Act, the Agency is mandated to ensure that all procurement shall be conducted in a manner which promotes economy, efficiency, transparency, accountability, fairness, competition and value for money. The Agency is mandated to ensure that public procurement procedures and regulations established are complied with by PEs in order to achieve the objectives of the Procurement Law. The Agency monitors compliance through procurement assessments, reviews, procurement audits, complaints management, investigations and review of mandatory reports submitted by PEs. During the year under review the Agency executed a number of activities as outlined below;

3.2.1 REVIEW OF MANDATORY REPORTS

PEs are required to submit the following mandatory reports: Procurement Plans, Quarterly and Annual Procurement Reports. The Agency uses the submitted reports for compliance monitoring as well as publication on the website. The number of PEs that submitted the required report are as tabulated below:

Category	Procurement Plans	Quarterly Procurement Reports	Annual Procurement Reports
Local Government	0	0	4
Central Government	0	0	4
State Owned Entities	3	1	15

Table 1.5: Number of PE's that submitted Reports

The major findings from review of Mandatory reports included:

i. Failure by the PEs to submit mandatory reports to the Agency
ii. Late submission of the mandatory reports by the PEs
iii. Submission of incomplete reports such as failure to provide relevant information and attachments
iv. Failure by PEs to submit reports in the prescribed format.

The Agency has put in place mechanisms to ensure that:

i. All PEs comply with the reporting requirements by developing simpler/user friendly reporting templates used to request PEs for procurement related information
ii. It offers technical support to the PEs by building their capacity on preparation of the mandatory reports
iii. It enforces compliance with reporting timelines and formats.

3.2.2 REVIEW OF TENDER NOTICES

In carrying out its mandate of ensuring compliance with the law, the Agency ensures that the tender advertisements posted in the newspapers by the PEs are in compliance with the requirements of the Act and the public procurement procedures. Where irregularities are discovered, the PEs are informed and directed to rectify the irregularities. During the year under review, the Agency received 94 tender documents for review from 21 PEs.

58% of the tender documents were for supplies, 35% and 7% were for services and works, respectively as depicted in figure 1.1.

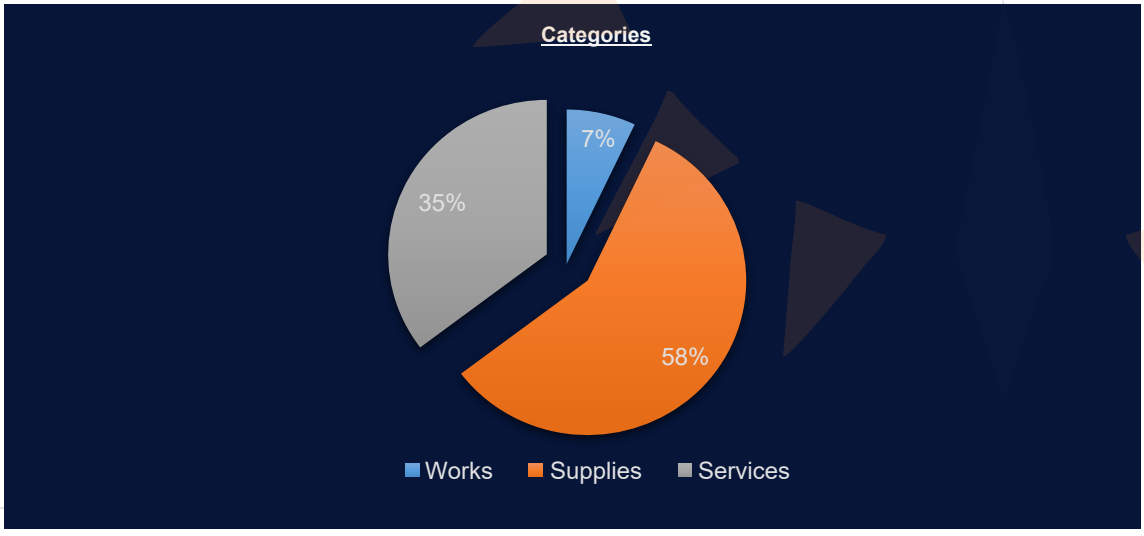


FIgure 1.1: Tender Categories

In the year under review, Matsapha Town Council submitted the highest number of tender documents for review closely followed by Pigg's Peak Town and Ezulwini Municipality as shown in Figure 1.2. This demostrates the high level of compliance with the Local Goverment Category.

