



EXHIBIT HH 8

AFFIDAVIT & ANNEXURES

OF

DUMISANI CELE



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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**IN THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE
CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR
INCLUDING ORGANS OF STATE ("THE COMMISSION")**

AN INVESTIGATION INTO THE VREDE DAIRY PROJECT

SWORN AFFIDAVIT

I, the undersigned,

DUMISANI CELE

hereby declare under oath as follows:

1. I am a former Director: Specialist Audit Services at the Department of National Treasury.
2. The content of this affidavit is true and correct and falls within my own personal knowledge, unless the contrary clearly appears from the context or is otherwise stated.
3. I have previously provided an affidavit for purposes of a criminal investigation into the Vrede Dairy Project, under CAS 200/07/2017, which affidavit was used in an application launched in terms of section 38 of the Prevention of Organised Crime Act, 121 of 1998. In this regard, I attach a copy of this affidavit hereto as annexure "DC1".
4. Furthermore, and during my employment with National Treasury, I was engaged with an investigation conducted by ENS Forensics, into the Vrede Dairy Project, which culminated in a final report being issued on 11 February

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2014, a copy of which report I attach hereto as annexure "DC2".

5. I have been advised that the affidavit, as well as the report are relevant to the investigations of the Commission of Inquiry into Allegations of State Capture, Fraud and Corruption in the Public Sector and certain Organs of State ("the Commission") and confirm in particular the content of that affidavit as if specifically repeated herein.
6. This is all I wish to record at this stage.

Signed and sworn before me at KURUMAN this 17th day of JUNE 2019 after the deponent declared that the deponent is familiar with the contents of this statement and regards the prescribed oath as binding on the deponent's conscience and has no objection against taking the said prescribed oath. There has been compliance with the requirements of the Regulations contained in Government Gazette R1258, dated 21 July 1972 (as amended).


COMMISSIONER OF OATHS:

FULL NAMES:

CAPACITY:

ADDRESS:


DEPONENT


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S/P. 51
330 LANGAKIBALE
PIETERMARITZBURG
3000.

DC-03
"DC1"
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[PARK ROAD CAS 200/07/2017]

AFFIDAVIT

I, the undersigned,

DUMISANI CELE

Do hereby make oath and say that:

1. I am an adult male South African aged 41, born in 1976, I'D No: 760301 5366 085, and employed by the eThekweni Municipality as the Deputy Head within the City Integrity and Investigations Unit, with contact number 081 542 4777.
2. The facts set out in this affidavit are, unless otherwise stated or the converse appears from the context here of, the facts herein are within my personal knowledge and are, to the best of my knowledge and belief, both true and correct.
3. I make this affidavit in my official capacity as the former Director for Specialized Audit Services wherein I reported to Chief Director, at the time the Unit had separate section which was the IT and Forensic section and I was responsible for Forensic within the National Treasury in Pretoria.
4. The National Treasury established the Unit during 2010. The Specialised Audit Service (SAS) is established by the Minister of Finance within the Accountant General at National Treasury mainly to enhance the support and enforcement of the prescripts of the public procurement processes. The SAS

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key objectives to provide performance auditing and investigative capacity in all spheres of government, on a broad range of financial management and internal control system in the supply chain management of public procurement.

5. The units mandate is informed by the provisions of Section 217(1) of the Constitution, Section 6(2)(e) of the Public Finance Management Act (PFMA) Section 5(2) of the Municipal Finance Management Act (MFMA)
6. Due to the powers vested in me at the time, I had authority to obtain any documents within the three spheres of Government whenever there was a complaint related Supply Chain. I also had access to National Treasury systems including the Basic Accounting System ("the bas"). Whenever a complaint is lodged with National Treasury, it would be forwarded to Specialised Audit Services (SAS) for investigation. The first thing I will do is to conduct preliminary investigations; this would include printing the BAS records to see if any payment were made towards the project/service provider in question.
7. On or about 10 June 2013, National Treasury received a complaint regarding the irregular appointment and payments made to Estina (Pty) Ltd with registration number 2008/15033/07. The National Treasury received the complaint through a Mail & Guardian media enquiry dated 10 June 2013.
8. In the newspaper it appeared that Free State Department of Agriculture appointed the service provider under an initiative called "Mohoma Mobung

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Strategy" which was integrated as "Zero Hunger" strategy. The article further mentioned an approval by the Head of the Department dated 5 July 2012 subsequent to the proposal submitted by an entity styled as Estina in partnership with an Indian based entity called Paras.

9. The article further indicated that Paras has denied any knowledge of the project. The estimated cost of the project was stated to be between R400 million to R500 million (Inclusive of VAT). The Department committed R30 million under the financial year 2012/2013. However, it appears that on 5 July 2012 transactions in excess of R30 million were captured on the Basic Accounting System ("BAS").
10. The agreement entered into between the Department of Agriculture and Estina suggests that Estina was recommended as the sole provider that could execute the project. The agreement also suggests that Estina would inject a capital injection of R228 million into the project. Furthermore there was an indication that certain beneficiaries would own 51% of this AGRIBEE entity. It also appeared that the funds used were from a grant that is administered by the National Department of Agriculture. On the article it was not clear whether the project was a Private Public Partnership ("PPP") or sole supplier.
11. As a result of this complaint the National Treasury initiated the investigation and I was assigned to the investigation. In conducting the investigation I acquired the services of ENS to assist with investigation. During the investigation I was required to establish:

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- 11.1 If the project was an approved PPP arrangement or a sole provider engagement,
- 11.2 To verify the supply chain management process followed in the appointment of Estina/ Paras;
- 11.3. To verify how much the department committed and the source of the funds, and if there was any capital injection by the service provider to the project;
- 11.4 To investigate the reasons and supporting documentation for the BAS payment made in excess of the R30 million, which was said to be available by the department;
- 11.5 To verify if there were any beneficiaries identified for the AGRIBEE and who are they;
- 11.6 To establish, through liaising with AGRI.SA whether there was value for money to the State on this project; and
- 11.7 To establish the then state of the project and provide recommendations.
12. Within the National Treasury there is a section that is responsible for registration of PPP. That section is also the custodian of PPP information. I went to that section to verify if there was any registered and approved PPP. It became evident that there was no registered and approved PPP. Then it was clear to me that it was not a PPP.

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13. Next option was to verify whether this was a sole source provider engagement. I prepared a letter to Free State Department of Agriculture addressed to Mr Thabethe the Head of Department. I signed that letter on 22 August 2013 on behalf of my supervisor.
14. The subject of the letter was the "request for information pertaining to allegations of irregular engagement Estina/ Paras for establishment of integrated dairy in Vrede". In the letter the following was requested;
- 14.1 All documents relating to the initiation of the dairy in Vrede up to the payment stage
15. After the letter was signed I made an appointment with Mr Thabethe. It became clear that there was resistance from the department. As a result of this, the then Acting Accountant General signed the same letter. I went to Free State Agriculture to meet Mr Thabethe. With me on that day was Ms Swart Jacobs from ENS appointed to assist me with investigation. I hand delivered the letter to Mr Thabethe at Free State Agriculture on the day of the meeting in the present of Ms Swartz. While walking to his office on the passage, the CFO spoke to me in Sotho and said "Dumisani baSotho ba tla u bolaea" meaning the Sotho people are going to kill me. I explained to the ENS representative what she meant.
16. When I served the letter to Mr Thabethe he told me that I had no powers to investigate his department. I informed him that I was exercising powers vested in the National Treasury through the Public Finance Management Act where there is a complaint relating to SCM. He told me that he will declare

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intergovernmental dispute. I pleaded that he must provide the documentation on Vrede project whilst declaring an intergovernmental dispute.

17. On that day I remember that I left without getting any documents from him (Mr. Thabethe). Eventually some of the documents I had requested from Free State Agriculture were delivered to National Treasury. However not all documents were delivered.
18. During this meeting it was evident the Mr Thabethe was not happy with the intended investigation. Subsequent to this meeting, the Director General of National Treasury received a letter, dated 29 August 2013, from the office of the Premier signed by the Director General.
19. On or about 9 September 2013, I travelled again to Free State Agriculture with a representative from ENS to have another meeting with Mr Thabethe regarding the outstanding documentation.
20. During the investigation I was also required to verify the supply chain management followed in the appointment of Estina/Paras. In order to give effect to section 217 of the Constitution and provisions of PFMA, each department must have a supply chain management policy that will deal with the procurement of goods and service. Goods and service must be advertised through a newspaper article and/or government gazette by a procuring institution in order to give fair and equal chance to any supplier of goods and services to compete.

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21. The investigation established that no supply chain management was followed in the appointment of Estina instead the department deviated.
22. The investigation established that the CFO, Dhlamini, co-signed the letter for deviation. However, the letter was flawed in that no reason for the intended deviation was stated. Despite this, the CFO concurred and appended her signature.
23. Practice Note No 8 of 2007/2008, states that should it be impractical to invite competitive bid for specific procurement e.g. in the urgent or emergency cases or in cases of a sole supplier the accounting officer/ authority may procure the required goods or services by other means such as price quotations or negotiations in accordance with Treasury regulations. This was not complied with.
24. The reasons for deviation from inviting competitive bids should be recorded and approved by the accounting officer/authority or his or her delegate. Accounting officers/authorities are required to report within 10 working days to the relevant Treasury and Auditor General all cases where goods and services above the value of 1 million (Vat Inclusive) were procured.
25. The report must include the description of goods and service, the name of the supplier, the amount involved and the reasons for dispensing with the prescribed competitive bidding process.
26. There was no evidence that the Supply Chain Management were followed neither any evidence that proper deviation process were followed in the

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appointment of Estina/ Paras nor evidence of a report reasons for dispensing with the prescribed competitive bidding process.

27. The Treasury Regulations requires the Accounting Officer not to only provide reasons for deviation but also to report to the relevant Treasury and the Auditor General, in writing, the incidents wherein a deviation had occurred. Mr Thabethe could not produce proof that he complied with this requirement.
28. This means that the market was not test before appointing Estina. There was no information that the tender was advertised by the department and no other providers responded to the advert. The Accounting Officer appeared to have abused his powers when appointing Estina.
29. The investigation revealed an amount of R114, 000-000 had been paid to Estina. The BAS revealed that at least three (3) of those payments were created on 05 July 2012 however they were only authorised for payment during April 2013. The last payments were captured by a certain Zwide BP, payment authorized by Moalosi SJ and Moloi NJ.
30. Part of investigation was to identify whether there was any beneficiaries identified for the AGRIBEE and who are they. The investigation discovered that there were no beneficiaries identified in terms of AGRIBEE.
31. Having regard to the contraventions in this procurement, it appears that both the Chief Financial Officer (Ms S Dhlamin) and the Accounting Officer, Mr Thabethe could have committed financial misconduct as envisaged in section



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81 of the Act in that they allowed irregular expenditure to occur in the department thereby contravening section 38 of the Act.

32. Section 86 of the Act makes it a criminal offense to contravene provisions of section 38 of the Act.

33. I read this affidavit before I signed it.

I know and understand the contents of this affidavit.

I do not have any objection to taking the proscribed oath.

I consider the proscribed oath to be binding on my conscience.


SIGNATURE OF DEPONENT

3/10/2017
DATE

I certify that on this 03 day of October 2017, the Deponent signed the affidavit in my presence and declared that she knows and understands its contents, that she has no objection to taking the proscribed oath and that she considers the oath to be binding on her conscience.

Dated at Durban (Place) on this 03 day of October 2017 at
(time)

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SIGNATURE OF COMMISSIONER OF OATHS

FULL NAMES :

MANAUA MTOLO

COMMISSIONER OF OATHS

DESIGNATION: EX OFFICIO :
REPUBLIC OF SOUTH AFRICASouth African Police Service member

RANK :

CAPTAIN

FORCE NUMBER :

70550570

ADDRESS :

SA Police Service83 Steve Biko
ROAD, Pretoria.

TEL :

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ENS forensics

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Ms Zanele Mxunyelewa
240 Madiba Street
Pretoria

Ms Suad Jacobs

11 February 2014


attention: Ms Zanele Mxunyelewa

Dear Zanele

FINAL REPORT ON INVESTIGATION INTO THE VREDE DAIRY FARM PROJECT

1. We enclose our final report on the procurement investigation we conducted in respect of the Vrede Dairy Farm project.
2. Kindly contact Ms Suad Jacobs of our offices (tel: (011) 269 7933, cell: 082 300 1716, e-mail: siacobs@ensafrica.com) in the event that you have any queries and/or would like to discuss any aspect of our report further.

