



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 • 40 Church Square, PRETORIA, 0002 • Tel: +27 12 315 5111, Fax: +27 12 406 9055 • www.treasury.gov.za

FROM: Mr. M P Makulane, Tel: 021 315 5258, Email: petrus.makulane@treasury.gov.za

Mr. L.T Makhode
Director-General
Department of Home Affairs
Private bag x114
PRETORIA
0001

Dear Mr. Makhode

**REQUEST FOR APPROVAL OF DEVIATION FROM THE NORMAL BIDDING PROCESS:
APPOINTMENT OF COSI HIRING**

1. The National Treasury acknowledges receipt of your letter dated 02 December 2021 and received on 03 December 2021.
2. Your Institution is requesting approval of deviation from the normal bidding process and appoint Cosi Hiring for the provisioning of tent services to accommodate 200 destitute refugees at the Cape Town Wingfield Military Base for a period of six (6) months commencing from 01 January 2022 till 30 June 2022 at a total value of R2 136 000.00.
3. The request was endorsed by the Director General on 02 December 2021.
4. The reasons for this extension are that the Department of Home Affairs requested National Treasury to support an inter Departmental Transfer of an existing contract from the City of Cape Town to the Department for the provisioning of tent services to accommodate 500 destitute refugees at the Wingfield Military Base on 16 July 2021. This was premised on the assumption that there is an existing and valid contract between the City of Cape Town and Cosi Hiring.
5. However, at a meeting held with representatives of the City of Cape Town on 08 November 2021, it was confirmed that the City of Cape Town does not have a valid contract in place with the service provider. While the number of destitute refugees occupying the tent has reduced to approximately 200, the need for the tent temporary shelter remains.



**REQUEST FOR APPROVAL OF DEVIATION FROM THE NORMAL BIDDING PROCESS:
APPOINTMENT OF COSI HIRING**

6. The reasons provided for this request are justifiable.
7. National Treasury supports the deviation on the basis of service continuity, on condition that the service provider was identified and selected in a fair and transparent manner and the previous appointment was not irregular.
8. The Institution has an obligation to ensure that any contract for goods and services is in accordance with a system of procurement which is fair, equitable, transparent, competitive and cost effective.
9. Please be advised that this award must be published on the e-tender portal.

Kind regards,

Signed by: Molefe Isaac Fani
Signed at: 2021-12-14 11:15:58 +02:00
Reason: Witnessing Molefe Isaac Fani



MOLEFE-ISAAC FANI
ACTING CHIEF PROCUREMENT OFFICER
DATE:



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

230 Johannes Ramokhoase Street, Private Bag X114, Pretoria, 0001
Parliamentary Office, 120 Plein Street, Private Bag X9048, Cape Town, 8000

The Director-General
National Treasury
Private Bag X115
PRETORIA
0001

Dear Colleague,

WINGFIELD REFUGEE FACILITY: RENTAL OF A TENT: SOLE SUPPLIER / REQUEST FOR A TREASURY DEVIATION IN TERMS OF NATIONAL TREASURY REGULATION 16A6.4 READ WITH INSTRUCTION NOTE NO. 3 OF 2016/17: PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM

1. My letter dated 15 September 2021 and the email from Mr Petrus Makulane dated 25 November 2021 refer. Please note that the refugees removed from the Cape Town CBD are accommodated at two sites: Wingfield and Paint City, Bellville. This request relates to the Wingfield site only.

2. As previously indicated, my Department requested Treasury to approve an inter-departmental transfer of an existing contract from the City of Cape Town to the Department for the provisioning of tent services to accommodate 500 destitute refugees at the Wingfield on 16 July 2021. This request was premised on the assumption that there was in place an existing and valid contract between the City of Cape Town and the service provider (Cosi Hiring). See letter attached as **Annexure A**. National Treasury noted that the reasons provided for the deviation are justifiable for continuity of services, but National Treasury advised the Department that the transfer of contracts between institutions is a contractual and legal matter and not a SCM matter for the Office of the Chief Procurement Officer to approve. See letter from National Treasury attached as **Annexure B**.

3. However, at a meeting held with representatives of the City of Cape Town on 8 November 2021 it was confirmed that the City of Cape Town does not have a valid contract in place with the service provider (Cosi Hiring) and that the City last paid the service provider in the previous financial year. The City conceded, however, that it remains liable for the payment of the rental of the tent, despite the absence of a valid contract. As

Department of Home Affairs • Lefapha la Merero ya Selegae • Lefapha la Ditaba tsa Lehale • uMnyango wezaseKhaya • Muhasho wa zwa Muno • Departement van Binnelandse Sake • Kgoro ya Merero ya Selegae • Ndzawulo ya ta le Kaya • LiTiko leTasekhaya • ISebe lezaseKhaya • UmNyango wezangeKhaya

there is no valid contract to cede to the Department, the issue of this being a contractual and legal issue becomes moot. See email attached as **Annexure C**.

4. While the number of destitute refugees occupying the tent has reduced to approximately 200, the need for the tent / temporary shelter remains. The destitute refugees are still living in the tent and show no intention of finding alternative accommodation. It is not possible to embark upon a competitive bidding process to acquire a new tent at the same site as this is very likely to lead to a situation where both tents will be occupied, leading to a doubling in costs. Moving sites will require eviction orders, a process that will take considerable time.

5. The Department accordingly requests National Treasury to approve a SCM deviation in accordance with Treasury Regulation 16A6.4 to enable the Department to enter into a contract with the current service provider of the tent (Cosi Hiring) either on the basis of this service provider being a sole provider or for continuity of services.