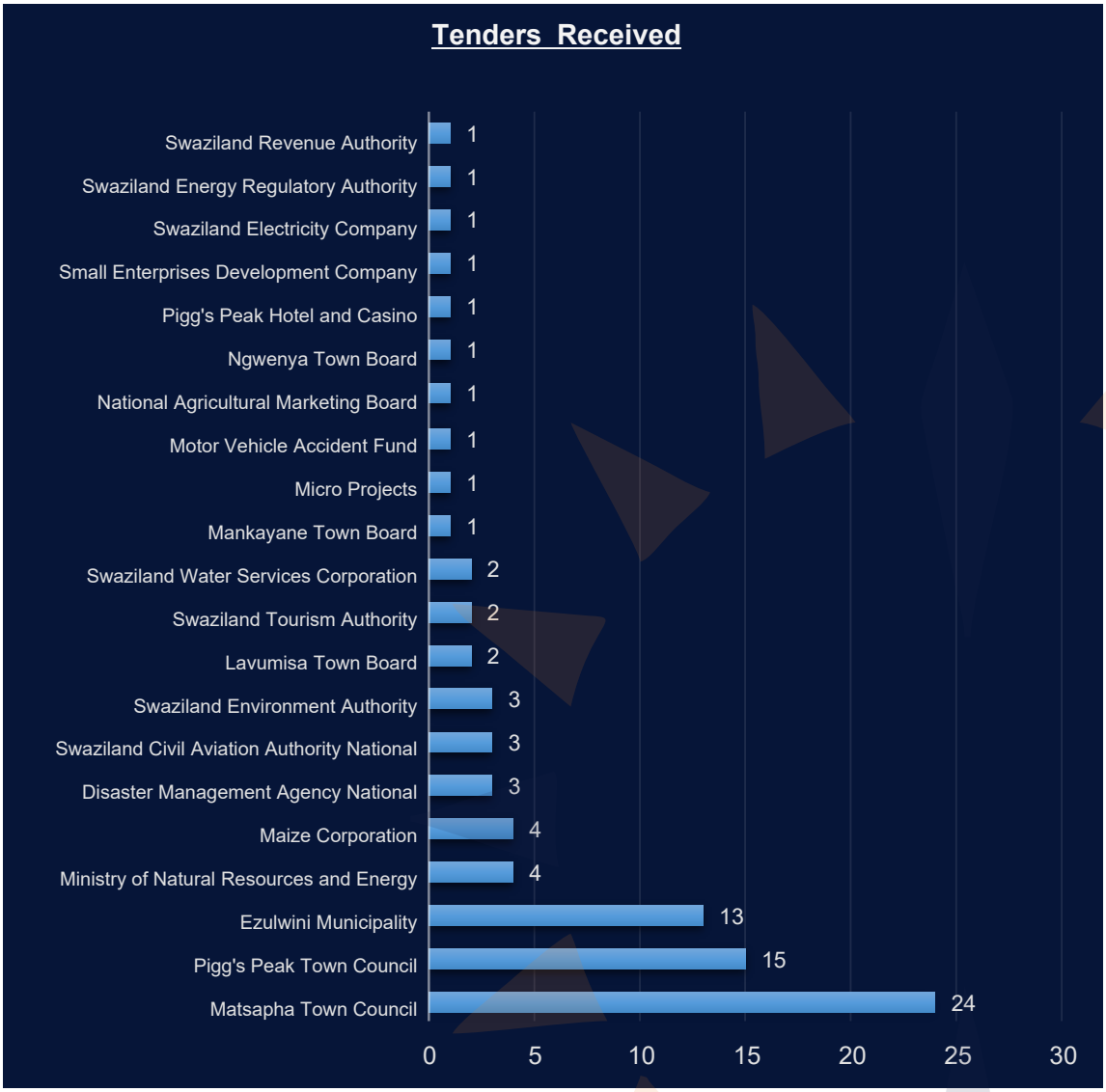


Figure 1.2: List of PE's and tender documents submitted for review

3.2.3 INTENTION TO AWARD

Section 45(3)(b) and 45(4) mandates PEs to publish intention to awards on the Government 's public procurement website and allow a period of at least ten working days to elapse from the date of despatch. Figure 1.3 shows the total number of 94 intentions to award were received by the Agency in the year under review. This shows a small fraction of the contracts awarded to suppliers.

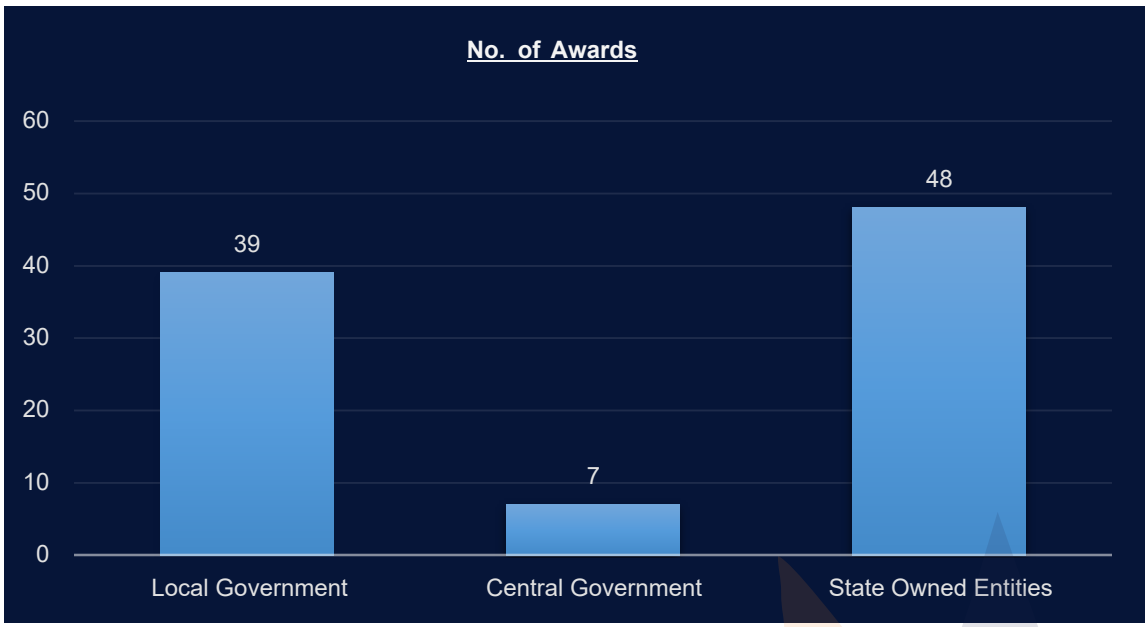


Figure 1.3: Total Number of Intentions To Award submitted

Analysis of the information published on the Agency's website indicated that 94 intentions to award were submitted by 20 PEs, 38% were for goods and services respectively and 23% for works as indicated below.

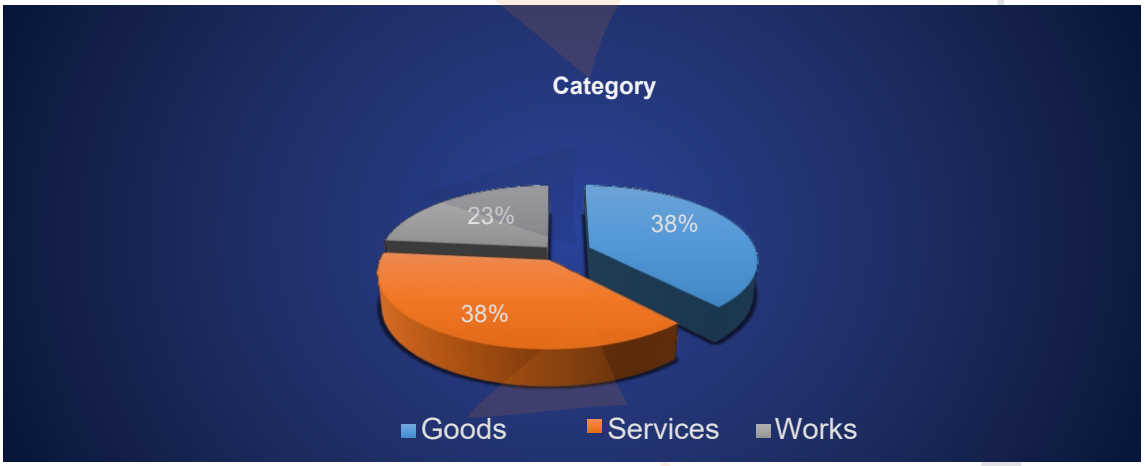


Figure 1.4: Category for Intentions To Award submitted

3.2.4 PROCUREMENT AUDITS

As part of its oversight responsibility, the Agency is mandated to monitor compliance with the Procurement Act of 2011 and procurement performance by PEs in terms of section 10 (c), hence the need to perform regular audit reviews on PEs procurement activities. The aim of the procurement audits is to evaluate how the process was carried out, whether payments and deliverables were made as per contract. The findings of such audits lead to conclusions as to whether the PE was procurement compliant or not in carrying out the said contracts.