Yours sincerely


Suad Jacobs
Director
ENS Forensics (Pty) Ltd

**national treasury**Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

National Treasury

Report on the investigation into the Vrede Integrated Dairy Farm Project

Prepared for: Zansle Mxunyelwa
Date: February 2014Our Ref: 2002723/S Jacobs
Your Ref: 03-408-02-3-2014

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Executive Summary

1. Introduction

In August 2013, the National Treasury (NT) Chief Procurement Officer requested NT's Specialised Audit Services (SAS) to investigate allegations of procurement irregularities allegedly committed by the Free State Department of Agriculture and Rural Development (FSDA&RD) in procuring the services of Estina (Pty) Ltd (Estina)/Paras Dairy. ENS Forensics (Pty) Ltd (ENS) was co-sourced to assist with this investigation.

The allegations were made through the Mail & Guardian media enquiry dated 10 June 2013.

2. The supply chain management process followed in appointing Estina/Paras

Throughout this investigation, it was clear to ENS that Mr Thabethe, the FSDA&RD HOD, played a pivotal role in the Vrede Dairy Project: he identified Paras, the service provider; he signed the first agreement with Estina (Paras' local partner) on 7 June 2012, prior to Provincial Exco approval. He approved an authority to deviate from the prescribed procurement process only after receiving advice from the State Attorney's Office; and on the same day signed a second agreement with Estina.

As the department's accounting officer, Mr Thabethe bears the responsibility of ensuring that the department complies with section 38(1)(a)(iii) of the Public Finance Management Act 1 of 1999 (the PFMA) and further that his department procures in line with its supply chain management policy, the PFMA, the Treasury Regulations and section 217 of the Constitution. Mr Thabethe did not follow these requirements, remaining adamant that it was unnecessary to follow a supply chain management process in this project.

The investigation revealed that the Vrede project is neither a PPP nor a sole provider arrangement. Mr Thabethe signed an authorisation to deviate from the prescribed procurement process because he believed he was authorised to do so when he deemed appropriate. He stated that he has followed the same procurement process, or lack of process, in appointing service providers on other projects.

Mr Thabethe signed a 99-year rent-free lease in favour of Estina for the Vrede Dairy project land. ENS, however, was unable to interview either the attorney at the State Attorney's Office, (Mr Thabethe refused to waive attorney/client privilege), or Estina's director, Mr Kamal Vasram, who refused to meet ENS without Mr Thabethe's authorisation.

ENS could not obtain clarity on whether or not Paras is actually involved in this project.



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3. The funds committed to the Vrede Dairy project

According to the FSDA&RD and Estina agreement, the department should provide R114 million annually for 3 years, starting in the 2012/13 financial year and ending in the 2014/15 financial year. At the time that Mr Thabethe signed the agreement with Estina no budget existed for the project, contrary to the requirements of section 38(2) of the PFMA.

The department obtained R30 million for the Vrede Project in the 2012/13 adjustment budget, leaving a shortfall in its contribution in the 2012/13 financial year. In the 2013/14 financial year, the department budgeted for R53.95 million to be obtained from the CASP grant and R60 million from the department's equitable share.

The National Department of Agriculture, Forestry and Fisheries (DAFF) has now withheld its CASP allocation for the project for the 2013/2014 financial year because it is dissatisfied with elements of the project. Furthermore, since all the Vrede Dairy project payments are made directly into Estina's bank account, the department is unable to objectively ascertain how its funds are being spent; the department is not even able to verify if Estina has made any financial contributions to the project.

ENS has established that a total of R114 million was paid to the service provider between 12 June 2012 and 30 April 2013.

4. Beneficiaries of the Vrede Dairy Project

No beneficiaries were identified for this project until DAFF raised the issue after visiting the Vrede Dairy project site in August 2013. According to Mr Thabethe, identification was an on-going process. To date only 60 potential beneficiaries have been identified, instead of the projected 100, and concerns remain about how the beneficiaries were identified. The AgriBEE entity was only incorporated on 11 October 2013 with Mr Vasram, Estina's director, as its only director; none of the current beneficiaries are listed as directors.

5. Value for money for the State

Mr Maree, a senior economist at AgriSA, assessed the Vrede Dairy project documents and concluded that the State should not continue with the project in its current state as it would not receive value for money as the project costs were neither reasonable nor market related.

6. Status of the project

In October 2013, ENS visited the Vrede Dairy project site accompanied by Mr Thabethe. Various buildings were being erected and 350 cows had been purchased. The two on-site

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Estina officials, who appeared to have a good understanding of the project, had project plans not in the department's possession.

ENS cannot comment on the financial status of the project except that the department has paid R114 million to Estina in terms of their agreement. The department has not paid over any of the funds due in the 2013/2014 financial year and DAFF has withheld its 2013/2014 CASP contribution. It is therefore likely that the project is experiencing cash flow difficulties.

7. Recommendations

ENS makes the following recommendations with regard to the current matter:

- That disciplinary action be taken against Mr Thabethe for not adhering to the requirements of the department's supply chain management policy; the PFMA, the Treasury Regulations and the Constitution
- That disciplinary action be taken against Ms Dlamini for not adhering to the requirements of the department's supply chain management policy; the PFMA and the Treasury Regulations
- That NT investigates the three projects that Mr Thabethe alleges were also concluded without following a competitive bidding process
- That NT obtains a legal opinion on the consequences of cancelling the contract with Estina
- That NT obtains a legal opinion on setting aside the 99-year rent-free lease provided to Estina
- That NT considers conducting a detailed financial analysis into the finances of Mr Thabethe and Ms Dlamini, it is possible that the officials may have received an illicit benefit from the service provider
- That no further funds are invested in the project until all of the risk factors set out in this report are addressed.



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Dramatis Personae

Role player	Abbreviation	Designation
Mr Chris Adams	Mr Adams	NT director in the Intergovernmental Relations department
National Dept of Agriculture	DAFF	National Department of Agriculture
Adv Ditira	Adv Ditira	Deputy Director General in the Office of the State Attorney
Ms S Dlamini	Ms Dlamini	chief financial officer of FSDA&RD; as well as chairperson of the department's bid adjudication committee
Estina (Pty) Ltd	Estina	Service provider engaged by the FSDA
Ms Anna Fourie	Ms Fourie	Free State Provincial Treasury's Accountant General
Free State Auditor General	FSAG	Free State Office of the Auditor General
Free State Dept of Agriculture	FSDA	Free State provincial department of Agriculture; Mr Thabethe was the head of department from March 2012 to March 2013
Free State Dept of Agriculture & Rural Development	FSDA&RD	Free State provincial department of Agriculture and Rural Development; established in March 2013 when the provincial departments of agriculture and rural development merged
Free State Provincial Treasury	FSPT	Free State Provincial Treasury department
Mr Gama	Mr Gama	The office manager in Mr Thabethe's office; also the chairperson of the department's bid evaluation committee
Mr Sanjeev Gautam	Mr Gautam	Managing Director of Estina
Mr Kgomongwe	Mr Kgomongwe	The previous CEO of the FSPT
Mr Gajinder Kumar	Mr Kumar	Director of VRS Foods trading as Paras Dairy
Dr Loubser	Dr Loubser	Farming expert that consulted to the FSDA&RD
Mr T Mabilo	Mr Mabilo	The FSPT Acting Senior Executive Manager: Assets and Liability Management
Mr M Mahlatsi	Mr Mahlatsi	Current CEO of the FSPT
Mr D Maree	Mr Maree	Senior Economist, Agri.SA
Dr T Masiteng	Dr Masiteng	General manager district services for FSDA&RD
Ms Alta Meyer	Ms Meyer	The FSDA&RD's Vrede project co-ordinator

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Ms L Mngomezulu	Ms Mngomezulu	The head of procurement for the FSDA&RD
Mr I Moses	Mr Moses	The FSPT Senior Executive Manager for Sustainable Resource Management
Ms Elder Mtshiza	Ms Mtshiza	DAFF CASP grant co-ordinator
National Treasury	NT	Department of National Treasury
Mr Chandrama Prasad	Mr Prasad	Estina's Vrede Dairy Project Manager / Project Co-ordinator
MEC Qabathe	MEC Qabathe	Current MEC of the FSDA&RD
Specialised Audit Services	SAS	A department within the Office of the Accountant General, National Treasury
Mr P Thabathe	Mr Thabathe	From March 2012 to March 2013; HOD of FSDA; from March 2013 HOD of FSDA&RD
Mr Kamal Vasram	Mr Vasram	Director of Estina (Pty) Ltd
Mr Weidemann	Mr Weidemann	Manager in the Free State Auditor General's office
MEC Zwane	MEC Zwane	MEC of the FSDA&RD during 2012 and part of 2013
Mr Zwane	Mr Zwane	Senior Manager in the Free State Auditor General's office

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1 Introduction

1.1 Background to the Investigation

1.1.1 Being aware that the FSDA&RD may not have adhered to supply chain management prescripts in procuring the services of Estina / Paras Dairy and following an article published by the Mail & Guardian newspaper (M&G) on 14 June 2013, during August 2013, the NT Chief Procurement Officer requested NT's SAS to investigate allegations of procurement irregularities allegedly committed by the FSDA&RD.

1.1.2 The M&G article, attached as Exhibit 1, alleged that the FSDA&RD irregularly appointed a service provider, namely Estina, to establish an integrated dairy farm in Vrede (Vrede Project). SAS mandated ENS to conduct an investigation of certain aspects related to the project; ENS' mandate is set out in section 1.3.

1.1.3 ENS has investigated the Vrede project in line with the mandate we received from SAS; our findings are set out in this report.

1.2 The allegations set out in the various newspaper articles

M&G – 14 June 2013 article

1.2.1 In the M&G article of 14 June, Exhibit 1, the allegations in respect of the Vrede project were as follows:

- The FSDA&RD flouted treasury rules related to procurement by entering into a R500 million dairy partnership with a company named Estina, which is allegedly linked to the Gupta family
- The project was not concluded as a public private partnership (PPP) deal nor had FSDA&RD sought permission to partner with the company Estina
- Estina was given a 99-year rent-free lease over the 4,400 hectares of State farmland on which the project would be established
- The FSDA&RD has redirected a huge chunk of its budget to the dairy, portraying it as a mega public private partnership
- Estina assumed little risk on the project, stating vaguely that it would participate financially "when required"; the department told the M&G that Estina would contribute R200 million
- Estina lacks discernible infrastructure, track record and resources

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- Estina may raise funds for this project by pledging the property as security for a bond, which, if the project fails could see the land being forfeited to the bank
- The lease agreement does not tie the lease to the project's success, so Estina would have the use of the land for the next 99 years rent-free.

1.2.2 Estina's only director, Mr Kamal Vasram (Mr Vasram), commented in the article that, *"The project has been initiated after following all due processes."*

M&G – 31 May and 7 June 2013

1.2.3 ENS obtained three further M&G articles related to this matter, one article dated 31 May 2013, see Exhibit 1, and two articles dated 7 June 2013, see Exhibit 1.

1.2.4 The 31 May 2013 article stated that the project was a PPP project, with government set to contribute R342 million to the project over 3 years; the article, however, questioned Estina's credentials, stating that its director, Mr Vasram, had no apparent dairy farming experience. According to the article, Estina claims to be linked to Indian dairy company Paras and that it therefore has the expertise to participate in this type of project. The M&G contacted a spokesperson for Paras, who stated, *"We don't do any business in South Africa and we don't have any Estina on our database."* The article further set out some of the same concerns communicated in the 14 June article and went into great detail about Estina's possible links with the Gupta family.

1.2.5 The first 7 June 2013 article set out the following concerns about the project:

- The provincial budget shows a huge redirection of resources towards this single PPP project
- There are serious doubts about the project's viability and many locals have questioned its viability.

1.2.6 The Indian dairy giant, Paras' spokesperson, Bharti Singh, repeated the company's position that it knows nothing of the project; she circulated the M&G query to all Paras' directors and they confirmed that Paras has no business in South Africa and no dealings with Estina.

1.2.7 Further, the article went into significant detail regarding the project's possible link to the Gupta family, alleging that the Estina project co-ordinator/project manager for the Vrede Project, Mr Chandrama Prasad (Mr Prasad) was also linked to the Guptas.

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1.2.8 The second article dated 7 June 2013, linked Mr Prasad to a corruption scandal in India relating to the recruitment of 18,000 police constables on which the Mayawati administration had requested an investigation; the investigation report, prepared by the Uttar Pradesh chief secretary, concluded, *"Prima facie it is clear that the then Honourable Chief Minister [Mulayam Singh] meticulously engineered the entire recruitment in a planned systematic manner.....it is prima facie proved that direct and indirect co-operation in these activities were given by the then director general of police and the then special secretary to chief Minister, Chandrana Prasad."* The investigation report appears to implicate Mr Prasad in the corruption scandal.