6. The cost for hiring the tent is R356 000.00 per month. It is not possible to determine how long the legal process of obtaining an eviction order will take. We therefore request Treasury to grant the Department a deviation for an initial six month period (1 January 2022 to 30 June 2022) at an estimated contract value of R2 136 000.00. Should the legal process not be concluded by 31 May 2022, we will request Treasury to approve a further extension.

7. Submitted for your favorable consideration please.

Yours faithfully



Mr L.T. Makhode
DIRECTOR GENERAL

DATE: 02 December 2021.

there is no valid contract to cede to the Department, the issue of this being a contractual and legal issue becomes moot. See email attached as **Annexure C**.

4. While the number of destitute refugees occupying the tent has reduced to approximately 200, the need for the tent / temporary shelter remains. The destitute refugees are still living in the tent and show no intention of finding alternative accommodation. It is not possible to embark upon a competitive bidding process to acquire a new tent at the same site as this is very likely to lead to a situation where both tents will be occupied, leading to a doubling in costs. Moving sites will require eviction orders, a process that will take considerable time.

5. The Department accordingly requests National Treasury to approve a SCM deviation in accordance with Treasury Regulation 16A6.4 to enable the Department to enter into a contract with the current service provider of the tent (Cosi Hiring) either on the basis of this service provider being a sole provider or for continuity of services.

6. The cost for hiring the tent is R356 000.00 per month. It is not possible to determine how long the legal process of obtaining an eviction order will take. We therefore request Treasury to grant the Department a deviation for an initial six month period (1 January 2022 to 30 June 2022) at an estimated contract value of R2 136 000.00. Should the legal process not be concluded by 31 May 2022, we will request Treasury to approve a further extension.

7. Submitted for your favorable consideration please.

Yours faithfully



Mr L.T. Makhode
DIRECTOR GENERAL

DATE: 02 December 2021.



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

DHA-57

A

230 Johannes Ramokhoase Street. Private Bag X114, Pretoria, 0001
Parliamentary Office, 120 Plein Street. Private Bag X9048, Cape Town, 8000

The Director-General
National Treasury
Private Bag X115
PRETORIA
0001

Dear Colleague,

WINGFIELD REFUGEE FACILITY: REQUEST FOR A TREASURY DEVIATION IN TERMS OF NATIONAL TREASURY REGULATION 16A6.4 READ WITH INSTRUCTION NOTE NO. 3 OF 2016/17: PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM

My Department requested a Treasury deviation to accommodate a group of refugees that were removed from the Cape Town CBD to Paint City, Bellville in 2020. National Treasury kindly provided such a deviation on 15 March 2021. The involvement of the Department of Home Affairs at Paint City, Bellville was prompted by the inability of the Department of Public Works & Infrastructure to continue paying for the rental of the temporary shelter (tent) and ablution facilities and the subsequent inability of the United Nations High Commissioner for Refugees (UNHCR) to sustain the financial commitment required. See letters dated 9 and 15 March 2021 attached as Annexures A and B.

The Department of Home Affairs accordingly took over the responsibility for the hiring of the tent and followed a request for quotation process to source the necessary mobile ablution and cleaning services. It is not and was not possible to remove the tent or get an alternative tent for the Paint City, Bellville site. It is important to note that the City of Cape Town is the landlord of the Paint City, Bellville site. As such, the City must drive the eviction process. It is expected that such eviction process will take some time and, in the meantime, the Department of Home Affairs is paying the rental for the tent, ablution facilities and cleaning services at Paint City, Bellville.

However, there is also another group of approximately 500 refugees that were relocated to another site belonging to the Department of Public Works & Infrastructure. This site is called Wingfield, and is situated in Maitland. Wingfield is a military base and the site is a national key point. In respect of this group, the City of Cape Town provided a similar size tent, a generator for lighting, fencing, mobile toilets and cleaning services, and security. The security has since been withdrawn by the City of Cape Town. We were informed that the fencing is damaged and that it would be very difficult to remove it.

Following my meeting with the UNHCR, the City of Cape Town and representatives of the office of the Premier, Western Cape on 26 April 2021 and the letter of the acting Director-General: Western Cape Province dated 29 April 2021, my Department was again forced to assume financial responsibility for the hiring of the tent and ablution facilities provided for the refugees at Wingfield with effect from 1 May 2021. This was done on humanitarian grounds and in support of our partnership with UNHCR. See letters attached as Annexures C and D.

The Department and the City could not find an amicable way of implementing our financial commitment. The CFO of my Department preferred the option of reimbursing the City of Cape Town for the expenditure incurred – the City demands that the Department take over the existing contracts, despite the concerns about the procurement of the tent and ablution facilities and possible irregular expenditure.

It must be emphasised that it will not be possible to remove the existing tent or to replace the tent with another tent at the Wingfield site, without an eviction notice. However, it is possible to remove the generator and mobile toilets and to replace these following a request for quotation process, provided such efforts are coordinated properly. **We therefore request National Treasury to approve that the Department of Home Affairs take-over of the existing contract for the tent at Wingfield from the City of Cape Town, on the basis of a Treasury Regulation 16A6.4 deviation.** The City currently pays R356 500.00 per month for the tent.

In the meantime, the Department will procure the following on a request for quotation basis:

- a. Mobile toilets and cleaning services. The City currently spends on average R33 000.00 per month on these services.
- b. A generator and fuel. The generator belongs to the City, and the City currently spends R19 970.00 per month on fuel (R3 000) and overtime (R16 970.00). The overtime is for a City official to refuel the tank of the generator daily.