The Agency conducted five procurement audits in the financial year 2017/2018 as presented in the table below:

Procuring Entity	Reference	Description	Contract Value	Procurement Method
The Ministry of Economic Planning	Not applicable	36th SADC Summit procurement audit	E 56 406 479.00	RFQ and Single Source
The Ministry of Public Works & Transport, Roads Department's	Tender no.220 of 2014/15	Maintenance contract for the MR3 - Matsapha to Manzini CBD Road	E102 623 650.00	Limited Tendering
Swaziland Posts and Telecommunications Cooperation	SRA2 014/017, SRA2 017/007, SRA2017/009	Security Contract for the financial year 2016/17/18	E16 691 659.00	Open Tendering RFQ and Single Source
Swaziland Posts and Telecommunications Cooperation	Tender no.11 of 2015/2016	Security Contract for the financial year 2016/17/18	E 19 764 000.00	Open Tendering
Manzini Municipal Council	Tender no.1 and 2 of 2018/19	Provision of nuisance abatement and security services	E1 952 220.00	Open Tendering

Table 1.6: Procurement Audits conducted

The below listed audit findings and recommendations relates to the above public procurement audits performed. Worth noting though is that there were no weaknesses noted with the Swaziland Revenue Authority (SRA) security contract's procurement process. The concerned entities were advised to take corrective actions to remedy the weaknesses identified.

	Audit Findings	Recommendations
1.	**Lack of proper procurement** procedures. Some Procuring entities, mostly those that do not have procurement officers/specialists or Procurement department have no proper procurement procedures. There were instances where; Goods/services were delivered before the supplier was approved by the Government Tender Board, implying that the supplier was pre-determined by the user and the required goods procured without any approval.	Public Entities should maintain an appropriate internal procurement system and ensure that their internal procurement processes and functions are being implemented accordingly. For every public spending incurred, all the basic procurement cycle stages must be observed and well documented.
2.	Non–compliant/Ineligible companies participate in public procurement. Suppliers who do not have key requirements for operating such as labour compliance certificate, Swaziland National Provident Fund (SNPF) compliance certificate, Tax clearance, Form J and Form C were given government contracts.	Non-compliant suppliers should be disqualified in Public Procurement. Considering defiant suppliers' defeats objectivity and compliance in the utilisation of public funds. The tender document (terms of reference) should clearly state the consequences on non-compliant suppliers.
3.	Incomplete supplier eligibility criteria. PEs omit key compliance measures in their tender documents due to ignorance or with fraudulent intentions of suiting a preferred non-complying supplier.	The supplier eligibility criteria should be complete as defined under section 40 of the Act.

	Audit Findings	Recommendations
4.	Use of an inappropriate method of procurement. Limited tendering method would be used where open tendering is necessary, and a single source method of solicitation would be used instead of a request for quotation. This would be done without seeking approval from the relevant approvals authority.	It is recommended that proper procurement methods are utilised by PEs when conducting public procurement activities to ensure transparency, value for money and encourage competition.
5.	Failure to submit audit evidence. Failure to retain important procurement documents, hence losing audit trail for procured transactions. Failure to provide key procurement records has the ability to taint audits hence resulting to bad reputation.	PEs must retain procurement documents for public funds at least for a period of five years after the project completion as required by Paragraph 25 of the public procurement procedures of 2016. Furthermore, PEs must pay attention to record management and retention processes and maintain a safe and secure process for them.
6.	Public funds committed and utilised without any contract in place nor any binding legal document Goods/services were procured without any contr act in place nor any written document binding either parties to the terms of the engagement. On another note, a vague, meaningless 'presumed' contract document would be provided with no contract value, contract scope and specifications.	PEs should maintain a proper standard of contracts. Legal departments should offer advice on an appropriate contract document to be utilised and further review all key contracts between PEs and third parties. Contract documents which are below standard should not be allowed under any circumstances.
	Government expenditure for goods and services worth millions without an audit trail. These transactions did not have the necessary supporting documents such as purchase requisitions, purchase orders, delivery notes purchase requisition forms, quotations, as well as payment vouchers.	All public procurement activities must have supporting documents to provide some procurement track record for every expenditure of public funds. Hence, PEs should maintain an appropriate internal procurement system and ensure that their internal procurement processes and functions are being implemented accordingly.
8.	Poor/Non-existent Contract Management. There is poor contract management in public procurement contracts. This exposes the PEs to Public Procurement Fraud Risk, being the manipulation of specifications and bribery. Contract management risks of overcharging and false invoicing is therefore imminent. Poor contract management and contract breaches becomes the order of the day.	It is recommended that PEs should ensure proper contract management. Contract documents should clearly outline contract management procedures for both parties, and these must be evaluated and managed throughout the contract term.
9.	The method of evaluation was not detailed, transparent nor objective, to such extent that the scoring method/criteria would not be explained for bidders in the terms of reference.	The evaluation criteria and method must be given more attention and disclosed to the relevant stakeholders. Approvals authority as well as management should ensure that at various stages the evaluation is not only planned to be fair but has also been conducted fairly.

Table 1.7: Procurement Audits findings and recommendations

3.2.5 INVESTIGATIONS

In accordance with Section 10(c)(iii) of the Procurement Act 2011, the Agency is mandated to investigate the conduct of procurement activities that are suspected to involve violations of the Act. Very often these investigations arise from allegations of misconduct in procurement operations, including those from whistle-blowers and other bodies. The findings of such investigations lead to conclusions as to whether the PE complied with public procurement law in the specific procurement process. During the year under review, the Agency conducted six investigations and the reports were shared with the relevant bodies for further necessary action.

Out of six cases investigated by the Agency, two criminal cases were referred to the police for purposes of further investigations with a view to prosecute the suspects. On a different dimension, the Agency has resolved that during the 2018/2019 financial year, it will also gather information relating to how procurement fraud and corruption is done especially in the Central Government.

The findings and recommendations from the investigations were as follows:

Findings	Recommendations
Forged eligibility tender documents required by section 40 of the Act.	The Agency considers suspension of companies from participating in public procurement as per section 55 of the Act
Non-compliance with section 45 which deals with publication of a notice of intention to award	The Agency to strengthen the capacity building aspect with the PEs
Conflict of Interest	The Agency to capacitate PEs and suppliers on Conflict of Interest and Codes of Conduct (Section 59, 60 and 61 of the Act).