1.3 The mandate to ENS

1.3.1 During our investigation of the Vrede Project, ENS was requested to:

- Establish if the project was an approved PPP arrangement or a sole provider engagement
- Verify the supply chain management process followed in appointing the service provider, Estina/Paras
- Verify how much the FSDA&RD committed to the project and the source of the funds, and if there was any capital injection by the service provider to this project
- Investigate the reasons and supporting documentation for the BAS payments made in excess of the R30 million that was said to be available from the department
- Verify if there were any beneficiaries identified for the AGRIBEE and if so, who they were
- Establish through liaising with AGRI.SA whether there is value for money to the State on this project
- Establish the current state of the project and provide recommendations.

1.3.2 The articles published by the M&G placed significant emphasis on Estina being linked to the Gupta family. ENS was not mandated to investigate this issue and no investigation has been completed on this aspect. We have approached the investigation from the perspective of establishing whether or not relevant legislation and treasury guidelines were complied with in appointing Estina.

1.3.3 On 18 September 2013, ENS started interviewing witnesses with regard to this investigation. The limitations to this investigation are set out in Annex A to this report

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as well as in section 1.4 below. The ENS methodology is set out in Annex B to this report.

1.4 Specific limitations to this report

1.4.1 This report seeks to advise NT of our findings in this investigation.

1.4.2 ENS cannot guarantee that we have had access to all of the information relevant to this project. We have requested various documents from the department, and specifically from the HOD, that we have not received.

1.4.3 Further, during the investigation it became apparent that the HOD was potentially intentionally withholding information from the investigation team; three examples are easily identifiable. First, the HOD did not inform the investigation team that two agreements were signed with Estina, the HOD only provided us with the second agreement; second, the HOD did not provide us with a copy of the 99-year lease agreement with Estina and specifically denied its existence in our first interview with him; and third, the HOD did not provide us with copies of the memoranda approving his trip to visit Paras in India. In addition, the HOD would not facilitate our access to important witnesses in this case like the State Attorney's Office and Estina/Paras.

1.4.4 Both the lack of candour on the part of the HOD and that documents were apparently kept from the investigation team mean that we are not aware of all of the facts related to this matter.

1.4.5 Nevertheless, ENS has obtained a significant amount of information regarding this project and we have interviewed a number of witnesses from various departments regarding the project. We are therefore of the opinion that the information we have obtained should provide NT with a fair representation of the process that was followed by the FSDA&RD in appointing Estina. We have also obtained sufficient information regarding the project to answer the other questions posed by NT in its mandate letter.

1.5 Structure of the report

1.5.1 This report sets out ENS' findings with regard to the investigation conducted into the Vrede Project. The report is drafted for NT to obtain clarity on the role-players involved in appointing the service provider Estina/Paras. In addition, the report provides an indication of the total funds allocated to the project, the funds already spent on the project and whether or not the State is likely to receive value for money in this project.

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- 1.5.2 Section two of the report sets out our findings and conclusions in respect of the supply chain management process followed in securing the services of the service provider, Estina.
- 1.5.3 Section three of the report sets out our findings and conclusions in respect of budget allocated to the project, the source of the project funds, and if there was any capital injection by the service provider. In addition, we cover the reasons and supporting documentation for the BAS payments made in excess of the initial R30 million.
- 1.5.4 Section four sets out our findings and conclusions in respect of beneficiaries of this project.
- 1.5.5 Section five addresses whether the State is likely to receive value for money in this project.
- 1.5.6 Section six comments on the status of the project.
- 1.5.7 Section seven sets out our overall conclusions in respect of this investigation and section eight sets out our recommendations.



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2 Procurement process followed

2.1 The witness interviewed during this investigation

2.1.1 ENS interviewed the following officials:

Table 1: Officials interviewed by ENS in respect of the procurement process followed

Name	Position	Reference
Mr P Thabethe	Head of department (HOD) of the FSDA&RD	Mr Thabethe
Ms S Dlamini	Chief financial officer (CFO), who is also the chairperson of the department's bid adjudication committee (BAC)	Ms Dlamini
Dr T Masiteng	General manager district services	Dr Masiteng
Ms L Mngomezulu	Head of procurement for the FSDA&RD	Mrs Mngomezulu
Mr M Gama	Office manager in the Office of the FSDA&RD Head, who is also the chairperson of the department's bid evaluation committee (BEC)	Mr Gama
Ms Alta Meyer	Vrede project FSDA&RD co-ordinator	Ms Meyer
Mr M Mahlatsi	Chief executive officer (CEO) of the Free State Provincial Treasury (FSPT)	Mr Mahlatsi
Mr Kgomongwe	Previous CEO of the FSPT	Mr Kgomongwe
Ms Anna Fourie	FSPT Accountant General	Ms Fourie
Mr T Mabilo	FSPT Acting Senior Executive Manager: Assets and Liability Management	Mr Mabilo
Mr I Moses	FSPT Senior Executive Manager for Sustainable Resource Management	Mr Moses
Mr Chandrama Prasad	Project Manager/Project Co-ordinator for Estina	Mr Prasad

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2.1.2 ENS obtained documentary and oral evidence from various witnesses; we have combined what we have learnt in the interviews with the documents obtained to attempt to reconstruct the process followed in appointing Estina.

2.2 The procurement process followed by the FSDA&RD

The initiation of the project and Estina's project proposal

2.2.1 ENS conducted two interviews with Mr Thabethe¹. During these interviews it became clear that Mr Thabethe played an integral role in identifying Paras Dairy and in signing the contract with Estina/Paras; he is currently involved in the execution of this project.

2.2.2 Mr Thabethe was appointed as the HOD of the Free State Department of Agriculture (FSDA) in March 2012. The Free State Departments of Agriculture and Rural Development merged in March 2013, with Mr Thabethe being appointed as HOD of both departments in March 2013. These appointment dates are important when the timeline of the Vrede Project is considered because Mr Thabethe identified Paras as a suitable partner in the first month of his appointment and the first contract with Paras/Estina was signed on 7 June 2012.

2.2.3 Shortly after his appointment as HOD of FSDA, Mr Thabethe became aware of a report compiled by the National Agricultural and Marketing Company (NAMC) highlighting the Free State Province's suitability for dairy farming. According to Mr Thabethe, the province had been involved in dairy farming prior to his appointment, citing as an example the province's involvement in the Matuti Dairy with Nestle. In the NAMC study, the Free State Province was ranked second in terms of suitability for dairy farming; it further mentioned that there had been a decrease in dairy farmers nationally. Mr Thabethe saw this as an opportunity to increase the province's involvement in this industry. He further stated that the cost of transporting the milk to Johannesburg for processing was having a negative impact on the industry's profitability in the province – one of the major inhibitors of dairy farming being the cost of having milk processed after it is produced. He therefore started to look at opportunities to establish an integrated dairy project.

2.2.4 Mr Thabethe explained that he/the department saw the potential of the province becoming a large player in the dairy industry if it found the correct location as it would benefit from its proximity to the KwaZulu-Natal (KZN) and Mpumalanga provinces –

¹ The first interview was conducted on 9 October 2013; the second interview on 22 November 2013.

the idea being that the Free State could assist KZN and Mpumalanga with their dairy industries or processing of milk.

- 2.2.5 Mr Thabethe was initially interested in establishing the dairy project in an area near Sasolburg² but when MEC Zwane, the previous MEC for FSDA, advised him of the availability of the land in the Vrede area, he decided to establish the project there instead. Mr Thabethe interacted with the Phumelela Municipality in respect of the land; according to him, the municipality had no plans for the land which it was leasing (on a short-term basis) to certain commercial dairy farmers. The municipality apparently informed Mr Thabethe to interact with the local community to gain its support for the project, which, according to Mr Thabethe, he did.
- 2.2.6 When attempting to identify a partner for this project Mr Thabethe stated that he conducted research on the dairy industry and identified India, Germany and Sweden as suitable partner countries. He then discounted Germany and Sweden because they were first world countries and too advanced; he focused on India because, in his opinion, it had similar economic conditions to South Africa. He stated that he had been particularly impressed by Paras Dairy, an Indian company producing dairy products, because it collected milk from local producers and then processed it profitably. In the past the Free State Province had not been able to make this model work, so he was interested to see how Paras Dairy made it work.
- 2.2.7 In our first interview with Mr Thabethe, we requested that he provide us with copies of the documents he accessed as part of his research, so that we could understand the rationale behind his decision to approach Paras Dairy. Mr Thabethe was unable to produce the documents; in the second interview he informed us that he had conducted Internet research and could provide us with the addresses of the websites he had accessed. As at the date of this report, he has not furnished us with these website addresses.
- 2.2.8 Having identified India as the suitable partner country for this project, Mr Thabethe visited India in March 2012, shortly after his appointment as HOD of FSDA. He was not clear on the exact date of this trip and despite numerous requests he has not provided us with the authorisation documents related to this official trip. He further informed ENS that he was the only official from the department to visit India on this assignment.

² At the time of the interview, Mr Thabethe was not able to remember the name of the town near Sasolburg where he initially wanted to establish the project.

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- 2.2.9 After being questioned extensively on his trip to India and its purpose, Mr Thabethe admitted that the only dairy producer he met with on his trip to India was Paras Dairy. Mr Thabethe arranged the meeting with Paras Dairy before he travelled to India. Upon his arrival in India, Paras Dairy apparently presented its credentials to Mr Thabethe in the form of a presentation and, according to Mr Thabethe, expressed an interest in becoming involved in South Africa. (The presentation provided to him by Paras Dairy forms part of the presentation he made to the Free State Provincial Executive Committee (Provincial Exco), see Exhibit 2.) According to Mr Thabethe, Paras Dairy indicated that it already had existing markets in Nigeria and would like to be operating in South Africa. At the end of the meeting with Paras Dairy, Mr Thabethe invited Paras Dairy officials to visit South Africa.
- 2.2.10 Mr Thabethe provided us with a memorandum of understanding (MOU) signed between Paras and Estina, attached as Exhibit 3. The MOU is dated 11 April 2012 and was signed by Mr Sanjeev Gautam (Mr Gautam) on behalf of Estina (Pty) Ltd and Mr Gajinder Kumar (Mr Kumar) on behalf of VRS Foods Limited trading as Paras India (referred to in this report as Paras or Paras Dairy). The MOU indicates that Mr Gautam is an authorised signatory for Estina and Mr Kumar is a director of Paras. The MOU states, on page 6, point 3:
- "3.1 The Company hereby appoints ESTINA as its Agent for identifying and securing opportunities for Dairy Projects in the Territory.*
- 3.2 The Parties hereby agree and acknowledge that they are independent contractors. No partnership, joint venture or employment is created or implied by this MoU."*
- 2.2.11 In this document, the "Company" is defined as Paras; the "Territory" is defined as the Republic of South Africa; "Project" is defined as the strategic partnership between Estina and the FSDA&RD to implement a dairy project in the province. It is not clear when this project became a strategic partnership between Estina and the FSDA because this is the first formal indication of Estina's involvement in the project.
- 2.2.12 The document states at point 5.4 that, "Once a bid/order is secured by Estina, the Company shall be solely responsible for ensuring timely completion of the Product in strict compliance with the specifications mentioned in the Tender or bidding document or Contract". At point 5.5 it states that "The Company shall alone be responsible for complying with all conditions and for all after-sale support services to the clients through ESTINA."
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2.2.13 In light of the allegations in the media, regarding the relationship between Estina and Paras Dairy, we questioned Mr Thabethe on whether he had any other assurances that a relationship existed between the two companies. Mr Thabethe stated that the two companies presented their proposal to the department jointly in April 2012 and he was further assured of the relationship between Estina and Paras by the Paras CEO, when the CEO visited South Africa later in 2012.³

2.2.14 According to Mr Thabethe representatives of Paras Dairy accompanied by representatives of Estina (Pty) Ltd visited the FSDA around 24 April 2012, to meet with the department's senior officials to present its project proposal in respect of the integrated dairy project to be situated in Vrede. The project proposal presentation provided to us by the department is attached as Exhibit 4.⁴ The project proposal presentation sets out that an integrated dairy project is envisaged for the Vrede area that will create employment opportunities for black farmers at grass-roots level and fuel economic growth in the province. The presentation also provides a brief company profile on Paras Dairy; it further states that, "Estina Pty Ltd. Is the local representative company which has been appointed by Paras to engage with the Department on the Vrede Project."