Upon approval of the deviation for the tent, the Department will conclude the hand-over at Wingfield, in consultation with the relevant City of Cape Town officials.

Yours faithfully



Mr L.T. Makhode
DIRECTOR GENERAL

DATE: 16 July 2021.



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 - Tel: (+27 12) 315 5111

Enquiries: Petrus Makulane Tel: (012) 315 5258 Fax: 012 315 5343 Email: Petrus.makulane@treasury.gov.za

Mr. L.T Makhode
Director-General
Department of Home Affairs
Private bag x114
PRETORIA
0001

Dear Mr. Makhode

REQUEST FOR APPROVAL OF INTER-DEPARTMENTAL TRANSFER OF AN EXISTING CONTRACT: DEPARTMENT OF HOME AFFAIRS AND THE CITY OF CAPE TOWN

1. The National Treasury acknowledges receipt of your letter dated 16 July 2021.
2. Your Institution is requesting approval of an Inter-Departmental transfer of an existing contract from the City of Cape Town to the Department of Home Affairs for the provisioning of tent services to accommodate 500 destitute refugees at the Cape Town Wingfield Military Base.
3. The request was endorsed by the Director General on 16 July 2021.
4. The reasons for this extension are that the Department of Home Affairs accordingly took over the responsibility for the hiring of the tent for the destitute refugees in Paint City through National Treasury's approval for deviation from the normal bidding processes dated 15 March 2021. However, there is also another group of approximately 500 refugees that were relocated to Wingfield Military Base. In respect of this group, the City of Cape Town provided similar size tent, a generator for lighting, fencing, mobile toilets and cleaning services and security services. The security has since been withdrawn by the City of Cape Town.
5. Following a meeting between the Department of Home Affairs, United Nations High Commission for Refugees, the City of Cape Town, Office of the Premier Western Cape on 26 April 2021 and the letter of the Acting Director-General Western Cape dated 29 April 2021, the Department of Home Affairs was forced to assume financial responsibility for the hiring of the tent and ablution facilities provided for the refugees at Wingfield with effect from 01 May 2021. This was done on humanitarian grounds and in support of the partnership with UNHCR.

**REQUEST FOR APPROVAL OF INTER-DEPARTMENTAL TRANSFER OF AN EXISTING
CONTRACT: DEPARTMENT OF HOME AFFAIRS AND THE CITY OF CAPE TOWN**

6. The reasons provided for the deviation are justifiable for continuity of services.
7. National Treasury advises the Department that the transfer of contracts between two Institutions is a contractual and legal matter between the contracting Institutions. The Office of the Chief Procurement Officer is responsible for supply chain matters. The Department should therefore finalise the matter with the City of Cape Town.

Kind regards,



ESTELLE SETAN
ACTING CHIEF PROCUREMENT OFFICER
DATE: 29-Jul-2021

C

From: Johan Minnie
To: Gordon Hollamby
CC: George Gorekwang; Lunga Njwabule; Valerie Halgryn; Refilwe Mafolo; Yusuf Simons; JordriSmith; Kevin Jacoby; Melanie Cannan; Mihlali Peter; Vincent Botto; Wayne Muller
Date: 11/4/2021 12:14 PM
Subject: RE: Urgent Follow-up, Wingfield shelter tent provider request for payment

Good afternoon Mr Hollamby,

Thank you for your e-mail.

The non-payment of the service provider can easily be explained – we were not yet aware that the payment was made on 4 October.

Thank you very much indeed for arranging the payment. Now that we have the proof of payment we can identify the payment and transfer the received funds into the suspense account created for this purpose and then make a sundry payment to the vendor.

I can also confirm that we have no contract with the service provider and that a new agreement directly between yourselves and the service provider would be the best, lowest risk solution for all concerned.

We can discuss the way forward in more detail on Monday then.

Kind Regards,
Johan

Johan Minnie^{PhD PrDM}

Manager (Head): Disaster Risk Management Centre

Safety and Security Directorate

City of Cape Town

Tel: +27 (0)21 597 5058 | **Fax:** +27 (0)86 588 5910 | **Cell:** +27 (0)84 220 0074

From: Gordon Hollamby <Gordon.Hollamby@dha.gov.za>

Sent: Thursday, 04 November 2021 11:11

To: Johan Minnie <Johan.Minnie@capetown.gov.za>

Cc: Kevin Jacoby <Kevin.Jacoby@capetown.gov.za>; Melanie Cannan <Melanie.Cannan@capetown.gov.za>; Mihlali Peter <Mihlali.Peter@capetown.gov.za>; Vincent Botto <VincentJames.Botto@capetown.gov.za>; Wayne Muller <Wayne.Muller@capetown.gov.za>; George Gorekwang <George.Gorekwang@dha.gov.za>; Lunga Njwabule <Lunga.Njwabule@dha.gov.za>; Refilwe Mafolo <Refilwe.Mafolo@dha.gov.za>; Valerie Halgryn <Valerie.Halgryn@dha.gov.za>; Yusuf Simons <Yusuf.Simons@dha.gov.za>

Subject: RE: Urgent Follow-up, Wingfield shelter tent provider request for payment

CAUTION: This email originated outside of the City of Cape Town's network. Please do not click on any links or open attachments unless you know and trust the source. **STOP. THINK. VERIFY.**

Dear Mr Minnie,

Good afternoon! Please accept my apology for the delay in responding to your email below. The Department of Home Affairs reimbursed the City of Cape Town R1 372 950.05 on 4 October 2021 as per the letter of Mr Botto dated 30 July 2021. Included in this amount was the cost for the hiring of the tent until 30 July 2021. I therefore find it strange to be informed

that the supplier of the tent has not been paid since April 2021. We have no relationship with the supplier of the tent and will only be able to take over the responsibility for paying for the rental of the tent should National Treasury approve a SCM deviation to the effect. In this regard, please note that National Treasury has advised that the taking over of a contract is not a SCM matter, but a contractual issue between the Department and the City. As there appears to be no valid contract in place between the City and the supplier of the tent, the Department cannot take over the (non-existing) contract. This compels the Department to go back to National Treasury with another request for deviation to enable the Department to enter into a new agreement with the supplier. This we will do immediately upon your confirmation that there is no valid contract between the City and the supplier of the tent.