Table 1.8: Investigation findings and recommendations

3.2.6 ADMINISTRATIVE REVIEWS

The Act requires the Agency to constitute a Standing Review Panel from which Independent Review Committees (IRC) will be drawn to hear applications for administrative review and appeals against suspension from participating in the procurement process on a case by case basis where an entity has been found guilty of misconduct. The administrative review process caters for tenderers who are aggrieved over an outcome of a tender award process. The IRC has the mandate to receive and deliberate on complaints from candidates who claim to have suffered or risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by the Act and Circular No.1 of 2016. The main function of the IRC is to review, hear and determine public procurement tendering disputes. The Agency constitute and provide secretariat services to IRC where required.

3.2.6.1 INDEPENDENT REVIEW COMMITTEE (IRC) RULES OF PROCEDURE:

Seeing the need to simplify the process of conducting Administrative Reviews, the Agency sought the services of a legal expert to draft the Rules of Procedure for the IRC which were signed and adopted on 20th November 2017. These rules will assist in ensuring brevity and transparency in the administrative review process. The transparency on the other hand will assure the public of the fairness and integrity of the process.

Furthermore, the Agency hosted a one-day workshop to train Standing Review Panel Members on the IRC Rules of Procedure.

3.2.6.2 HANDLING OF APPLICATIONS FOR REVIEW

During the year under review, the IRC cumulatively presided over 5 cases as detailed in the figure below:

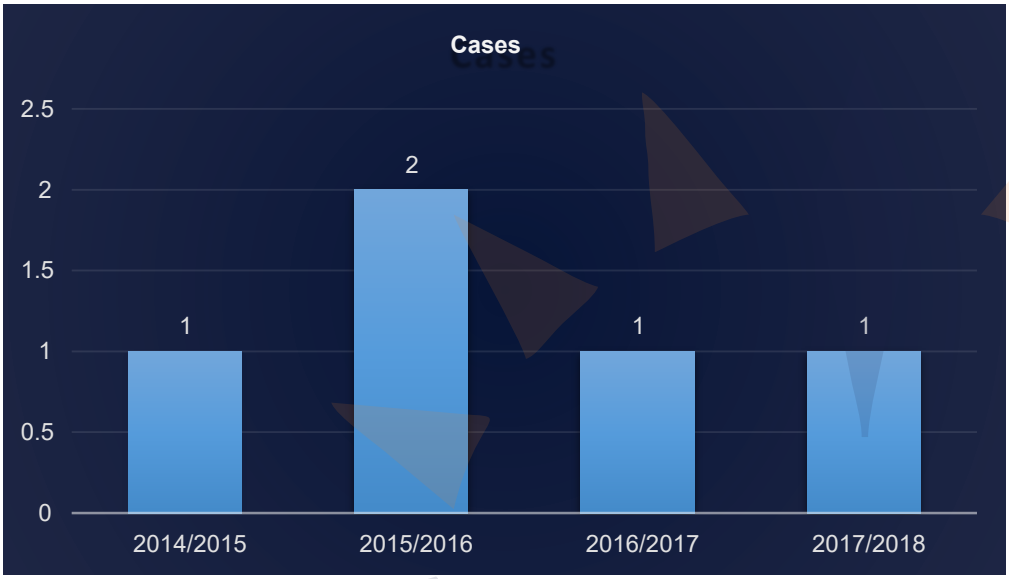


Figure 1.5: IRC cases

3.2.7 DEVIATIONS

A total of 55 deviation applications were adjudicated in accordance with section 6 of the Act, within seven days of their receipt in the 2017/18 financial year.

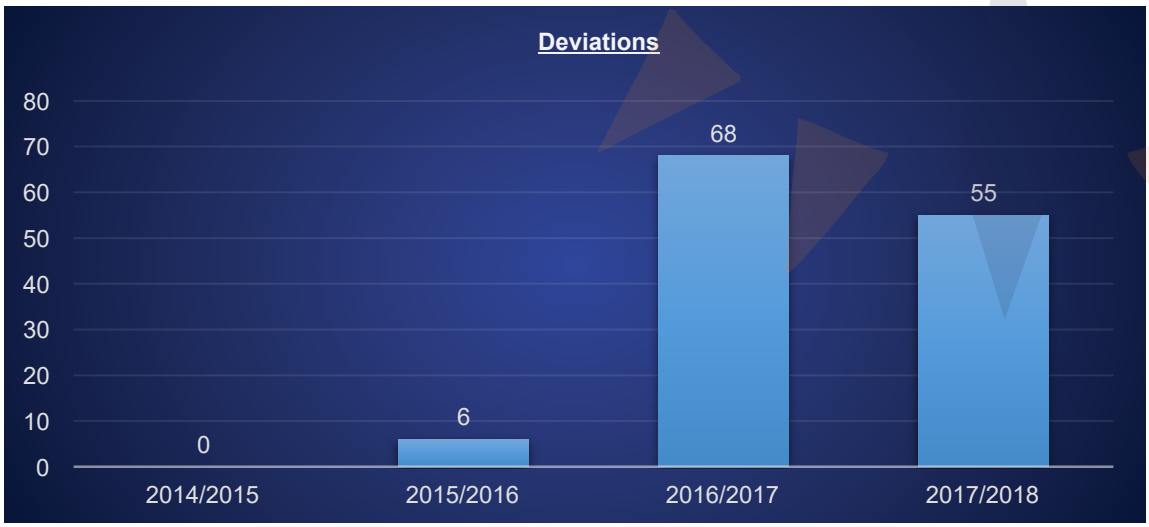


Figure 1.6: Deviations Adjudicated

3.2.7.1 KEY OBSERVATIONS AND RECOMMENDATIONS ON DEVIATIONS

The key observations to note from applications for Deviations in the reporting period are presented on table below;

	Observations	Recommendations
1.	PEs do not prepare procurement plans hence creating emergencies and an increase in applications for deviation.	PEs should abide by the provisions of the Act and Circular No. 2 of 2015 with respect to preparation of procurement plans.
2.	PEs submit applications for deviations in respect to procurements which have already been finalized or already in progress.	The Agency to build capacity for procurement officials on the procurement processes and methods.
3.	Failure of suppliers to adhere to the requirements of the bidding documents issued by PEs.	PEs need to hold pre-bid meetings and advise bidders on submitting responsive bids.
4.	PEs submit applications for waivers to the Agency to use the direct method or emer gency procurement even in circumstances clearly provided for under the law.	Entities should comply with the provisions of the Act. The Agency will continue to Provide capacity on the Act.