2.2.15 During the investigation Mr Thabethe was not able to provide us with proof that Paras actually presented at the department. We were handed a presentation that was allegedly presented by Paras and Estina but the presentation is generic and does not record the names of the presenters, nor does it state who formed part of the Estina / Paras delegation. ENS requested the name and contact details of the CEO of Paras from Mr Thabethe; he undertook to furnish us with the details of the CEO, he however never provided us with these details. ENS was therefore not able to make contact with the CEO of Paras, the representative of Paras that Mr Thabethe allegedly dealt with.

2.2.16 The department provided ENS with a copy of the project proposal submitted by Estina, it is attached as Exhibit 5; the document is signed by Mr Gautam the managing director of Estina and it is dated 15 May 2012. ENS obtained a second copy of the Estina project proposal, see Exhibit 6, which was not signed or dated. The second project proposal was obtained from Ms Meyer, the FSDA&RD project co-

³ Mr Thabethe was not able to provide us with the CEO of Paras' name or contact details despite various requests.

⁴ The department indicated that it could not provide us with minutes of this meeting because the minutes were lost after the meeting

ordinator for the Vrede project. The two project proposals for the project are identical except for the budgets associated with the projects:

- Exhibit 5 signed by Mr Gautam, sets out on page 6 that the proposed budget for the project excluding VAT is R500 million excluding VAT and R570 million including VAT; the department is responsible for contributing R342 million to the project and Estina R228 million
- Exhibit 6 is not signed by Mr Gautam, on page 6 the document sets out the proposed budget for the project but our copy of the document is not legible in respect of the total cost of the project; however, the document sets out that the department is responsible for contributing R500 million to the project and Estina R500 million.

2.2.17 The reason for the difference in the proposals is not clear; the difference was detected after our interviews with officials in the department were concluded so we were not able to obtain an explanation.

2.2.18 The Estina project proposal mentions that the, "Department of Agriculture and Rural Development (DoARD), in line with the vision of the Mohama Mobung Initiative, has identified the implementation of a Dairy Project in Vrede as its flagship Project.....DoARD had recently commissioned a detailed study which validates the implementation of such a Project. The DoARD subsequently commissioned a high-level team to visit India, the largest milk-producer in the world, to explore the possibilities of attracting investments in this area. The DoARD team met with PARAS Dairy, the largest milk producer in India and have agreed in principle to work with them on this prestigious project." The department could not provide us with a copy of the detailed study it commissioned and we suspect that this may refer to the Internet research completed by Mr Thabethe. Further, it appears that the high-level 'team' that visited India consisted solely of Mr Thabethe.

2.2.19 Below we have copied some of the salient provisions of the Estina proposal:

"2. Executive Summary

ESTINA PTY LTD is proud to inform the Department of Agriculture and Rural Development that it has signed a Memorandum of Understanding with PARAS DAIRY, the largest private milk producer in India, to deploy a flagship Dairy Project in Vrede. Although the DoARD team have already met with PARAS, it may be pertinent to list some of their strengths here:

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- Biggest Private Milk processors in India & the only Co. in North India to market Bactofused Milk
- 5 State of the Art ISO 9001-2000 and HACCP Certified Manufacturing Facilities
- Total Liquid Milk Intake of more than 720 Million Litres Per annum
- Processing capacity of 3 million litres per day
- Network Covering more than 5000 villages & a strong procurement base at village level
- Amongst the Largest Suppliers of Liquid Polypack Milk (250,000 Litres/Day supplied locally)
- Fleet of 300 Stainless Steel insulated road milk tankers
- Modern Dairy Ingredients plant in collaboration with WESTFALIA SEPERATORS, A.G.GERMANY, FILTRATION ENGINEERING Inc USA, APPLEXION FRANCE, ALFA LAVAL
- Accredited as a 2 Star Export House by Govt of India."

The project proposal further states under section 3 that,

"The objectives with the project are to

- Utilise the existing natural and other resources to create a viable large-scale Integrated agro-industrial enterprise;
- Broaden the agro-industrial production base of the district;
- Improve the food security situation for a number of rural communities;
- Create a number of small enterprises; and
- Alleviate the poverty of the surrounding communities.....

For the planned integrated dairy project to be sustainable over the long term, it is planned to ensure that

- The dairy over the long term, maintains at least 1000 cows in milk, implying that another 1000 non-producing followers, mainly female animals are fed, namely young or pregnant heifers and dry cows;
- The dairy cows are sheltered against the sun and heat stress during the summer months as well as against extreme cold during the winter months;
- Proper milking equipment and buildings are created;

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- Milk processing equipment needed for pasteurising, cold storage, yoghurt, cheese and Amazi production, as well as distribution vehicles are in operation;
- Effluent usage on crop fields to reduce the use of chemical fertilizers;
- Feed production in the form of grains, annual legume crops, hay, lucerne and silage under dry land and 1000 hectares of irrigation;
- Creation of facilities for the orderly storage, refrigeration, transport and marketing of the respective products; and
- Integration of small holder farmers on the periphery to produce various products under contract to be nucleus project.

In the short term, the milk will be procured from the local farmers and then processed in-house. This operation will then gradually be expanded to include in-house rearing and milking of cows over the long term. In this manner, the risks envisaged in a large scale dairy operation will be mitigated by the gradual scaling up of the operation.

In section 5, under the heading 'Phases for Project Deployment', the proposal states,

"...the Department has brought to the fore the problem of lack of funding for this Project which has been a major stumbling block in the execution of this project in the past...the Department, Estina together with Paras Dairy are proposing a phased approach to the Project, whereby the Department will release available funds and Estina will ensure the implementation of the project in a modular form with technical know-how inputs from Estina/PARAS and when required, financial participation as well....It is envisaged that as the project is delivered in phases, additional funding can be procured from various stakeholders when the viability of the project is demonstrated through the actual deployed working model."

The project proposal therefore foresees that the project may go beyond the proposed funding of R570 million as set out in Exhibit 5.

In section 6 of the proposal it states that,

"In line with the Agri-BEE business norms stipulated by Government, Estina proposes that a new Special Purpose vehicle (SPV) be created in which ESTINA will hold a 49% share while the remaining 51% share will be distributed to at least three selected Grant recipients. Estina will provide the required capital injection as well as the technical know-how, which will be provided by Paras. Estina will endeavour to fund the entire Project itself and is requesting the Government to commit to an annual

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Grant of R100m per year for FIVE years to ensure that the Project remains sustainable and commercially viable."

This statement is made in both versions of the project proposals; it is therefore clearly foreseen even at the project proposal phase that this project will eventually exceed the R342 million budget set by the department for this project.

The agreements signed between Estina and the FSDA&RD

- 2.2.20 On 27 May 2012, Mr Thabethe addressed an acceptance letter to Mr Gautam titled, "Acceptance Letter: Project Proposal for Vrede Integrated Dairy Agribusiness". In the letter Mr Thabethe refers to the project proposal submitted by Estina; he accepts the proposal subject to the signing of the partnership agreement; see Exhibit 7.
- 2.2.21 During our second interview with him, Mr Thabethe further provided ENS with a company profile for Estina, see Exhibit 8. The document is a page long and provides no real details on the company or its expertise. Attached to the company profile for Estina there is a Partnership Agreement between the FSDA and Estina in relation to the implementation of a dairy project at Vrede through a special purpose vehicle created to fulfil the stipulated Agri-BEE business norms called Zayna Investments Pty Ltd, trading as Mohoma Mobung Dairy Project. The partnership agreement was signed on 5 June 2012 by Mr Gautam on behalf of Estina and by Mr Thabethe on behalf of the department on 7 June 2012. The partnership agreement set out various provisions regulating the department and Estina's relationship in respect of the Vrede Dairy Project. This contract was not mentioned to ENS by Mr Thabethe or Ms Dlamini during our interviews with them. It was also not provided to ENS or NT when documents related to the project were initially requested.
- 2.2.22 In our interview with Mr Thabethe he indicated that following his trip to India, he presented his findings to the Provincial Exco so that it could approve the project before he entered into an agreement with Estina. The Provincial Exco comprises the Premier and various provincial members of the Executive Council (MECs). The presentation and cabinet memorandum compiled by Mr Thabethe are not dated or signed but Mr Thabethe indicated that he prepared and delivered the documents around 12 June 2012. The cabinet memorandum and presentation are attached as Exhibits 2 and 9 respectively.

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2.2.23 In his presentation and cabinet memorandum to Provincial Exco, Mr Thabathe provided a brief synopsis of Paras' background. The cabinet memorandum states that,

"The Department of Agriculture and Rural Development, in line with the vision of the 'Mahoma Mobung' initiative, has identified the implementation of a Dairy Project in Vrede as its flagship project. To this end DoA had recently commissioned a detailed study which validates the implementation of such a project. The DoA subsequently commissioned a high-level team to visit India, the largest milk producer in the world, to explore the possibilities of attracting investments in this area. The department met with PARAS Dairy, the largest private milk producer in India and have agreed in principle to work with them on this prestigious project."

2.2.24 Under the section "Financial Model", the cabinet memorandum states that, "The total cost of the Project is estimated at R570 million. The initial investment for the establishment of the Dairy will be through Government funding of R114 million per year and the investment for the establishment of the Processing plant will be funded by Estina/Paras". Further on in the document, it states that the department would be required to invest R114 million per annum for 3 years totalling an investment by the department of R342 million and that as the department had R30 million available in the current financial year, the 2012/2013 financial year, it would require additional funding from Treasury of R84 million.

2.2.25 Mr Thabathe's Cabinet memorandum then requested that Provincial Exco:

- "a) Considers and approves the implementation of the proposed Integrated Vrede Dairy agri-business Project*
- b) Supports the sourcing of additional funding of R84 million for this current FY from the province."*

2.2.26 Provincial Exco approved Mr Thabathe's request on 13 June 2012, the approval is attached as Exhibit 9.

2.2.27 Mr Thabathe indicated that after obtaining Provincial Exco approval, he started to engage with Estina / Paras regarding the signing of an agreement.

2.2.28 ENS was alerted to the existence of the first agreement, potentially Exhibit 8, between Estina and the department by Ms Fourie, the Provincial Accountant General. On 15 June 2012, the MEC for Agriculture contacted the MEC for Finance to request that an urgent payment of R30 million be made to Estina and that Provincial Treasury

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expedite the payment on the same day. Ms Fourie was called in to assist with the payment. She stated that she was provided with the initial contract between the department and Estina and a payment request from the department. Ms Fourie was not able to effect the payment of R30 million on 15 June 2012 because Provincial Treasury did not have the required amount available. Further, Ms Fourie had concerns about the initial contract signed with Estina and in addition she noted that no procurement process had been followed in procuring Estina's services. Provincial Treasury did not effect the payment to Estina on 15 June 2012. Ms Fourie highlighted her concerns with the contract and the lack of procurement process to the FSDA; she further referred the contract and her concerns to the Adv. Ditira, a DDG: Legal Services in the Office of the State Attorney.

2.2.29 Adv. Ditira responded to Ms Fourie in a letter dated 19 June 2012, see Exhibit 10. In the letter Adv. Ditira states,

"We refer to our consultation with you on 18 June 2012 with regard to the abovementioned agreement. You requested us to peruse and advise on the contract which the Department of Agriculture has entered into with Estina. It appears that the procurement process was not followed. The contract may be invalid due to a number of reasons. We suggest that you propose to the Treasury Committee that the agreement and the procurement documents be sent to us for review."

Ms Fourie was not able to provide ENS with a copy of the initial agreement signed between the FSDA and Estina but it is probable that Exhibit B is a copy of that initial agreement. Ms Fourie indicated that Adv. Ditira and the State Attorney's Office became involved in the process thereafter and they advised the FSDA. She is aware that the State Attorney's Office advised the FSDA on the second agreement concluded with Estina as well as on the procurement process that was flawed. Ms Fourie was however not aware of the extent of the consultations between the State Attorney's Office and the FSDA.

2.2.30 The second agreement between the FSDA and Estina was signed on 5 July 2013. ENS noted that the second agreement concluded between the FSDA and Estina was more comprehensive in regulating the legal relationship between the department and Estina but the contract contains very little with regard to project specifications and deliverables. The contract does not provide details on precisely what Estina would deliver in return for R342 million. Mr Thabethe was questioned about the lack of clarity in the agreement and that it is unclear regarding the project deliverables.

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Mr Thabethe's response was that he signed the agreement in its current state on the advice of the State Attorney's Office. The agreement is attached as Exhibit 11.