PS. I note we have a meeting scheduled for Monday, 8 November 2021 where we can discuss the way forward.

Kind regards, Gordon Hollamby

>>> Johan Minnie <Johan.Minnie@capetown.gov.za> 10/29/2021 4:07 PM >>>

Good day Mr Hollamby,

Please, your urgent attention to this e-mail will be highly appreciated.

The City is still eagerly awaiting your response on the below e-mail trail.

The tent service provider has not been paid for any of the service he has provided since **16 April 2021**. The service provider has been very understanding and accommodating of our payment quandary and has not yet charged any interest or penalties for previous delayed payments, while ensuring the integrity of the tent on an ongoing basis.

Please respond to this mail at your earliest convenience.

Regards,
Johan

Johan Minnie^{PhD PrDM}

Manager (Head): Disaster Risk Management Centre

Safety and Security Directorate

City of Cape Town

Tel: +27 (0)21 597 5058 | **Fax:** +27 (0)86 588 5910 | **Cell:** +27 (0)84 220 0074

From: Johan Minnie

Sent: Tuesday, 28 September 2021 10:15

To: 'Gordon Hollamby' <Gordon.Hollamby@dha.gov.za>

Cc: Melanie Cannan <Melanie.Cannan@capetown.gov.za>; Vincent Botto <VincentJames.Botto@capetown.gov.za>; Kevin Jacoby <Kevin.Jacoby@capetown.gov.za>; Wayne Muller <Wayne.Muller@capetown.gov.za>;

Mihlali Peter <Mihlali.Peter@capetown.gov.za>; 'George Gorekwang' <George.Gorekwang@dha.gov.za>; 'Lunga Njabule' <Lunga.Njabule@dha.gov.za>; 'Refilwe Mafolo' <Refilwe.Mafolo@dha.gov.za>; 'Valerie Halgryn' <Valerie.Halgryn@dha.gov.za>; 'Yusuf Simons' <Yusuf.Simons@dha.gov.za>

Subject: Urgent Follow-up, Wingfield shelter tent provider request for payment

Good day Mr Hollamby,

Your urgent attention to this e-mail will be highly appreciated.

The City is still eagerly awaiting your response on the below e-mail trail.

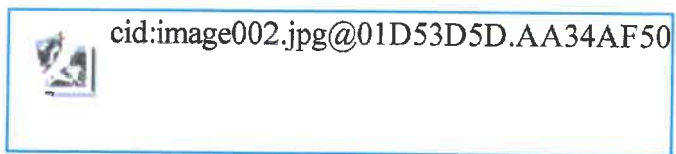
The tent service provider has not been paid for any of the service he has provided since **16 April 2021**. The service provider has been very understanding and accommodating of our payment quandary and has not yet charged any interest or penalties for previous delayed payments, while ensuring the integrity of the tent on an ongoing basis.

Please respond to this mail at your earliest convenience.

Kind Regards,
Johan

Johan Minnie^{PhD PrDM}
Manager (Head): Disaster Risk Management Centre
Safety and Security Directorate
City of Cape Town

Disaster Risk Management Centre, c/o Frans Conradie and Hugo Street, Goodwood
Tel: +27 (0)21 597 5058 | **Fax:** +27 (0)86 588 5910 | **Cell:** +27 (0)84 220 0074 | **Email:** johan.minnie@capetown.gov.za | **Web:** www.capetown.gov.za



From: Johan Minnie
Sent: Thursday, 16 September 2021 09:58
To: 'Gordon Hollamby' <Gordon.Hollamby@dha.gov.za>
Cc: Melanie Cannan <Melanie.Cannan@capetown.gov.za>; Vincent Botto <VincentJames.Botto@capetown.gov.za>; Kevin Jacoby <Kevin.Jacoby@capetown.gov.za>; Wayne Muller <Wayne.Muller@capetown.gov.za>; Mihlali Peter <Mihlali.Peter@capetown.gov.za>; 'George Gorekwang' <George.Gorekwang@dha.gov.za>; 'Lunga Njwabule' <Lunga.Njwabule@dha.gov.za>; 'Refilwe Mafolo' <Refilwe.Mafolo@dha.gov.za>; 'Valerie Halgryn' <Valerie.Halgryn@dha.gov.za>; 'Yusuf Simons' <Yusuf.Simons@dha.gov.za>
Subject: Follow-up, Wingfield shelter tent provider request for payment

Good morning Mr Hollamby,

Please see attached and below e-mails from the tent service provider, Cozi Hire, at Wingfield. He has not been paid for any of the service he has provided since 16 April 2021. He has been very understanding and accommodating of our payment quandary and has not yet charged any interest or penalties for previous delayed payments, while ensuring the integrity of the tent on an ongoing basis.

The City cannot enter into a contract and entertain an invoice from him because that would be irregular as per the AG determination.

Please consider this urgent matter in your procurement planning for Wingfield.