Table 1.9: Observations and recommendations

3.3 ALLOCATION OF LEVELS OF AUTHORITY

Mandated by Section 27(3) of the Act, the Agency should allocate levels of authority and authorize the establishment of Entity Tender Boards after conducting an assessment of the procurement capacity and workload of each procuring entity. During the year 2017/18, a pilot project on capacity workload and assessment using the Supply Positioning and Risk Evaluation Matrix (SUPREM) was implemented on four PEs namely; Swaziland Revenue Authority (SRA) and National Industrial Development Corporation of Swaziland (NIDCS), Municipal Council of Manzini and the Royal Swaziland Technology Park (RSTP). The assessment was successfully completed on two (2) PEs; SRA and NIDCS where the PEs were awarded a certificate to establish an Entity Tender Board and set levels of authority, however, the latter was awarded provisional levels of authority pending the establishment of the PE Procurement Unit as required by Section 35 of the Act. The assessment on the other two (2) PEs; Municipal Council of Manzini and RSTP were not finalized during the year under review .

3.4 LEVERAGING TECHNOLOGY TO IMPROVE PROCUREMENT OUTCOMES

The Agency shall examine and recommend ways of introducing in public procurement, at appropriate stages, the use of information and communications technology, and other technical innovations, where such technology promotes the objectives of the Act. In light of the above the Agency has introduced the following innovations;

3.4.1 E-LEARNING

To enhance the effectiveness for capacity building and professionalization of the procurement cadre, during the financial year 2017/18 the Agency developed an e-learning platform. The overall objective of the e-learning course is to enable self-paced training on public procurement which aims at enhancing the capacity of public sector procurement officers. E-Learning will also provide a platform for stakeholders to discuss and share experience on public procurement matters. The Agency is expecting to roll-out the E-Learning platform in the 2018/19 financial year.

3.4.2 TENDER PORTAL

The Agency is recognized as a depository for all public sector tender opportunities. In this regard, the Agency leverages on the opportunity to advertise Invitation to Tenders for potential tenderers and suppliers to participate in procurement proceeding on the Agency's website on behalf of all PEs. No PE shall publish Invitations to tender documents, advertisements and notices without the Agency's prior approval. This intervention by the Agency is intended to reduce the cost of advertising for PEs and ensure that PEs issue Invitation to Tender, notices and advertisements that are aligned to public procurement procedures, rules, processes and guidelines.

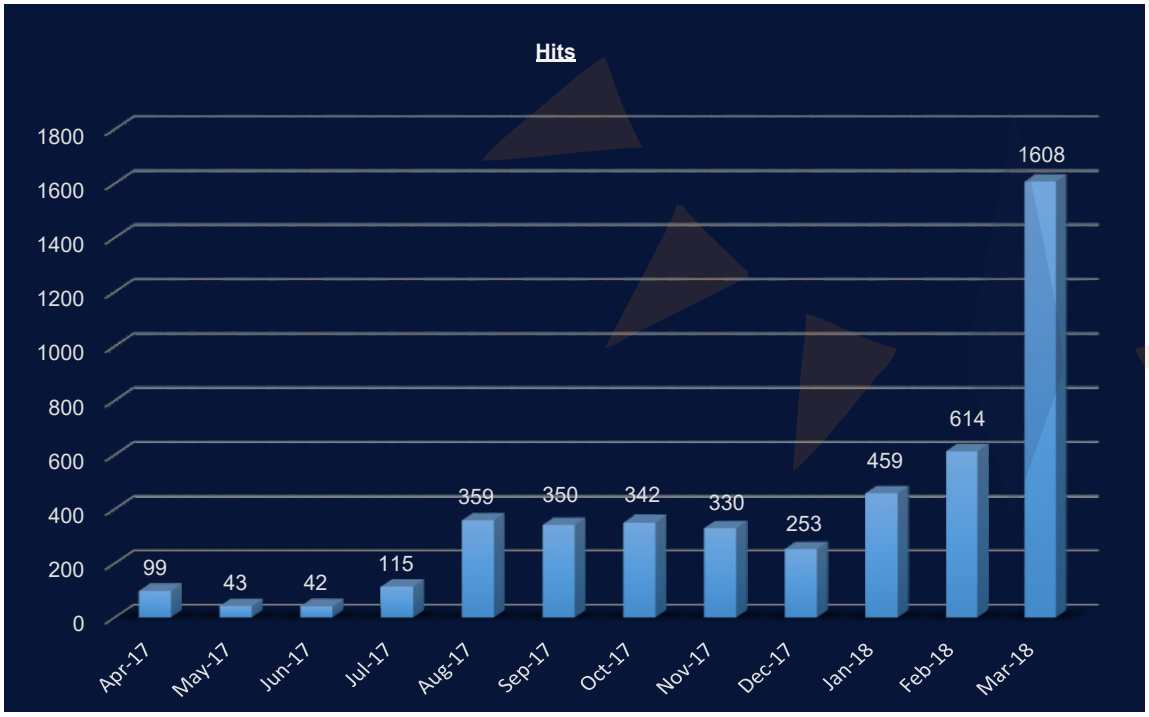


Figure 1.7: Website Hits

CHAPTER 4

PUBLIC PROCUREMENT SYSTEMS

PERFORMANCE AND ANALYSIS

4.1 QUARTERLY AND ANNUAL PROCUREMENT ANALYSIS

3.4.1 REPORTS SUBMITTED BY PE's

The Public Procurement Act, 2011 requires PEs to report on their procurement spend. The Agency receives quarterly and annual reports from the Central Government, Local Government and SOEs. During the period under review, the Agency reviewed reports from the PEs and made the following observations:

i. There were late submissions of reports by the PEs

ii. PEs split procurements in order to use less competitive methods of procurements such as quotations

iii. CEO's who have assumed an overbearing position in the procurement process by sitting in committees that should be independent

iv. Board members who actively participate in procurement operational decisions

v. Existing procurement officers who do not have procurement qualifications

vi. Entities whose staff compliment and structure make it unlikely that they shall be able to form Entity Tender Boards and thus shall require a lead Procurement Entity to procure for them

The following 54 of 91 PEs did not submit any reports during the period under review.

I. CENTRAL GOVERNMENT

Ministry of Finance
Ministry of Justice
Ministry of Agriculture
Ministry of Publ ic Works & Transport
Judiciary of Swaziland
Ministry of Economic Planning
Ministry of Tinkhundla
Ministry of Commerce Industry and Trade
Commissioner of Police

II. LOCAL GOVERNMENT

Municipal Council of Manzini
Siteki Town Council
Piggs Peak Town Council
Lavumisa Town Board
Vuvulane Town board
Ezulwini Municipality
Nhlangano Town Council
Hlathikhulu Town Board
Mankayane Town Board