2.2.31 ENS approached the State Attorney's office to understand the nature of the advice given to the department; Adv. Ditira would only meet with ENS to discuss the project and their advice to the FSDA, if Mr Thabethe waived his right to legal privilege. ENS requested Mr Thabethe to waive privilege in this instance and allow us to interview Adv. Ditira but he refused ENS access to the State Attorney, indicating that he did not have the authority to waive privilege. When it was explained to Mr Thabethe that he did have the authority to waive privilege, he still would not allow ENS access to the State Attorney. We were therefore unable to establish the nature and extent of the advice the FSDA received from the State Attorney.

2.2.32 In terms of the second agreement, the department's annual contribution to this project is R114 million per annum for three years. The contract was initially intended to run over the financial years 2012/2013; 2013/2014 and 2014/2015.

2.2.33 Mr Thabethe indicated that he did not sign a contract with Paras, the company with the actual expertise, but rather signed it with Estina because Estina is a company registered in South Africa, unlike Paras, which is a company registered in India. Mr Thabethe believed it important to have a South African company as a counterpart for this project because if there was a problem he would have legal recourse to a South African entity. When questioned about Estina's financial status, it was clear that Mr Thabethe had no idea if Estina was a company of means or if the company had only recently been incorporated.

The prescribed procurement process

2.2.34 Procurement in the public sector is guided by various legislative provisions. The Constitution in section 217(1) sets out the guiding principle that all public procurement should comply with, *"When an organ of state in the national, provincial or local sphere of government, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective"*.

2.2.35 The Public Finance Management Act⁶ (PFMA) in section 38(1)(a)(iii) states that, *"the accounting officer for a department, must ensure that the department maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective"*.

⁶ Act 1 of 1999

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2.2.36 Section 16A of the Treasury Regulations issued in terms of the PFMA sets out further guidelines to accounting officers in how to set up an appropriate procurement and provision system.

2.2.37 The FSDA's supply chain management policy⁶ states that its supply chain management system should be fair, equitable, transparent, competitive and cost-effective and that it should comply with all relevant legislation. In its section 1.3 titled "Scope of Application" the policy states that, *"The SCM policy covers the planning for acquiring, management and disposal of all goods and services.....The policy represents the minimum standards which employees are expected to achieve in their procurement activities. This policy is applicable to all employees from the date of approval by the Accounting Officer"*. In terms of section 3.3.1 of the department's policy competitive bids should be invited for all procurement above R500 000 (five hundred thousand rand). Section 3.5 of the policy states that the accounting officer may deviate from the prescribed process in only three circumstances:

- First circumstance, it is impractical to invite competitive bids because there is an emergency or an urgent matter that needs to be resolved
- Second circumstance, the service provider is a sole provider, the service provider must provide an original affidavit stating this
- Third circumstance, in exceptional cases such as repairs and maintenance of equipment, plumbing services, school uniforms, medical services and medicine etc.

2.2.38 According to the department's policy one of the accounting officer's duties is to ensure strict adherence to the guidelines provided in the policy; Mr Thabethe is the department's accounting officer. The policy further states that it is one of the chief financial officer's duties to ensure that the department's procurement policy is implemented effectively; Ms Dlamini is the department's chief financial officer.

2.2.39 Mr Thabethe confirmed that no procurement process was followed in appointing Estina. He confirmed that he did not procure the services of Estina through a competitive bid process. This was a clear contravention of the supply chain management policy, which requires that competitive bids should be invited for all procurement above R500 000.

⁶ See Exhibit 11A

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2.2.40 Mr Thabethe approved an, "APPROVAL TO ACCEPT THE PROPOSAL FOR THE ESTABLISHMENT OF INTEGRATED DAIRY IN VREDE FROM ESTINA" on 5 July 2012, see Exhibit 12. This is the same date on which the second agreement with Estina was signed. Exhibit 12 is in effect an authorisation to deviate from the normal supply chain management process. The reason/s for deviating from the prescribed procurement process is not clear from the document Mr Thabethe signed. Further, the department's supply chain management policy allows for deviation in three specific circumstances, the present case did not involve any of these circumstances; this was neither a case of an emergency procurement nor was Estina a sole provider nor was this an exceptional case.

2.2.41 We interviewed the following witnesses who confirmed that no formal procurement process was followed in appointing Estina:

- Mrs Mngomezulu, the FSDA's head of procurement – according to her, the FSDA executive appointed Estina
- Mr Gama, the FSDA's BEC chairperson, indicated no procurement process was followed and that Mr Thabethe dealt with the Estina's appointment
- Ms Dlamini, the department's CFO and BAC chairperson, also confirmed that no procurement process was followed.

2.2.42 Mr Thabethe stated that it was unnecessary to follow a procurement process in this matter since no other local milk producer had indicated interest in this project. He stated that various role-players in the milk industry, including various private companies had been approached regarding the Mohoma Mobung Strategy but they had indicated no interest in the dairy project. These private milk producers were invited to public meetings at which the department discussed its plans and interested parties could indicate their interest in becoming involved in these projects. Mr Thabethe said he conducted these presentations in the latter part of 2011 or early in 2012, so if private milk producers in South Africa had been interested in the dairy project they would have indicated their interest. He stated it was not necessary to use a public procurement process like a tender because no companies in South Africa expressed an interest during his road show.

2.2.43 ENS reviewed Mr Thabethe's Mohoma Mobung Strategy presentation; it contains little mention of a dairy project and certainly no mention of a project of the size of the one engaged in with Estina. ENS explained that the purpose of a public tender was to advertise the department's intention to engage in this type of project, including the

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size of the project and to allow all possible participants an equal opportunity to compete for this project. Mr Thabethe was adamant that a tender process was not required because he had canvassed relevant local service providers. We further noted that the presentation was dated June 2012, see Exhibit 13. Mr Thabethe was only appointed as the HOD for FSDA in March 2012; it is therefore unlikely that he presented the **Mohoma Mobung Strategy** to other private companies in the latter part of 2011 or early 2012. Mr Thabethe was unable to provide us with details on exactly when and which private milk producers were approached.

2.2.44 In addition, Mr Thabethe stated that it was not necessary to follow a procurement process because Estina was not a service provider. Estina was a partner that had agreed to invest in a project with the department. Further, Mr Thabethe indicated that the project was not a public private partnership (PPP) and should not be dealt with as a PPP because he had read the requirements for a PPP and this project did not fall within the scope of a PPP. He was further of the opinion that PPPs do not work and he has not used the process in the department.

2.2.45 Mr Thabethe agreed that Paras/Estina was not a single source service provider and that it was not an emergency procurement. He did not deal with the project on the basis that it was an unsolicited bid because he indicated that the department had approached Estina/Paras and not the other way around. Further, Mr Thabethe indicated that the supply chain management process was not relevant because the department was not procuring a service on its behalf, it was partnering with a company that would benefit the community (as opposed to the department) and hence a procurement process was not required. Mr Thabethe's comments clearly indicate that he procured the services of Estina in a manner that directly contravened the department's supply chain management policy, neither were his actions consistent with the PFMA or section 217(1) of the Constitution.

2.2.46 Mr Thabethe further justified his actions by stating that he has the authority to deviate from the supply chain management process and as such he had signed Exhibit 12, even though the supply chain management process was not relevant. He implied that even though the supply chain management process was not relevant, he signed the document so that he would be acting regularly if it was later found that the supply chain management process was relevant.

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2.2.47 When it was pointed out to Mr Thabethe that he could only use his discretion in a reasonable manner when it was justified, he reverted to his previous justifications of the supply chain management process not being relevant.

2.2.48 When it was put to Mr Thabethe that the authority to deviate stated no reason justifying the deviation, he stated that it was not necessary to substantiate the deviation because the supply chain management process was not relevant. Nevertheless, Mr Thabethe was of the opinion that the following statements in the authority to deviate justified his deviating from the supply chain management process:

"The department has introduced "MOHOMA MOBUNG STRATEGY" as a provincial approach when implementing agricultural initiatives and "Zero Hunger" strategy. Therefore, the identified and prioritised projects have been carefully analysed and selected to contribute to the Mohoma Mobung Strategy. In line with the value adding approach, the department has identified Thabo Mofulsanyane as a dairy hub. Vrede Integrated Dairy project was identified and accepted as multi-year mega project that will contribute to income generation, decent job creation and the creation of on and off farm agri-business, value chain enterprises. The department in consultation with ESTINA/PARAS have identified 4400 hectares of Municipal land in Vrede as the general location where the project can be suitably established. The Municipality have agreed to avail the land for the implementation of the project. The PARAS is the largest private milk producer in India and have the technical know-how and has agreed to work with the department. PARAS's involvement in milk industry will improve milk productivity locally, provincially, nationally and internationally. The PARAS are already experienced and knowledgeable on International Marketing.....which will serve as an added advantage for the project. The PARAS are internationally recognised and would like to maintain that recognition. It is against this background the department is seeking to deviate against the Normal SCM processes and procedures and enter into a Memorandum of Agreement with ESTINA/PARAS to implement and manage the operations of the project during its life cycle. The shareholding company will be structured according the AGRIBEE norms as stipulated by the Government of the Republic of South Africa. The total cost of the project is estimated at between R400 to R570 million (inclusive of vat). The initial investment for the establishment of the dairy will be through government funding. The investment for the establishment of the processing plant will be funded by ESTINA/PARAS. Government is committing financially on the operations of the dairy over a period of three years."

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It should be clear from this extract that none of the averments made in the document fall within the three circumstances, set out in the supply chain management policy, that would support a deviation from the prescribed procurement process.

2.2.49 Mr Thabethe further indicated that he could not understand NT's interest in this project because NT had approved various projects that had been concluded on a similar basis with other companies. He further mentioned that the Auditor General had reviewed the process followed in this project and had had no concerns related to the project or the procurement process followed. He repeatedly drew comparisons between the Vrede project and various other projects where no procurement process was followed. The projects he mentioned were the VKB, Hoopstad and Gariep projects. Mr Thabethe did not provide any substantiation for his averments that NT or the Auditor General had previously approved these projects.

The lease agreements in respect of the land for the Vrede Dairy project

2.2.50 On 12 September 2012, the Premier of the Free State Province signed a "Delegation of Authority" (DOA) in favour of Mr MJ Zwane, the MEC for the Free State Department of Agriculture. The DOA is in terms of the Free State Land Administration Act, the delegation, attached as Exhibit 14, states that,

"Following advice from the State Law Advisors, you are hereby assigned the authority, in terms of Section 5 of the Free State Land Administration Act, 1998, to consider and sign the proposed Agreement between the Department of Agriculture and the Phumelela Municipality relating to the assignment of the Municipality's rights and obligations in terms of various rental agreements relating to communal land, to the Department of Agriculture..... The decision should be taken in consultation with the MEC for Public Works, duly delegated by the Executive Council."

2.2.51 On 12 September 2012, Mr Zwane the MEC for the Free State Department of Agriculture signed a DOA in favour of Mr Thabethe. The DOA is in terms of the Free State Land Administration Act, the delegation, attached as Exhibit 14, states,

"Kindly be advised that you are hereby assigned the authority, in terms of Section 5 of the Free State Land Administration Act, 1998, to consider and sign the proposed Agreement between the Department of Agriculture and the Phumelela Municipality relating to the assignment of the Municipality's rights and obligations in terms of various rental agreements relating to communal land, to the Department of

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Agriculture.....This decision should be taken in consultation with the MEC for Public Works, duly delegated by the Executive Council."

2.2.52 ENS understands that the Phumelela Local Municipality owns the land on which the Vrede Dairy project is now being established. Prior to October 2012, the municipality leased the land to four commercial farmers and signed lease agreements with these farmers. The leases were due to conclude in 2013, though the exact details are not clear to ENS. Around 1 October 2012 the municipality, the FSDA and the four farmers signed addenda to the original lease agreements. The addenda to the lease agreements are attached as Exhibits 14A, 14B, 14C and 14D. In the four addenda signed between the municipality, the commercial farmers and the FSDA it is stated that, "the Municipality has assigned its rights and obligations in terms of the lease Agreements signed with the farmers to the Provincial Government which has thereafter delegated and/or assigned to the Department of Agriculture....the Department of Agriculture has accepted the assignment the parties to the lease agreement and the Department of Agriculture have agreed that the land will now be the responsibility of the Department ... and further that the land will be handed over to the project by the end of March 2013". Mr Thabethe as authorised by MEC Zwane represented the FSDA in signing these lease addenda. In terms of these addenda the FSDA would take responsibility for the land and the commercial farmers agreed to vacate the land by the end of March 2013, so that the land could be handed over to the Vrede Dairy project.