Regards,
Johan

Johan Minnie^{PhD PrDM}

Manager (Head): Disaster Risk Management Centre
Safety and Security Directorate
City of Cape Town

Tel: +27 (0)21 597 5058 | **Fax:** +27 (0)86 588 5910 | **Cell:** +27 (0)84 220 0074

From: Johan Minnie

Sent: Thursday, 26 August 2021 21:58

To: 'Gordon Hollamby' <Gordon.Hollamby@dha.gov.za>

Cc: Melanie Cannan <Melanie.Cannan@capetown.gov.za>; Vincent Botto <VincentJames.Botto@capetown.gov.za>; Kevin Jacoby <Kevin.Jacoby@capetown.gov.za>; Wayne Muller <Wayne.Muller@capetown.gov.za>; Mihlali Peter <Mihlali.Peter@capetown.gov.za>; George Gorekwang <George.Gorekwang@dha.gov.za>; Lunga Njwabule <Lunga.Njwabule@dha.gov.za>; Refilwe Mafolo <Refilwe.Mafolo@dha.gov.za>; Valerie Halgryn <Valerie.Halgryn@dha.gov.za>; Yusuf Simons <Yusuf.Simons@dha.gov.za>

Subject: Wingfield shelter tent provider request for payment

Good day Mr Hollamby,

Please see below e-mail from the tent service provider, Cozi Hire, at Wingfield. He has not been paid for any of the service he has provided since 16 April 2021. He has been very understanding and accommodating of our payment quandary and has not yet charged any interest or penalties for previous delayed payments, while ensuring the integrity of the tent through storm events such as we are currently experiencing.

The City cannot enter into a contract and entertain an invoice from him because that would be irregular as per the AG determination.

Please consider this urgent matter in your procurement planning for Wingfield.

Kind Regards,
Johan

Johan Minnie^{PhD PrDM}

Manager (Head): Disaster Risk Management Centre
Safety and Security Directorate
City of Cape Town

Disaster Risk Management Centre, c/o Frans Conradie and Hugo Street, Goodwood

Tel: +27 (0)21 597 5058 | **Fax:** +27 (0)86 588 5910 | **Cell:** +27 (0)84 220 0074 | **Email:** johan.minnie@capetown.gov.za | **Web:** www.capetown.gov.za



cid:image002.jpg@01D53D5D.AA34AF50

From: greg@cozi.co.za <greg@cozi.co.za>

Sent: Thursday, 26 August 2021 12:29

To: Johan Minnie <Johan.Minnie@capetown.gov.za>

Cc: Rene Conrad <Rene.Conrad@capetown.gov.za>; Peter Daniels <Peter.Daniels@capetown.gov.za>

Subject: Cozi Hiring

CAUTION: This email originated outside of the City of Cape Town's network. Please do not click on any links or open attachments unless you know and trust the source. **STOP. THINK. VERIFY.**

Hi Johan

We have been on standby at Wingfield today ,all is well so far.

Please can we initiate the process of us getting paid from 16 April till end August (4.5 months)

It's a long time to wait for an account to be paid

Regards

Greg

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national treasury

Department
National Treasury
REPUBLIC OF SOUTH AFRICA

Enquiries: Timothy Murwa Reference: 2019-AENE Tel: (012) 315 5002 Fax : (012) 315 5522 E-mail: timothy.murwa@treasury.gov.za

Director-General
Department of Home Affairs
Private Bag X114
PRETORIA
0001

Attention CFO: Mr Gordon Hollamby

VOTE 05: HOME AFFAIRS – REQUEST FOR APPROVAL TO PROVIDE RELIEVE, TRANSPORT, SHELTER AND FOOD AND WATER FOR RELOCATION OF REFUGEES IN CAPE TOWN CITY CENTRE

The letter dated 9 April 2020 relating to a request for approval to provide relieve, transport, shelter and food and water to refugees relocated from the Methodist Church, Green Market Square and portions of Longmarket and Burg Streets, Cape Town City Centre, has reference.

Your Department of Home Affairs should first engage with the City of Cape Town on this matter in an effort to make an assessment if the City of Cape Town needs any financial assistance and how much is needed in the 2020/21 financial year. The Department also needs to understand the extent of the project, e.g. for how long this project will run and the financial assistance needed from the department. At this stage it is not clear as to whether the City of Cape Town need any financial assistance or not and the kind of assistance the City of Cape Town actually requires.

Kindly be advised that a department may not incur expenditure on services relating to functions outside its mandate. If such expenditure is incurred, it will be unauthorised expenditure. Further be advised that National Treasury has no authority to authorise a department to incur expenditure which is outside the department's mandate.

Kind regards

Dr Mampho Modise
DEPUTY DIRECTOR-GENERAL: PUBLIC FINANCE
Date: 17/04/2020



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

335 Johannesburg Road, Private Bag X114, Pretoria 0001
Parliamentary Office: 125 Fair Street, Private Bag 2046, Cape Town 8000

The Director-General
National Treasury
Private Bag X115
PRETORIA
0001

Dear Mr Mogajane,

REQUEST FOR APPROVAL TO PROVIDE RELIEF, TRANSPORT, SHELTER AND FOOD AND WATER TO REFUGEES RELOCATED FROM THE METHODIST CHURCH, GREEN MARKET SQUARE AND PORTIONS OF LONGMARKET AND BURG STREET, CAPE TOWN CITY CENTRE

Our discussions in this regard refers.

Some refugees and asylum seekers, mostly women and children, sought refuge in the Methodist Church, Green Market Square, Cape Town after being removed from pavements and public areas illegally occupied as part of their protest action and demand to be repatriated to other countries. Approximately 780 persons were involved during the Green Market Square protest at the UNHCR; 550 persons were moved from the Methodist Church to the new site in Bellville on 2 April 2020. Another group of approximately another 400 refugees in the Cape Town metropole is still to be removed to another site (Wingfield).