III. STATE OWNED ENTITIES (SOEs)

- Swaziland Energy Regulatory Authority (SERA)
- Swaziland Environmental Authority (SEA)
- Swaziland National Council of Arts & Culture (SNCAC)
- Royal Swazi National Airways Corporation
- Swaziland Water and Agricultural Development Enterprise (SWADE)
- National Industrial Development Corporation of Swaziland (NIDICS)
- Swaziland Civil Aviation Authority (SWACAA)
- Baphalali Red Cross Society
- Royal Swaziland Technology Park (RSTP)
- Swaziland National Trust Commission (SNTC)
- Swaziland Nazarene Health Institutions
- Swaziland Christian University (SCU)
- National Maize Corporation (NMC)
- Siteki Good Shephard Hospital
- Swaziland Railways
- Swaziland Financial Intelligence Unit (SFIU)
- Swaziland Standards Authority (SWASA)
- Eswatini Television Authority (STVA)
- Swaziland National Sport & Recreation Council (SNSRC)

- Swaziland Energy Regulatory Authority (SERA)
- Swaziland Environmental Authority (SEA)
- Conciliation Mediation and Arbitration Commission (CMAC)
- Motor Vehicle Accident Fund (MVAF)
- Swaziland Development Finance Corporation (FINCORP)
- Eswatini Electricity Company (EEC)
- Public Service Pension Fund (PSPF)
- Financial Services Regulatory Authority (FSRA)
- Sebenta National Institute
- Swaziland Communication Commission
- National Emergency Response Council on HIV and AIDS (NERCHA)
- University of Eswatini (UNESWA)
- Swaziland Water Services Corporation (SWSC)
- Swaziland Cotton Board
- Swaziland Dairy Board (SDB)
- Swaziland Tourism Authority (STA)

4.2 PUBLIC PROCUREMENT FRAUD RISK FRAMEWORK RATING (PPRFR)

Public Procurement Fraud is a major problem internationally and is found in a range of activities throughout the procurement cycle. It can be conducted by individuals or groups of individuals and is hard to detect. It is also conducted from outside PEs as well as by individuals who work for PEs. To maximise the effectiveness of its principles, Public Procurement should focus on the balance between the severity of the risk and its mitigation.

Mitigation seeks to put measures in place to lessen the severity of an unplanned event should that event occur. Mitigation however does not come without costs and risks with the potential for the most severe impact and greatest probability tend to require costlier mitigation measures. During the past financial year , the Agency has come across many risks within the Public Procurement System and some of them are listed in Table 2.0.

Procurement Stage	Risks	Likely Consequence	Mitigation
1. Identifying the need and planning the purchase	Overstatement of the need	- Greater expense - Poor competition	The Agency shall focus on the submission and analysis of Procurement plans and Audit and Monitoring.
2. Developing the specifications	Narrow definition or commercial specification (eg. use of brand name)	- Less competition - Increased costs	Narrow definition and use of trade names shall be reduced starting 2018/19. The monitoring function shall intervene in this areas during the tender approval stage.
	Biased specification	- Inadequate responses from tenderers - Claims of unfair dealings	Train and support procurement professionals and raise awareness around specifications development
3. Selecting the purchasing method	Failure to identify potential sources	- Lack of offers from suitable tenderers	Research capacity of PEs shall be enhanced
4. Purchasing documentation	Terms and conditions unacceptable to tenderers	- Loading of costs in offers - Having to modify tender terms and conditions - Disruption -Low response	National Standard bidding documents are being prepared by the Agency.
	Providing inadequate information	- Loading of costs in offers - Variations in offers - Having to provide clarifying information, causing delays in tender closing - Additional costs	
5. Inviting,clarifying and closing offers	Failure to adequately address enquiries from tenderers	- Claims of unfair practices - Offers with qualifications by tenderers -Withdrawal of offers	Closer monitoring of PEs
	Actual or perceived favouritism in providing information	- Complaints from tenderers - Withdrawal of offers	Closer monitoring of PEs
6. Evaluating offers	Failure to follow effective evaluation procedures	- Inconsistent evaluations - Possible complaints from tenderers - Subjective not objective evaluation of offers	The anticipated passage of the Public Procurement Regulations shall give the tools necessary for us to require better management of this area.
	Failure to identify a clear winner Decision made on subjective grounds	- Claims of unethical and unfair behaviour - Complaints from tenderers	Closer monitoring and oversight actions shall assist in the reduction of this activity.

Procurement Stage	Risk	Likely Consequence	Mitigation
7. Contract management	Failure of either party to fulfil the conditions of the contract	- Contract disputes - Failure to satisfy needs - Delays in delivery - Downtime - Legal action	Better Contract Management within PEs
	Inadequately administering the contract	- Cost increases - Failure of contract - Full benefits not achieved - Delivery of unsatisfactory product -Contract/supply disputes	Better Contract Management within PEs
	Unauthorised increase in scope of work	- Unanticipated cost increases - Contract disputes	Better scope management by creating a subcommittee within the Tender Board Responsible for Scope changes within a set limit. More focus on scope creep within major contracts.

Table 2.0: Procurement risks and mitigations

As we undertake Public Procurement Reform, the SPPRA intends to take Risk Based approach to compliance. This shall ensure that while we drive for increased efficiency and effectiveness in the Public Procurement System, we shall also focus on minimising fraud risk as a priority.

CHAPTER 5

INTERNAL RESOURCE MANAGEMENT

OVERVIEW

The Agency will strengthen its internal systems and structures to ensure the smooth running of its operations, and enable efficient and effective provision of services to its stakeholders. The chapter presents budget performance and the status of implementation of other activities aimed at strengthening internal capacity of the Agency to deliver improved performance of public procurement.

5.1 HUMAN RESOURCES MANAGEMENT

Human resource management refers to the function within the Agency that focuses on recruitment, internal capacity building, performance management, industrial relations and employee welfare. It is through the above definition that the following activities have been realized.

5.1.1 RESTRUCTURING

In the beginning of the financial year 2017/2018, the Agency organisational structure had a staff complement of 44 composed of 21 out of 44 recruited staff members. After restructuring, SPPRA remained with a staff complement of 41. The following changes were made:

i. Nine posts have been removed from the new organizational structure:
   - Investigation Officer
   - Programmer and database administrator
   - Legal Advisor
   - Logistics and Planning Officer
   - Pool of Secretaries (2)
   - Reference Price Officer
   - Oversight Officers (2)

ii. Six posts have been added to the new organizational structure:
   - Market Research Officer
   - Monitoring and Evaluation Officer
   - HR Officer/Assistant
   - Procurement Officer/ Clerk
   - Head of Regulatory Affairs
   - Head of Operations

iii. During the year of reporting there were two terminations in the Agency. The Agency's staff turnover rate decreased drastically from 30 per cent in 2016/17 to 6.5 percent in 2017/18. This reflects continued and improved staff retention strategies, such as improved remuneration, better health and wellbeing programs, and improved leave policy.

5.1.2 RECRUITMENT

During the year, the Agency filled 3 vacant positions (two new approved positions and one replacement) after successful completion of interviews and confirmation of appointments by Management. The positions filled include; Human Resources Assistant, Procurement Clerk and Head of Finance as appointed by SCOPE.