2.2.53 At the end of our first interview with Mr Thabethe, ENS requested copies of all lease agreements related to the land on which the project was to be established. Mr Thabethe was asked clearly several times whether or not a 99-year rent-free lease had been signed with Estina. He was clear that such a lease had not been signed and that the land would be leased and probably given to the Vrede Dairy project once it was established. However, in between our two interviews with Mr Thabethe, another department official provided us with a copy of the 99-year rent-free lease concluded between Estina and the department, see Exhibit 15.

2.2.54 At our second interview with Mr Thabethe, he provided us with copies of Exhibits 14A to 14D but he did not provide us with a copy of the Estina lease. ENS then confronted Mr Thabethe with the Estina lease and questioned why he had denied its existence. Mr Thabethe responded that the lease had been given to the Vrede Dairy project and that there was no inconsistency between his comments in the two interviews. Mr Thabethe refused to acknowledge that he had denied the existence of the Estina

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lease and had misrepresented the existence of the lease agreement. The transcripts of the two interviews clearly indicate that Mr Thabatha denied the existence of the Estina lease repeatedly during the first interview.

2.2.55 In effect no project exists, the Agri-BEE entity named Mohoma Mobung Diary (sic) Project Pty Ltd was only incorporated on 11 October 2013, see Exhibit 16.

2.2.56 The lease agreement is signed but it is not dated. The lease agreement is however concluded between the FSDA&RD and Estina, Mr Thabatha represented the FSDA&RD.

Consultations with the Free State Auditor General's Office

2.2.57 The Free State Office of the Auditor General (FSAG), as part of its regularity audit for the 2012/2013 financial year, reviewed the Vrede Project and payments made to the service provider; a copy of the report is attached as Exhibit 17.

2.2.58 We interviewed two officials from the FSAG:

- Mr Weidemann, a manager involved in the audit of the FSDA
- Mr Zwane, a senior manager in charge of the audit of the FSDA.

2.2.59 It was clear from our interviews with the FSAG that the deviation from the procurement process by the FSDA in respect of the Vrede project was not considered in any detail. The FSAG accepted the authority to deviate from the prescribed supply chain management process document that was presented to them by the department without question, see Exhibit 520. The FSAG did not interrogate the department's actions to determine if they were reasonable or justifiable.

2.2.60 The FSAG focussed on whether the department correctly effected the transfer payments made in respect of the Vrede Project and other projects that were concluded in a similar manner. The FSAG indicated that approximately nine other projects are dealt with in a similar manner by the FSDA&RD. The FSAG indicated that there was weakness in the level of oversight the FSDA&RD exercised over its projects. The FSAG made the following comments in its *"Report of the Auditor General on the financial statements and other legal and regulatory requirements of Vote 11 – Department of Agriculture and Rural Development for the year ended 31 March 2013"* under the section "Transfer of funds",

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"35. The accounting officer did not maintain appropriate measures to ensure that transfers and subsidies to entities were applied for their intended purposes, as required by TR6.4.1

36. The department did not evaluate its performance in respect of programmes funded by the allocation, as required by section 11(5)(a) of the DoRA."

2.3 Witness Interviews

- 2.3.1 After our first interview with Mr Thabethe we approached Estina's director, Mr Kamal Vasram, to discuss the project with him. Mr Vasram is Estina's only director. Mr Vasram would not agree to an interview with ENS and stated that Estina was bound to confidentiality in terms of the agreement signed with the department. We requested that Mr Vasram produce the agreement giving rise to his duty of confidentiality; Mr Vasram ignored our request and we were not provided with a copy of the agreement.
- 2.3.2 At our second interview with Mr Thabethe, we requested him to waive confidentiality and facilitate a meeting between ENS and Mr Vasram. Mr Thabethe refused to assist ENS and stated that we should conduct our own investigation without his assistance. Mr Thabethe stated that he was in contact with Mr Vasram and that he was aware that Mr Vasram refused to meet with us; he was nevertheless unwilling to facilitate a meeting between ENS and Estina. Thereafter ENS again requested an interview with Mr Vasram but he refused to attend an interview. As a result we were not able to interview Mr Vasram/Estina in this investigation to obtain their perspective and explanations regarding the project. The correspondence between ENS and Mr Vasram is attached as Exhibit 18.
- 2.3.3 Mr Thabethe further refused to waive his right to attorney client privilege so that we could interview Adv Ditiira, of the State Attorney's Office. We wished to interview Adv Ditiira in respect of the advice she gave Mr Thabethe and the FSDA&RD in respect of this procurement process and the second contract signed between the department and Estina.
- 2.3.4 As stated earlier, we requested the contact details of the Paras CEO from Mr Thabethe. Despite our requests we were not provided with the contact details or the name of the Paras CEO. ENS was therefore not able to contact the Paras representatives that Mr Thabethe alleges he dealt with during this procurement process. ENS is therefore not able to confirm whether or not Paras is actually involved in this agreement.

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2.4 Conclusions

- 2.4.1 Throughout this investigation, it was clear to ENS from the interviews we conducted that Mr Thabethe has played a pivotal role in the Vrede Project. He identified the service provider Paras and visited India within a month of being appointed as HOD of the FSDA. He later signed the first agreement with Estina on 7 June 2012 before Provincial Exco had approved the project. Mr Thabethe made no attempt to follow a competitive bidding process; this was in clear contravention of the department's supply chain management policy, which required a competitive bidding process.
- 2.4.2 It appears that the authority to deviate from the prescribed procurement process document was signed after the department obtained advice from the State Attorney's Office; prior to that no attempt was made to engage in any supply chain management process. This deviation was not sanctioned by the department's supply chain management policy because it did not fall within the exceptions recognised in the policy. It further appears that Mr Thabethe signed a second agreement with Estina after obtaining input from the State Attorney's Office.
- 2.4.3 Mr Thabethe has been involved in every stage of the identification and appointment of Estina/Paras. As the accounting officer for the department, he ultimately bears the responsibility of ensuring that the department has a procurement system that is fair, equitable, transparent, competitive and cost-effective as set out in section 38(1)(a)(iii) of the PFMA. He is further responsible for ensuring that his department procures in line with its supply chain management policy as well as the PFMA, the Treasury Regulations and section 217 of the Constitution. Mr Thabethe did not follow the requirements of the department's supply chain management policy, the PFMA, the Treasury Regulations or the Constitution. Mr Thabethe was consistent and adamant that he believed it was not necessary to follow a supply chain management process in this project. Mr Thabethe's reasoning was however not convincing on closer questioning.
- 2.4.4 ENS could not obtain clarity on whether or not Paras is actually involved in this project. Mr Thabethe would not facilitate a meeting between ENS and Estina; he further did not provide us with contact details for the CEO of Paras.
- 2.4.5 Mr Thabethe alleged that he provided local service providers with an opportunity to indicate their interest in this project during his Mohuma Mobung Strategy roadshow, which he alleges took place late in 2011 or early in 2012. It is unlikely that Mr



Thabethe canvassed local service providers regarding the project because the Mhuma Mobung Strategy document contains little detail regarding the dairy project. Further, the document presented to us by Mr Thabethe is dated June 2012 by that time he had already engaged the services of Estina on the dairy project.

- 2.4.6 Mr Thabethe denied the existence of the 99-year rent-free lease, concluded between the department and Estina, to the investigation team. We have obtained a copy of the lease; this was a clear misrepresentation by Mr Thabethe.
- 2.4.7 Mr Thabethe indicated that the department has followed the same procurement process or lack of procurement process in at least three other projects; they are the VKB project, the Gariep project and the Hoopstad project.
- 2.4.8 In our mandate letter, ENS was requested to establish if the Vrede project was an approved PPP arrangement or a sole provider arrangement; we were further required to verify what supply chain management process was followed in appointing the service provider, Estina/Paras. The investigation has revealed that the Vrede project is neither a PPP nor a sole provider arrangement. Mr Thabethe was clear in his interviews that he did not follow any supply chain management process. He signed an authorisation to deviate from the prescribed procurement process because, in his opinion, he is authorised to deviate from the procurement process when he deems it appropriate. He signed the authority to deviate without believing it was necessary or relevant or required in this instance. Mr Thabethe was also not clear on the grounds that justified him deviating from the prescribed process, in his opinion it was sufficient that he had decided that a deviation from the prescribed process was appropriate.

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3 The budget allocated to the Vrede Project

3.1 The allocation of funds to the project

- 3.1.1 According to the agreement between FSDA&RD and Estina, the department is required to pay R114 million in respect of the project annually for 3 years. These contributions were due to start in the 2012/2013 financial year and end in the 2014/2015 financial year.
- 3.1.2 The department only obtained R30 million for the Vrede Project in the 2012/2013 adjustment budget, see Exhibit 19, thereby leaving a shortfall in its contribution towards the project in the first year. It is not clear if this means that the department intends to continue to make payments beyond the 2014/2015 financial year, although our interviews with Ms Dlamini, the FSDA&RD's CFO, suggest that the department will continue to make payments until its contribution of R342 million has been invested in the project.
- 3.1.3 At the stage that Mr Thabethe signed the first agreement with Estina on 7 June 2012 there was no budgetary allocation for this project. In terms of section 38(2) of the PFMA, Mr Thabethe should not have committed the department to a liability for which funds had not been appropriated. The FSDA was allocated R30 million for the project as part of the 2012/2013 adjustment budget. This was confirmed during our interview with Mr Itumeleng Moses, the FSPT's Senior Executive Manager for Sustainable Resource Management; he is responsible for the provincial budget.
- 3.1.4 Mr Moses stated that the FSDA and FSPT had to make a concerted effort to obtain funds for this project in the 2012/2013 financial year and for subsequent years because there was no existing budget for the project at the point at which Mr Thabethe signed the agreement with Estina/Paras.
- 3.1.5 In the 2013/2014 financial year, the department budgeted for the Vrede project as follows:
- R53.95 million to be obtained from the CASP grant
 - R60 million to be obtained from the department's equitable share (MTEF allocation), see Exhibit 20.
- Ms Dlamini indicated that the department would continue to fund the project on this basis in subsequent years; part of its contribution being sourced from the CASP grant and the remainder being obtained from the department's equitable share.



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3.1.6 In terms of section 38(2) of the PFMA, Mr Thabethe should not have committed the department to a liability for which funds had not been appropriated. When questioned on why he had approved a project without having the necessary funds available prior to implementation, Mr Thabethe stated that he had made sure that he included provision 15.3 in the contract with Estina, which would allow him to extricate the department from the project, if the funds for the project were not obtained. Further, Mr Thabethe indicated that there was nothing wrong in signing the agreement with Estina/Paras without having the necessary funds available. He indicated that it was a normal process to sign an agreement with a service provider and then to later make plans to finance the agreement.

3.1.7 As a result of NT's intervention and the National Department of Agriculture, Forestry and Fisheries' (DAFF) review of this project, DAFF has refused to release further funds to the FSDA&RD for the Vrede project. If the DAFF continues to be dissatisfied with the Vrede project and it is unwilling to fund the project in future, it is not clear how the department will meet its obligations in respect of this project.

3.2 Oversight over the finances of the project

3.2.1 In our interview with Ms Dlamini, we questioned her on the department's level of oversight over the finances of the project. The department makes payments directly to Estina's bank account and Estina then applies the funds in the project as it deems appropriate. According to Ms Dlamini neither she nor the department has access to Estina's bank account or financial systems so the department has no transparency on how its funds are being utilised. The AgriBEE entity is not operating as yet and does not have its own financial systems, so Estina is responsible for the financial management of the project.

3.2.2 Payments are made to Estina based on progress reports submitted to the department. In the progress report Estina indicates the funds it will require during the next period and these funds are then deposited into its bank account by the department. Payments are not based on deliverables delivered, nor are there bills of quantities or milestone evaluations substantiating further payments.

3.2.3 Ms Dlamini provided us with a copy of Estina's cash flow report and projections for the period August 2012 to September 2013 – see Exhibit 21. In this document Estina sets out the funds it will require and how the funds will be applied but the document does not set out what has been delivered to date nor does it account for how funds,

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already invested, were utilised. In terms of section 15.10.1.2(c) of the Treasury Regulations, a department should not make prepayments for goods and services.