The mandate of the Department of Home Affairs in the current matter was clearly defined in the matter between the **City of Cape Town vs Balus, Sukami and others** (Case No. 21616/19) delivered by AJ Thulare on 17 March 2020. The mandate of the Department of Home Affairs does not include the provision of transport, temporary shelter or accommodation, or assisting people in distress and seeking assistance. This mandate belongs to the City of Cape Town. However, one of the core mandates of the Department of Home Affairs is refugee and asylum seeker management.



home affairs

Department:
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REPUBLIC OF SOUTH AFRICA

DHA-57A

230 Johannes Ramakhoase Street, Private Bag X114, Pretoria, 0001
Parliamentary Office, 120 Plein Street, Private Bag X9048, Cape Town 8009

The Director-General
National Treasury
Private Bag X115
PRETORIA
0001

Dear Colleague,

BELLVILLE PAINT CITY REFUGEE FACILITY: REQUEST FOR A TREASURY DEVIATION IN TERMS OF PARAGRAPH 8.5 OF NATIONAL TREASURY INSTRUCTION 3 OF 2016/17: PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM

Your discussion with the Minister of Home Affairs on 8 March 2021 regarding the destitute refugees accommodated at Paint City, Bellville refers. In this regard, you may recall that we were advised by the Deputy Director-General: Public Finance on 17 April 2020 to engage with the City of Cape Town on this matter in an effort to make an assessment whether the City needs any financial assistance and to determine the quantum required. In addition, the Department was warned not to incur expenditure on services relating to functions outside its mandate as such expenditure would constitute unauthorised expenditure. See letter dated 17 April 2021, attached as **Annexure A**. Unfortunately, the City maintained and still maintains that it is not responsible to provide these destitute refugees with shelter or alternative accommodation as they are refugees. When the City of Cape Town failed to provide the refugees moved to Paint City with temporary shelter, including mobile toilets and showers, the Department of Public Works & Infrastructure stepped in and provided such. However, the Department of Public Works & Infrastructure also indicated that this responsibility is not theirs, and tried to recover the monthly cost incurred in providing the temporary accommodation from the Department of Home Affairs. My Department indicated that our mandate does not include the enforcement of bye-laws, the provision of transport, temporary shelter or accommodation, or assisting people in distress and seeking assistance. See letter dated 13 October 2020, attached as **Annexure B**.

When the Department of Public Works & Infrastructure terminated their involvement in providing the temporary shelter, including mobile toilets and showers, the Minister of Home Affairs intervened and convinced the United Nations High Commissioner for Refugees (UNHCR) to take over the responsibility to provide these destitute refugees with appropriate shelter, including showers and toilets, until the end of February 2021. See letter dated 19 November 2020, attached as **Annexure C**. The High Commissioner indicated that the UNHCR does not budget for the establishment or maintenance of refugee camps in South Africa and that it cannot continue to pay for the rental of the tent and mobile toilets and showers. As a consequence, the service providers have already removed their mobile toilets and showers. We were informed that the tent will be removed by 15 March 2021.

Clearly the removal of basic amenities and the tent will leave the destitute refugees in an untenable situation. Not only are the human rights and dignity of the refugees themselves severely compromised, but also those of the residents and business in the vicinity of Paint City. We see no immediate solution to the political contestation between the city, province and national government on who should take care of these destitute refugees, pending their relocation or reintegration into South African society.

While the Department of Home Affairs is clear that the mandate to provide the destitute refugees removed from the Methodist Church in the Cape Town with shelter or accommodation, including basic amenities like toilets and showers is that of the City of Cape Town, we are unfortunately left alone to deal with the problem. We accordingly urgently request National Treasury to approve that the Department of Home Affairs procure mobile toilets and showers and a tent that can accommodate at least 600 destitute refugees removed to Paint City on the basis of paragraph 8.5 of the National Treasury Instruction 3 of 2016/17: Preventing and Combating Abuse in the SCM System dated 19 April 2016. This is to avoid a humanitarian crisis and possible outbreaks of xenophobia attacks. In this regard, please note that my Department is already sourcing quotations in order to test the market, but time does not allow us to follow a bid process.

We appreciate the willingness of National Treasury to consider this request on an urgent basis.

Yours faithfully



Mr L.T. Makhode

DIRECTOR GENERAL

DATE: 09 March 2017.



Republic of South Africa
Ministry of Home Affairs
P.O. Box 124
Pretoria 00012

B

Director-General (acting)
Office of the Director-General
PO Box 659
CAPE TOWN
8000

Dear Mr Joemat,

CAPE TOWN REFUGEES: HANDOVER OF SITE AT WINGFIELD

Further to our meeting held with the UNHCR, the City of Cape Town and the representatives of the Office of the Premier, Western Cape on 26 April 2021 and the letter of the acting Director-General: Western Cape dated 29 April 2021, please note that the Department of Home Affairs will assume financial responsibility for the hiring of the tent and ablution facilities provided for the refugees accommodated at Wingfield with effect from 1 May 2021. This is done on humanitarian grounds and in support of our partnership with the UNHCR. It is not an acknowledgement that the Department is responsible for the provision of accommodation to destitute residents. Please be so kind and provide us with the contact details of the suppliers, and a copy of the contract.