5.1.3 REMUNERATION, REWARDS RECOGNITION AND BENEFITS ADMINISTRATION

The employment conditions for SPPRA employees, including improved leave provision such as defined compassionate leave, paternity leave, improved maternity leave to four months, improved annual leave to a minimum of 20 working days to name but a few. After the issuance of PEU Circular No3/2016, a review of the Agency's remuneration arrangements gave new improved ceilings for executive management which improved their conditions of employment. Furthermore, the Agency has also made great strides in benefits administration as all employees of the Agency are currently on medical aid cover, group life assurance, risk of disability and provident fund.

5.1.4 LEARNING AND DEVELOPMENT

The Agency has made significant effort in the year under review to source external funds for internal learning and development and hosted two group trainings as follows:

i. Change Management training funded by the Capacity Strengthening and Technical Cooperation Project (CSTCP) housed at the Ministry of Economic Planning and Development and Facilitated by Intelligent Africa. These were the objectives for the training: *understanding of the impact of change in an organisation, supporting and preparing for impending changes that may occur within the Agency, building and maintaining good working relationships amongst staff.*

ii. Ethics and Integrity Training facilitated by Mr Stanley Nyamanhindi Chief Executive Officer of the SADC lawyers' association. The training objectives were as follows: *achieve internal professionalization, maintain integrity in and outside of work, enhance confidentiality in the treatment of SPPRA business and documents, allow staff to draw practical examples of unethical behaviour, highlight the risk of unethical action as public servants, create a baseline understanding of the concept of ethics and integrity.*

5.2 INFORMATION AND COMMUNICATION TECHNOLOGY

The Agency continues to embrace and leverage on Information and Communication Technology to improve on service delivery as well as the efficiency and effectiveness of its operations. Some of the ICT projects implemented during the year under review include:

5.2.1 ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM

The Agency acquired and installed an open source ERP system used to provide easy and seamless workflows, storage and access to documents during the tender review and advertising process. This system also ensures that all PEs related information is stored in a safe, reliable and secure facility. Eleven (11) staff members were trained on the ERP.

5.2.2 ACCESS TO ICT INFRASTRUCTURE

For improved electronic communication, the Agency upgraded its internet bandwidth from 5mbps to 8mbps. This was informed by increased website access and document downloads from the SPPRA websites. More than 3000 copies of tender documents were downloaded from the website. Other documents like circulars and the Procurement Act, 2011 continue also to receive high download hits.

5.2.3 ICT SUPPORT SERVICES

The Agency has established an ICT department to offer first line technical support to staff and assist them to make appropriate use of the Agency's ICT systems. The ICT department provided the primary point of contact for end-user support, and offered a wide range of services including management of computing equipment and software, technology training as well as spearheading ICT policy development. The Agency entered into Service Level Agreements (SLAs) for various ICT services and equipment.

5.2.4 SPICE-WORKS NETWORK MONITORING TOOL

The Agency has deployed a free and open source computer software application that monitors systems, networks and infrastructure. It offers monitoring and alerting services for servers, switches, applications and services. This system enables the Agency to automatically fix some of the problems when they are detected, monitor the entire IT infrastructure and plan for infrastructure upgrades before outdated systems cause failures.

5.2.5 SOCIAL MEDIA

The Agency created social media pages on Facebook, Instagram and Twitter with the handle "@SPPRAofficial". Tender opportunity information and pictures of events the Agency has engaged on are shared on the social media pages. The Agency will venture into paid posts in order to ensure that visitor engagement is improved.

5.3 PROCUREMENT PLANNING AND MANAGEMENT

The Agency has established a procurement function to coordinate and facilitate all its procurement activities. Like most procurement units in Eswatini, the Agency is yet to approve and establish level of authorities and procurement thresholds in line with Section 27 of the Act. Currently, the unit uses Circular No.1 of 2016 to refer to procurement authorisations and thresholds. Table 2.1 shows the value of procurements hadled by the unit in the year under review.

Procurement Method	Number of Contracts	Procurement Value
Contract Extension	7	SZL 1,697,562.46
Limited Tender	4	SZL 1,034,970.00
RFQ	31	SZL 207,039.03
Single Source	37	SZL 580,759.54
Sole Source	4	SZL 387,402.61
Total	**83**	**SZL 3,907,733.64**

Table 2.1: Procurements summary

These procurements were executed in compliance with the Act and taking into account the activities provided for in the fiscal year 2017/2018 action plan.

5.4 FINANCIAL MATTERS

In the year under review, the Agency was funded by the Government of Eswatini to the tune of E9 Million out of the requested budget of E26 Million. The Agency received a grant income and other income totalling to E12,027,839.00. It is worth noting that the total income includes tender review fees, training fees, IRC fees, balance brought forward, Government subvention and interest received. Operating expenses and financial costs stood at E14,501,292.00. The Agency's actual expenditure is higher than the actual income by 20.6%. This means that the Agency had a deficit of E2,473,453.00 as at 31st March 2018.

5.5 REVENUE GENERATION

The Agency has a strategic objective to identify and operationalize diverse revenue streams to sustain its operations. In the fiscal year 2017/18, the Agency has been able to attract additional funds from Government, suppliers, development partners and PEs (Refer to section 5.4: Financial Matters). The Agency is in a race to establish and operationalize a framework for mobilisation and utilisation of resources.

CHAPTER 6

RISKS, CHALLENGES AND PRIORITIES

OVERVIEW

The section outlines challenges faced by the Agency in the course of implementing the planned activities. It also looks at the risk management process including planning for the near to the medium term.

6.1 CHALLENGES

6.1.1 DELAYS IN THE PROMULGATION OF THE PUBLIC PROCUREMENT REGULATIONS

The Draft Public Procurement Regulations were submitted to the Ministry of Finance in May 2017. However, the promulgation of this Regulations has not yet been concluded as consultations with various stakeholders were still on-going by end of the reporting period. The delay in the promulgation of the Regulations has led to difficulties in effectively implementing procurement reform in the country. This has culminated in abysmal compliance levels of various public procurement entities across the country.

6.1.2 INADEQUATE FINANCIAL RESOURCES

The Agency's budget has been maintained between E8 and E9 million for the past 2 years, yet there has been increasing need to extend the mandate. In addition, the demand for the Agency's services is being overstretched with the increase in the number of PEs, especially in Local Governments. During the year under review, only 34.6% of the Board's approved budget was received from Government.

6.1.3 INADEQUATE STAFF COMPARED TO THE INCREASING DEMAND SERVICES

The staffing level of the Agency stood at 24 out of an approved staff complement of 41. However, given the Agency's mandate there have been noticeable constraints on achieving the mandate due to inadequate staffing of the establishment.