- 3.2.4 We were also provided with various monthly financial progress reports, the most recent report is dated 28 February 2013, and it is attached as Exhibit 22. In this report, Estina notes that the department is severely behind on its contributions towards the project. Estina further notes that as a result of the shortfall of funds it has contributed R7.9 million towards the project. There is no way for the department to verify if Estina made this contribution to the project.
- 3.2.5 The agreement signed between the department and Estina is not clear on when Estina is required to make its contribution in this project. According to Mr Thabethe the R342 million invested by the department will be used to establish the entire project, all except the processing plant; apparently Estina's funds will be used to establish the processing plant.
- 3.2.6 In conclusion, it is clear that the FSAG was correct in indicating that Mr Thabethe does not maintain appropriate measures to ensure that funds transferred to entities are applied for their intended purposes. With the department's lack of oversight over the finances of the project, we are not able to ascertain whether Estina has made any financial contribution towards this project. According to Exhibit 22, Estina has invested funds in the project but there is no objective way of ascertaining if this investment actually occurred. We are further not able to comment on how funds invested by the department were spent.
- 3.3 Payments to date on the Vrede Project
- 3.3.1 ENS has established that a total of R114 million has been paid to the service provider. The payments made by Provincial Treasury to FSDA&RD in respect of this project are as follows:
- On 12 June 2012 a payment of R30 million
 - On 16 April 2013 a payment of R84 million was refused by Provincial Treasury, Provincial Treasury agreed to break the R84 million payment into three smaller payments:
 - On 18 April 2013, a payment of R 34.95 million
 - On 23 April 2013, a payment of R 30 million
 - On 30 April 2013, a payment of R 19.05 million.

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3.3.2 Mr Tshapo Mabilo (Mr Mabilo), the FSPT Acting Senior Executive Manager: Asset and Liability Management, explained the difference between the payments SAS identified and those actually made by Provincial Treasury as follows,

"We declined the request from Agriculture for a R84 million (one payment) and agreed that The R84 million would be divided in three payments (which was implemented). My view is that Agric Dept captured the R84 million before getting approval and after they realised that the payment will be done in three payments, they did not go back to do a journal to correct it on BAS. This view is supported by the fact that we never received a BCT from Agriculture Dept for Estina amounting to R84 million", see Exhibit 23.

3.3.1 We obtained supporting BCT payment approvals from Mr Mabilo in respect of all of the payments made to the FSDA&RD in respect of this project, they are attached as follows:

- On 12 June 2012, a payment in the amount of R30 million was approved; the BCT payment approval is attached as Exhibit 24
- On 16 April 2013, a payment of R84 million was refused by Provincial Treasury, Provincial Treasury agreed to break the R84 million payment into three smaller payments, there is no BCT document for this payment
- On 18 April 2013, a payment in the amount of R 34,95 million was approved; the BCT payment approval is attached as Exhibit 24
- On 23 April 2013, a payment of R 30 million was approved; the BCT payment approval is attached as Exhibit 24
- On 30 April 2013, a payment of R 19,05 million was approved; the BCT payment approval is attached as Exhibit 24.

3.3.2 It conclusion it therefore appears that to date the department has invested R114 million in the Vrede project.

3.4 Conclusions

3.4.1 In terms of its agreement with Estina, the FSDA&RD is required to contribute R114 million towards the Vrede Dairy project annually for a period of three years, starting in the 2012/2013 financial year. At the time that Mr Thabethe signed the agreement no budgetary allowance existed for the project in contravention of section 38(2) of the PFMA.

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3.4.2 The FSDA&RD intends to fund the project from its equitable share budget as well as from the CASP grant it receives from DAFF, the breakdown is set out below:

- R53.95 million from the CASP grant
- R60 million from the department's equitable share.

3.4.3 The FSDA&RD deposits project contributions directly into the bank account of Estina; the department has no oversight over the bank accounts of Estina. The department has no oversight over how its funds are spent nor is it able to verify that Estina has made any contributions towards this project.

3.4.4 ENS established that a total of R114 million has been paid to Estina in respect of this project.



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4 Beneficiaries of the Vrede Dairy Project

4.1 Project beneficiaries

4.1.1 No beneficiaries were identified for this project until the issue was raised by DAFF after its visit to the Vrede Dairy project site in August 2013. As a result of its visit to the project, Ms Elder Mtshiza (Ms Mtshiza), the DAFF CASP grant co-ordinator made a recommendation to the DAFF Director General that the CASP grant be withheld from the project. The salient part of Ms Mtshiza's report reads as follows,

"4. Recommendations

- (i) The province must conduct a proper feasibility study;*
- (ii) The province must develop a business plan for the project;*
- (iii) The province must conduct a biological impact study;*
- (iv) The province must get approval for water rights for the project;*
- (v) The province must outline clearly who the 100 smallholder farmers are and mobilize and structure them accordingly*
- (vi) The R53 million allocated from CASP in 2013/2014 be withdrawn from the project and be directed to incomplete projects in the province and to smallholder farmers..."*

4.1.2 Mr Thabathe indicated that the beneficiaries for this project were identified following consultations held with the public. The beneficiaries are "farmers" or "persons who indicated an interest in farming" from the areas of Memel, Warden and Vrede, the three towns making up the Thabo Mofutsanyana District Municipality. Mr Thabathe was not able to specify if any criteria were used to identify the beneficiaries of the project. It appears that members of the community were called together in Vrede and Warden with a loud-speaker; the project was explained to them and they were signed up as beneficiaries if they were interested in participating in the project.⁷

4.1.3 When ENS questioned Mr Thabathe about why beneficiaries were only identified after the project had been initiated, he stated that the identification of beneficiaries was an on-going process. Ms Mtshiza was however clear that the FSDA&RD only started to scramble to find beneficiaries for this project when DAFF indicated that it would be withdrawing its approval for this project and would not disburse CASP funds in respect of this project.

⁷ This was confirmed by Ms Meyer the FSDA&RD project co-ordinator

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4.1.4 The department provided ENS with a copy of the list of project beneficiaries, see Exhibit 25. To date only 80 potential beneficiaries have been identified, instead of the projected 100 beneficiaries. We discussed the beneficiaries with Ms Meyer and she indicated that no criteria had been used to identify the beneficiaries. She further confirmed that the department started its search for beneficiaries in August 2013. She has drafted criteria to assess the suitability of the potential beneficiaries and has indicated that the list of beneficiaries provided to ENS will not be the final list. Her beneficiary assessment criteria document is attached as Exhibit 26. In the document she *inter alia* sets out the following criteria for excluding beneficiaries:

- The beneficiaries should not be government officials
- They should not have criminal records
- There should be no double-dipping
- The beneficiaries should be of a suitable age to farm
- They should be South African citizens that reside in the Vrede, Memel or Warden areas.

4.1.5 Using these criteria ENS completed a preliminary assessment of the potential beneficiaries and a number of the beneficiaries did not comply with the evaluation criteria.

4.1.6 As previously mentioned the AgriBEE entity was only incorporated on 11 October 2013; the only director registered in the entity is Mr Vasram from Estina. None of the current beneficiaries are listed as directors of the AgriBEE entity; it is also not clear if these beneficiaries will become directors of the entity.

4.2 Conclusions

4.2.1 No beneficiaries were identified for this project until the issue was raised by DAFF after its visit to the Vrede Dairy project site late in August 2013. Ms Meyer confirmed that the department started to engage the public in order to secure beneficiaries in August 2013.

4.2.2 Mr Thabethe indicated that the beneficiaries for this project were identified following consultations held with the public. The beneficiaries are "farmers" or "persons who indicated an interest in farming" from the areas of Memel, Warden and Vrede, the three towns making up the Thabo Mofutsanyana District Municipality. Mr Thabethe was not able to specify if any criteria were used to identify the beneficiaries of the

project. According to Ms Meyer, the FSDA&RD project co-ordinator, no criteria were used to identify the beneficiaries.

4.2.3 To date only 80 of the projected 100 potential beneficiaries have been identified.

5 Value for money to the State on the Vrede Dairy project

5.1 AgriSA report on Vrede Project

5.1.1 ENS requested that a senior economist of AgriSA assess the Vrede Dairy project documents to determine if the state would receive value for money in respect of this project.

5.1.2 Mr Maree of Agri SA was provided with the following documents in respect of the project:

- Project Proposal
- Business Plan
- Feasibility Study

5.1.3 Mr Maree was requested to review the documents to determine:

- The reasonableness of the costs quoted in the documents
- Whether there was/would be any benefit for government in the project – thus value for money spent/invested
- Any other concerns regarding the feasibility or sustainability of the project.

5.1.4 Mr Maree's full report is attached as Exhibit 27.

5.1.5 Mr Maree conclusions and recommendations are set out below.

Conclusions and concerns:

"Specific concerns related to the documents reviewed have been set out in the body of this report and are not repeated here. Below, I have set out further concerns and comments arising from the review:

All three documents lacked the information required to carry out a proper analysis of the project; for example, information on the detailed costing for equipment.

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This feasibility study is more an academic study than a feasibility study and therefore contains a significant amount of jargon. In particular, however, the following concerns are raised:

- *The study does not indicate, with respect to the buildings, whether local weather and climatic conditions were taken into consideration*
- *The purchasing of cows information is very academic, but makes no mention of the following:*
 - o *What type of cows will be sourced*
 - o *Where the cows will be sourced*
 - o *When the cows will be bought etc.*
- *A further concern arising from this is the availability of cows, since cows and pregnant heifers are scarce; furthermore, current established producers buy the cows when they become available. It is also not generally recommended to buy cows from all over the place, since the experience of dairy producers is that moving cows, for example, from one production area to another can result in significantly declining milk production, with the farmer potentially ending by culling the cow, thus turning a R15 000 milk cow into a R5 000 cull cow.*
- *Equipment and tractors seems to be double counted for, e.g. there is provision made for 8 82kW tractors, although it is not mentioned again. Furthermore the price of the individual pieces of equipment is lacking.*
- *In terms of irrigation water, there is an overabundance of academic jargon although the major concern is the availability of water and the licensing of the water rights.*
- *In terms of silage, using a contractor to make the silage would be recommended over producing it, since the production cost and the capital outlay would be lower.*
- *In terms of animal nutrition, the feeding requirements for the different categories of animal also differ. The services of an animal nutritionist should therefore be sourced to compile a proper feeding requirement.*
- *One crucial point which is also not noted in the feasibility study is possible contingency plans with regards to electricity cost and supply. The cost of electricity for a dairy is substantial, and more so for a processing plant. But the reliability of supply is even more crucial. Milking has to take place at more or less*

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the same time every day and milk has to be kept cooled at all times, the same with manufactured dairy products. It is assumed that an Eskom electricity supply point is available for the dairy project; however provision should be made for alternative options in the case of interrupted electricity supply. Contingency plans in the form of generators, which are expensive, or the use of alternative and renewable energy may be an option to explore.

- In terms of the processing plant, the following additional comments should be noted:

- o If the processing plant relies solely on its own production, it is not worth the capital outlay projected in the costing. Even if the production is as assumed in the project, namely 22 500 litres per day, a batch pasteurizer can be installed for approximately R450 000, which is substantially less than the R60 million envisaged.

- o The same applies to the other dairy equipment – the projected costing is far too high for the quantity of milk to be processed.

- In terms of the UHT milk plant budgeted for in the project proposal, this plant will not be viable for the production of the dairy project alone (less than 30 000 litres per day). Research indicates that a plant able to process 120 000 l/day would require an investment of approximately R65 million in equipment and R30 million in buildings and stores, totalling R95 million. For a further R20 million investment, an additional line could be installed, doubling the production capacity to 240 000 l/day. These figures demonstrate that the R149 million budgeted in the project for the envisaged UHT plant is substantially above cost.

- Given the current trends and realities in the South African dairy sector, the most appropriate investment in the dairy industry would be in the coastal areas where the conditions for production are more favourable. An investment of this magnitude in the Free State province is considered too risky and not sustainable.

5.2 Conclusions and Recommendations

With the above concerns and comments in mind, the following recommendations are made:

- A detailed cost analysis of project should be done, which would require more detailed information to be provided.

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- *The unnecessary academic jargon should be removed from the feasibility study, which should then be reworked to conform to the principles of a feasibility study. To elaborate more, one should note that a feasibility study should also include the following (not an exhaustive list), which was found lacking or not well defined in the case for the Vrede Dairy Project:*
 - o *An analysis of the market, for both the primary production and the manufacturing level*
 - o *More clarity on the business model and comparisons with other possible models*
 - o *For the processing unit, a marketing and sales strategy where absent*
 - o *Little mention is made of the management and personnel requirements and structure*
 - o *Environmental issues where not addressed*
 - o *Critical risk factors were absent and should be included in a feasibility study*
 - o *In terms of the financial performance the feasibility study included an income statement. However the following financial documents, with projections and assumptions, should also have been included: balance sheet, cash flow statement, and a break-even analysis*
 - o *A time-schedule for the project should form part of feasibility study.*
- *The profit and loss or income statement should be more detailed, with the primary dairy production and the processing unit being separated, in order to make more meaningful comments on the income statement in terms of industry benchmarking.*
- *In terms of risk associated with this type of project, it is recommended to determine a feasible exit strategy as well. Will there be a reasonable chance to recover the money investment should the project not come to fruition? The market risk for the manufactured products should have also been discussed in the feasibility study.*
- *In conclusion, it is not recommended to continue with project in its current state since government will not receive value for money. The costs are not reasonable or market related."*

5.2.1 Mr Maree is of the opinion that the Vrede Dairy project is risky. Further, the costs associated with the project are very high and he believes there is a good probability that the State will not receive value for money on the project in its current state.