Kind regards,

Mr L. T. Makhode
DIRECTOR-GENERAL

DATE: 11 May 2021



It is clear from the engagement process that the DHA and the UNHCR acknowledge their respective roles in relation to the refugee situation. DHA has already indicated that it would be taking responsibility for the provision of services at the Paint City site, the second site currently housing refugees.

Refugees and asylum seekers fall within the competencies of the DHA.

The DHA confirmed at a Prov JOC meeting on 10 March 2021 that the DHA provides assistance in the form of tents to another refugee group. In terms of section 35(2) of the Refugees Act the Minister may, after consultation with the UNHCR representative and the Premier of the province concerned, designate areas, centres or places for the temporary reception and accommodation of asylum seekers or refugees or any specific category or group of asylum seekers or refugees who entered the Republic on a large scale, pending the regularisation of their status in the Republic. We submit that the large scale contingent of Refugees spread over two sites are akin to what the legislature envisioned in this provision and is of application.

In the circumstances, the City is informing the DHA that it is of the view that the DHA must now continue to take responsibility for the refugees at the Wingfield site to enable it to return the site to the DPW in the condition that it was received.

The City does not have a legal mandate to be the organ of state responsible for the Refugees, nor is the City responsible for the provision of shelters to homeless people during the lockdown in terms of Regulation 11D(3), as such responsibility is vested in the responsible cabinet Minister. The position of the City has been communicated to the DHA on numerous occasions.

The City has, as a means of collaborating with other organs of state and during a time when it was required for all organs of state to address the crisis during the pandemic, complied with the request from the DPW. The City can, however, not justify the continued expenditure that is being incurred for the management of the Wingfield Site. The Auditor General has now indicated that the expenditure towards the Wingfield Site is irregular and that the City should desist from incurring these expenses with immediate effect.

We are hereby giving notice that the City will remove all infrastructure and services from the Wingfield Site on 15 April 2021.

We propose that the current refugees be accommodated at the existing site for Refugees currently managed by the DHA; alternatively, that the DPW mandate the DHA to take over the management of the refugees and asylum seekers who are currently on the DPW property.

Yours faithfully

Digitally signed
by Vincent Botto
Date: 2021.03.26
15:35:10 +02'00'

Vincent Botto
Acting Executive Director
Safety & Security



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

**SAFETY & SECURITY
OFFICE OF THE EXECUTIVE DIRECTOR**

Vincent Botta
Acting Executive Director : Safety & Security

T: 021 400 4304
E: Vincent.Botta@capetown.gov.za

The Minister
Department of Home Affairs

26 March 2021

The Minister
Department of Public Works & Infrastructure

Dear Ministers

RE: HANDOVER OF SITE AT WINGFIELD

On 29 March 2020, the Minister of the Department of Public Works and Infrastructure (DPWI) directed and authorized the City of Cape Town ("the City") in terms of Sections 27(2) (a), (d), (g) and (h) coupled with Sections 27(3)(a) and (b) of the Disaster Management Act, No 57 of 2002 as follows:

- Section 27(2)(a): the release of any available resources of national government ...;
- Section 27(2)(d): the evacuation to temporary shelter of all or part of the population for the disaster-stricken or threatened area;
- Section 27(2)(g): the control and occupancy of premises ...;
- Section 27(2)(h): the provision, control or use of temporary emergency accommodation;
- Section 27(3)(a) states that subsection (2) may be exercised to the extent that (i) is necessary for the purpose of assisting and protecting the public;
- Section 27(3)(b) states that subsection (2) may be exercised to the extent that this is necessary that it provides relief to the public.

The Minister of DPWI made available land known as the Wingfield site to ensure the establishment of temporary shelters for homeless people issued in terms of section 27(2) of the Disaster Management Act. The site was established under Level 5 of the lockdown restrictions.

As you will be aware this site is occupied by a group of refugees and asylum seekers who formed part of the group who occupied the Central Methodist Church and its surrounds which includes Green Market Square during November 2019. The National Minister of Home Affairs previously indicated that the refugees and asylum seekers who formed part of this group, must either be reintegrated into local communities or face repatriation. We understand that the Department of Home Affairs (DHA) conducted a survey of the refugees and asylum seekers and as a direct result a number of persons have been identified for repatriation and some have already been repatriated.

The reintegration of the refugees and asylum seekers forms part of an engagement process driven by the South African Police Services Covid 19 – PROV JOC. Various parties are involved in these meetings to find a joint solution to the matter. This remains an ongoing process. At the most recent meeting the United Nations High Commissioner for Home Affairs (UNHCR) advised that they had provided an offer of rental assistance to the refugees to aid their relocation.

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12 HERIOTZ BOULEVARD CAPE TOWN 7800 | P.O. BOX 298 CAPE TOWN 800
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REQUEST FOR APPROVAL OF DEVIATION FROM BIDDING PROCESSES: PROCUREMENT OF MOBILE TOILETS, SHOWERS AND A TENT TO ACCOMMODATE DISTITUTE REFUGEES.

5. The reasons provided for this deviation are justifiable. The matter at hand is directly connected to preserving human dignity of the affected destitute refugees and prevention of a further humanitarian crisis. The Department of Home Affairs must ensure that the prices obtained and accepted during the procurement of the aforesaid services are market related. Further that the Department as the custodian of the National Immigration and Refugee laws should ensure the resuscitation of engagements with the key stakeholders on the matter at hand on the constitutional responsibilities of all stakeholders in particular that of establishment and maintenance of refugee camps.
6. National Treasury supports the reasons for deviation. The Institution is requested to provide National Treasury with a report on the engagements referred to in the paragraph above to avoid any of the Institutions having to incur irregular expenditure when such situations arise in future. Such a mandate should reside within a specific Institution for accountability, responsibility and budget purposes.
7. The institution has an obligation to ensure that any contract for goods and services is in accordance with a system of procurement which is fair, equitable, transparent, competitive and cost effective.
8. Please be advised that this award must be published on the e-tender portal.