6.1.4 UNETHICAL PRACTICES

The findings from the Agency's investigations and procurement audits indicate that corruption is still affecting the procurement process. The public procurement sector is characterized by low levels of integrity and professionalism, increasing levels of corruption and bribery.

6.1.5 CAPACITY GAPS AT PEs

The procurement profession in the country is still growing and there is need for more professionals. The few professionals available keep on moving from entity to entity or resign leaving a technical capacity gap in the PEs. Professionals whose contracts have expired are replaced with new staff who are not well equipped with public procurement knowledge.

6.2 RISK MANAGEMENT

Risk is the potentiality that expected and unexpected events may have an adverse impact on the achievement of the Agency's objectives. Risk management aims at identifying, measuring and mitigating various risks that are intrinsic as well as extrinsic.

6.2.1 KEY RISKS FACING THE AGENCY

The Agency identified a number of key risks that were likely to impede the implementation of its objectives. Strategies to mitigate the identified risks were mapped out and an implementation action plan developed. The key risks facing the Agency and the mitigation measures included;

	Risks	Mitigation
1.	**Compliance audit risk** While undertaking its mandate, of oversight of the public procurement system and reporting on its overall functioning, the Agency is challenged when it comes to covering all the PEs.	· Strengthening the capacity of oversight function · Development and operationalization of ICT based monitoring & evaluation systems.
2.	**Inadequate financing** The Agency's main source of funds is the Government. The allocation that the Agency has been receiving is not adequate to cover the mandate. This has on a number of occasions made the Agency to scale down on its operations.	· Implementation of the internal revenue gener ation strategies · Lobbying for additional government funding.
3.	**Reputational risks** The Agency's reputation is likely to be put in jeopardy more so when the mandate of the Agency is not clearly understood by the general public.	· Have a clear understanding of the Agency's mandate amongst the internal & external stakeholders · Implementation of stakeholder feedback · Signing of MOU's with strategic stakeholders
4.	**Loss of Agency's and PEs' records and information** The Agency receives volumes of records, documents and information from the PEs and other stakeholders in the course of its operations. Thus, there is need to safeguard these records, documents and information while under the Agency's custody.	· Frequent trainings of staff on records and information management · Development and implementation of a records magement policy. · IT innovations · Development and operationalization of the ICT Policy
5.	**Occupational Safety, Health and Environmental risks**	· Staff training on safety and security matters · Implementation of the Corporate Safety and Security Policy.

Table 2.2 Risks and mitigation strategies

6.3 PRIORITIES

6.3.1 STRENGTHENING TRANSPARENCY AND ACCOUNTABILITY IN PUBLIC PROCUREMENT

The Agency will closely monitor and report on the performance of the Public Procurement System by conducting risk based procurement audits, investigations, and follow-up on implementation of SPPRA recommendations and suspension of fraudulent suppliers. Suspension of suppliers is in respect of participation in all public procurements in kingdom of Eswatini. The suspension period is between 1 and 5 years. The Public Procurement Act in section 62 provides for offenses in which individuals may be prosecuted for, and further, section 63 provides that if they are found liable and convicted in any of the offenses, suppliers run the risk of being fined a fine not exceeding ten million Emalangeni or to serve a term of imprisonment not exceeding ten years or both.

6.3.2 ESTABLISHING PARTNERSHIPS

In order to ensure the Agency's sustainability, as well as effective and efficient attainment of its mandate, the engagement and systematically mapping of stakeholders is important. Partnerships with other stakeholders also ensures that local economic growth remains a priority. Systems to achieve this development goal are strengthened through such partnerships i.e. preventing fraud and corruption, upskilling citizens and introducing new ideas to public procurement. SPPRA finds that partnerships are key to its sustainability and takes pride in working with others to meet His Majesty's vision for 2022.

6.3.3 E- PROCUREMENT

The Agency will continue to implement activities that will lead to the acquisition of the E-Procurement system after receiving approval and funding from Government and development partners. The expected benefits of the E-Procurement system are improved transparency, efficiency and lower procurement transaction costs.

CHAPTER 7

FINANCIAL PERFORMANCE

STATEMENT OF COMPREHENSIVE INCOME

FOR THE YEAR ENDED 31 MARCH 2018

	Note	2018 E	2017 E
Grant Income	1	11 493 443	11 391 047
Operating Expenses		(14 478 786)	(11 389 870)
Operating (deficit)/ surplus	3	(2 985 343)	11 77
Other income	2	534 396	126 546
Finance costs		(22 506)	(32 175)
(Deficit) Surplus for the year		(2 473 453)	95 547
Other comprehensive Income		–	–
Total Comprehensive (loss) / Income		**2 473 453**	**95 547**

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STATEMENT OF FINANCIAL POSITION

FOR THE YEAR ENDED 31 MARCH 2018

	Note	2018	2017
		E	E
ASSETS			
Non- current assets			
Property, Plant and Equipment	4	1 865 196	2 152 308
Current assets			
Trade and other receivables	5	207 535	2 150 750
Cash and cash equivalents	6	64 830	92 977
		272 365	2 243 727
Total Assets		**2 137 561**	**4 396 035**
FUNDS & LIABILITIES			
Funds			
Accumulated (deficit) funds		(2 135 338)	338 115
Non-current liabilities			
Finance Lease Liabilities	8	37 965	121 075
Deferred grant income	1	—	2 493 443
		37 965	2 614 518
Current Liabilities			
Finance Lease Liabilities	8	106 319	117 942
Trade & other Payables	7	4 128 615	1 325 460
		4 324 934	1 443 402
Total Equity and liabilities		**2 137 561**	**4 396 035**

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STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 31 MARCH 2018

	Accumulated (deficit) / Funds	Total
	E	E
2018		
Balance as at 1 April 2017	338 115	338 115
Deficit for the Year	(2 473 453)	(2 473 453)
Balance as at 1 April 2018	**(2 135 338)**	**(2 135 338)**
2017		
Balance as at 1 April 2016	242 568	242 568
Surplus of the Year	95 547	95 547
Balance as at 1 April 2017	**338 115**	**338 115**

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STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 31 MARCH 2018

	Note	2018 E	2017 E
Cash flows from operating activities			
Cash generated (utilised) from operations	9	806 611	(4 062 213)
Finance costs		(22 506)	(32 678)
Interest income		26 049	—
Net cash from operating activities		810 154	(4 094 891)
Cash flows from investing activities			
Purchase of property , plant and equipment	4	(743 568)	(1 367 591)
Cash flows from financing activities			
Movement in finance lease liabilities		(94 733)	(84 930)
Net cash movement for the year		(28 147)	(5 547 412)
Cash at the beginning of the year		(92 977)	5 640 389
Cash and cash equivalents at the end of the year		**64 830**	**92 977**

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