Kind regards,



ESTELLE SETAN
ACTING CHIEF PROCUREMENT OFFICER
DATE: 15-Mar-2021

Revised November 2004
 Prepared by: GBA, 1100 The Old Post Office, Suite 200, Washington, DC 20004

Dear Mr Zulu,

BELLVILLE PAINT CITY REFUGEE FACILITY

Our discussions in this regard refer. It will be appreciated if the UNHCR could provide the refugees removed from the Cape Town CBD to Paint City in Bellville with appropriate shelter, including showers and toilets. The Department of Public Works & Infrastructure (DPW & I) kindly provided these refugees with tented accommodation, including shower and toilet facilities, until now. We understand that the intention is to replace the current DPW & I infrastructure on a like-for-like basis and believe the number of tents, showers and toilets required were shared with your programme officers. We anticipate that the assistance would be required until the end of February 2021, but this is dependent upon when the current state of disaster will end.

We really appreciate the willingness of UNHCR to assist these refugees with temporary accommodation and look forward to strengthen our continued cooperation in this regard.

Yours faithfully

Jackson McKay
DIRECTOR GENERAL (ACTING)
DATE: 2021/11/19

DATE: 2-27-11



national treasury

Department.
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 - Tel: (+27 12) 315 5111

Enquiries: Petrus Makulane Tel: (012) 315 5258 Fax: 012 315 5343 Email: Petrus.makulane@treasury.gov.za

Mr. L.T Makhode
Director-General
Department of Home Affairs
Private bag x114
PRETORIA
0001

Dear Mr. Makhode

REQUEST FOR APPROVAL OF DEVIATION FROM BIDDING PROCESSES: PROCUREMENT OF MOBILE TOILETS, SHOWERS AND A TENT TO ACCOMMODATE DISTITUTE REFUGEES.

1. The National Treasury acknowledges receipt of your letter dated 09 March 2021.
2. Your Institution is requesting approval of deviation from the bidding processes and procure mobile tents, showers and a tent that can accommodate at least 600 destitute refugees removed from the Cape Town Methodist Church to Paint City.
3. The request was endorsed by the Director General on 09 March 2021.
4. The reasons for this extension are that when the Department of Public Works & Infrastructure terminated their involvement in providing the temporary shelter, including mobile toilets and showers, the Minister of Home Affairs intervened and convinced the United Nations High Commissioner for Refugees (UNHCR) to take over the responsibility to provide these destitute refugees with appropriate shelter, including showers and toilets until the end of February 2021. The High Commissioner indicated that the UNHCR does not budget for the establishment or maintenance of refugee camps in South Africa and that it cannot continue to pay for the rental of the tent, mobile toilets and showers. As a consequence, the service providers have already removed their mobile toilets and showers. We are informed that the tent will be removed by 15 March 2021.

However, the purpose of the Home Affairs Vote (Vote 5) is to efficiently determine and safeguard the identity and status of citizens, regulate immigration to ensure security, promote development and fulfil South Africa's international obligations. The purpose of Programme 3: Immigration services is inter alia to determine the status of asylum seekers and regulate refugee affairs.

In order to prevent audit queries, and given the imperatives of the Government's fight against the Covid 19 pandemic, National Treasury is accordingly requested to approve that the Department of Home Affairs may take any necessary action and incur expenditure, including arranging for the transport, shelter, food and water, and the provision of any other relevant goods or services for the refugees / asylum seekers relocated from the Methodist Church, Green Market Square and portions of Longmarket and Burg Streets, Cape Town during March and April 2020, given the health risks posed by the Covid 19 pandemic and the regulations issued in terms of the Disaster Management Act, 2002.

Please note that the Department of Home Affairs will reprioritize funding for this purpose, within its current allocation, and follow the prescribed procurement processes.

Yours sincerely,


MR JWMCKAY
DIRECTOR-GENERAL (ACTING)
DATE: 2020/04/09

CC: Dr Mampo Mxhise



home affairs

Department
Home Affairs
REPUBLIC OF SOUTH AFRICA

240 Johannes Ramokgale Street, Private Bag X154, Pretoria, 0001
Parliamentary Office, 120 Pieter Street, Private Bag X9048, Cape Town, 8000

The Director-General (Acting)
Department of Public Works & Infrastructure
Private Bag X65
PRETORIA
0001

Dear Colleague,

CLAIM Z59/DHA/01/2020 – R60 000.00: REQUEST FOR ADDITIONAL FUNDING TO PROVIDE SELF-ISOLATION AND QUARANTINE FACILITIES: C SQUARED CONSUMER CONNECTEDNESS: REFUGEES RELOCATED FROM THE CITY OF CAPE TOWN CBD

Our discussions in this regard refers.

The mandate of the Department of Home Affairs does not include the enforcement of bye-laws, the provision of transport, temporary shelter or accommodation, or assisting people in distress and seeking assistance. Nor does the Department have the mandate to provide self-isolation and quarantine facilities. The Department is therefore not in a position to accept your claim Z59/DHA/01/2020 in the amount of R60 000.00. You are advised to redirect such claim to the City of Cape Town or the Department of Health.

Yours faithfully


MR JACKSON MCKAY
DIRECTOR-GENERAL (ACTING)
DATE: 2020/10/13

Ref: 3/8/2/4

Tel: (012) 406 4377

Gordon.hollamby@dha.gov.za