6 The state of the project

6.1 ENS' visit to the Vrede Project site

- 6.1.1 In October 2013, ENS visited the Vrede Dairy project site accompanied by Mr Thabathe. At the site it was clear that various buildings were in the process of being erected. We were also shown the approximately 350 cows that had already been purchased for the project. We met two Estina officials charged with the day-to-day management of the project.
- 6.1.2 It was clear to us that the Estina officials had a good idea of how the project would unfold and they also had project plans, which were not in the possession of the department. We requested copies of the project plans but these were not furnished to us. We obtained various photographs of the progress to date; they are set out below.



- 6.1.3 Approximately 351 cows have been purchased for the project so far. One cow is in-milk, 116 cows are pregnant, there are an additional 208 adult cows and 26 juveniles.

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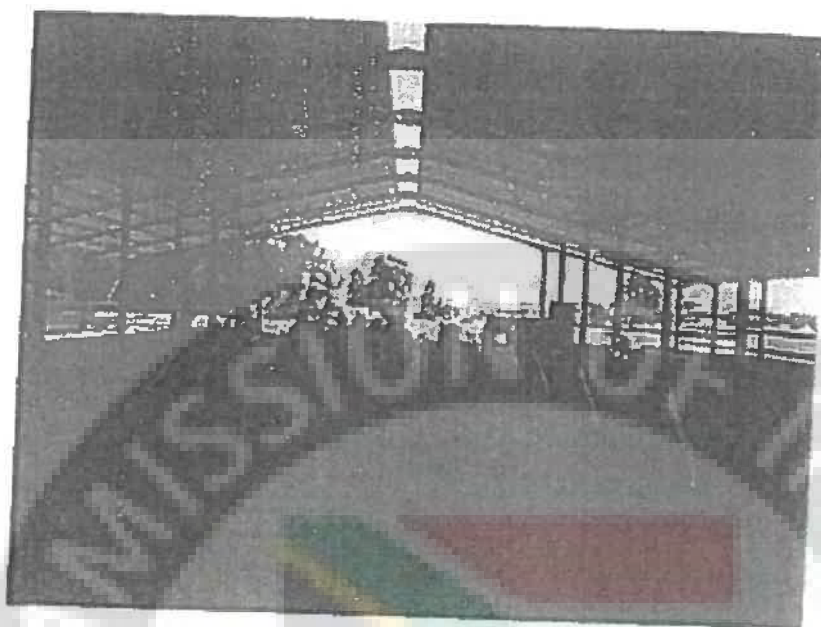
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- 6.1.4 The construction of the milking parlours, pictured above, was underway when we visited the Vrede project site on 11 October 2013. According to Mr Prasad the milking parlour would be completed at the end of November 2013.

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- 6.1.5 The first cow shed was at an advanced stage of construction when ENS visited the Vrede Dairy Project site in October.



- 6.1.6 The second cow shed is also at an advanced stage of construction, a total of four sheds will be constructed in total. The silage store was also complete when we visited the project site.
- 6.1.7 ENS cannot comment on the current financial status of the project. To date, the department has paid R114 million to Estina in terms of the agreement. This contribution however only covers the funds that were due by the department during

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the 2012/2013 financial year. The department has not paid any of the funds due in the 2013/2014 financial year. DAFF also informed ENS that it withheld its CASP contribution towards the Vrede Project for the 2013/2014 financial year. It is therefore likely that the project is experiencing cash flow difficulties.

6.2 Conclusions

- 6.2.1 During our visit to the Vrede Dairy project site, which took place in October 2013, it was clear that progress was being made on the construction of buildings and that a number of cows had been purchased.
- 6.2.2 ENS was not provided with access to the financial records of the project and as a result we are not able to comment on whether the project is progressing. To date the department has only invested the funds it was required to invest in the 2012/2013 financial year; no further payments have been made to our knowledge. It is therefore likely that the project may be experiencing cash flow difficulties.



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7 Overall Conclusions

In terms of National Treasury's mandate to ENS, we were requested to investigate various aspects of the Vrede Dairy Farm Project; we set out our overall conclusions below.

7.1 Conclusions on the supply chain management process followed

- 7.1.1 Mr Thabethe played a pivotal role in the Vrede Project. He identified the service provider Paras and visited India within a month of being appointed as HOD of the FSDA. He later signed the first agreement with Estina on 7 June 2012 before Provincial Exco had approved the project. Mr Thabethe made no attempt to follow a competitive bidding process; this was in clear contravention of the department's supply chain management policy, which required a competitive bidding process.
- 7.1.2 On 5 July 2012, Mr Thabethe signed an authority to deviate from the prescribed procurement process but the deviation was not supported by the department's supply chain management policy; the reasons set out for deviation did not fall within the exceptions recognised in the department's supply chain management policy. The investigation has revealed that the Vrede Dairy project is neither a PPP nor a sole provider arrangement.
- 7.1.3 As the accounting officer for the department, Mr Thabethe ultimately bears the responsibility of ensuring that the department procures in line with its supply chain management policy as well as the PFMA, the Treasury Regulations and section 217 of the Constitution. Mr Thabethe did not follow the requirements of the department's supply chain management policy, the PFMA, the Treasury Regulations or the Constitution. Mr Thabethe is of the opinion that he has the discretion to deviate from the supply chain management policy when he deems fit. He signed the authority to deviate without believing it was necessary or relevant or required in this instance. Mr Thabethe was also not clear on the grounds that justified him deviating from the prescribed process, in his opinion it was sufficient that he had decided that a deviation from the prescribed process was appropriate.
- 7.1.4 Mr Thabethe indicated that the department has followed the same procurement process or lack of procurement process in at least three other projects; they are the VKB project, the Gariep project and the Hoopstad project.

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7.1.5 ENS could not obtain clarity on whether or not Paras is actually involved in this project.

7.1.6 It is unlikely that Mr Thabethe canvassed local service providers to determine if they were interested in this project, given the content of his Mohuma Mobung Strategy document, the date of the document and the date of Estina's appointment.

7.1.7 Mr Thabethe denied the existence of the 99-year rent-free lease, concluded between the department and Estina.

7.2 Conclusions on the funds committed to the project & its source

7.2.1 In terms of its agreement with Estina, the FSDA&RD is required to contribute R114 million towards the Vrede Dairy project annually for a period of three years, starting in the 2012/2013 financial year. At the time that Mr Thabethe signed the agreement no budgetary allowance existed for the project in contravention of section 38(2) of the PFMA.

7.2.2 The FSDA&RD intends to fund the project from its equitable share budget as well as from the CASP grant it receives from DAFF, the breakdown is set out below:

- R53.95 million from the CASP grant
- R60 million from the department's equitable share.

7.2.3 The FSDA&RD deposits project contributions directly into the bank account of Estina; the department has no oversight over the bank accounts of Estina. The department has no oversight over how its funds are spent nor is it able to verify that Estina has made any contributions towards this project.

7.2.4 ENS established that a total of R114 million has been paid to Estina in respect of this project.

7.2.5 ENS was not able to establish if Estina has made any contributions towards the project's funding.

Investigate the reasons and supporting documentation for the BAS payments made in excess of the R30 million

7.2.6 We have verified the payments made to Estina and we have obtained the payment authorisation documents that were in the possession of FSPT. FSPT has disbursed four amounts totalling R114 million to the FSDA&RD in respect of this project.

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7.3 Conclusions on the beneficiaries of this project

7.3.1 No beneficiaries were identified for this project until the issue was raised by DAFF after its visit to the Vrede Dairy project site late in August 2013. Ms Meyer confirmed that the department started to engage the public in order to secure beneficiaries in August 2013. It should be noted that the second agreement with Estina was signed on 5 July 2012.

7.3.2 Mr Thabethe stated that the beneficiaries for this project were identified following consultations held with the public. The beneficiaries are "farmers" or "persons who indicated an interest in farming" from the areas of Memel, Warden and Vrede, the three towns making up the Thabo Mofutsanyana District Municipality. Mr Thabethe was not able to specify if any criteria were used to identify the beneficiaries of the project. According to Ms Meyer, the FSDA&RD project co-ordinator, no criteria were used to identify the beneficiaries.

7.3.3 To date only 80 of the projected 100 potential beneficiaries have been identified and concerns remain about how they were identified.

7.3.4 The AgriBEE entity was only incorporated on 11 October 2013 with Mr Vasram, Estina's director, as its only director; none of the current beneficiaries are listed as directors.

7.4 Conclusions on whether the state will receive value for money

7.4.1 Mr Maree, a senior economist at AgriSA assessed the Vrede Dairy project documents. He concluded that the State should not continue with the project in its current state since government will not receive value for money, as the costs associated with the project are neither reasonable nor market related. In his opinion the Vrede Dairy project is risky.

7.5 Conclusions on the current state of the project

7.5.1 During our visit to the Vrede Dairy project site, which took place in October 2013, it was clear that progress was being made on the construction of buildings and that a number of cows had been purchased. The two Estina employees on site had a good understanding of how the project would unfold; they also possessed project plans, which were not in the possession of the department.

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- 7.5.2 ENS was not provided with access to the financial records of the project and as a result we are not able to comment on the finances of the project. To date the department has only invested the funds it was required to invest in the 2012/2013 financial year; no further payments have been made to our knowledge. It is therefore likely that the project may be experiencing cash flow difficulties.
- 7.5.3 We could not establish if Estina and/or Paras has the capacity or capability to deliver on this project. We were further not able to establish if either company has been involved in similar projects.



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8 Recommendations

- 8.1.1 ENS recommends that disciplinary action be taken against Mr Thabethe for his part in concluding this agreement with Estina/Paras. Mr Thabethe did not adhere to the requirements of the department's supply chain management policy; the PFMA, the Treasury Regulations and the Constitution. Further, Mr Thabethe committed the department financially without ensuring that the department had the funds available to fund this project. The effect of this is that the department is currently struggling to meet its financial commitments in respect of this project.
- 8.1.2 ENS recommends that disciplinary action be taken against Ms Dlamini. The department's supply chain management policy states that it is one of the chief financial officer's duties to ensure that the department's procurement policy is implemented effectively; Ms Dlamini did not ensure that the department's supply chain management policy was effectively implemented. Further, Ms Dlamini should have ensured that she did not disburse funds to Estina without ensuring that the proper financial oversight controls were in place.
- 8.1.3 ENS recommends that NT investigates the three projects that Mr Thabethe alleges were concluded in a similar manner to the Vrede Dairy project; namely the VKB, Gariep and Hoopstad projects.
- 8.1.4 ENS recommends that NT obtains a legal opinion on the consequences of cancelling the contract with Estina. In this regard it may be important that NT determines whether Paras is really involved in this contract. If Estina has misrepresented this fact the contract would have been concluded on the basis of a misrepresentation because the department was under the impression that Paras was involved and possessed the intellectual property required to make this project successful.
- 8.1.5 ENS recommends that NT obtains a legal opinion on setting aside the 99-year rent-free lease provided to Estina.
- 8.1.6 ENS recommends that NT considers conducting a detailed financial analysis into the finances of Mr Thabethe and Ms Dlamini. The officials conduct in this matter displayed a flagrant disregard for the department's supply chain management policy; it is therefore possible that they were receiving an illicit benefit from the service provider.

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8.1.7 ENS recommends that no further funds are invested in the project until all of the risk factors set out in this report are addressed, most notably:

- That a proper project plan is developed for the project with clear deliverables, timelines and costs
- That a proper feasibility study and risk assessment is completed in respect of the project to determine if the project is viable
- The beneficiaries of the project should be clearly identified and vetted
- The operating model for the AgriBEE entity should be finalised before the project proceeds
- The department will have to take control of the financial management of the project, so that it can ensure that its funds are spent appropriately and further that Estina does make its contributions towards the project.



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Annex A – Limitations on this investigation

General limitations

The procedures followed in this investigation do not constitute an audit in accordance with Generally Accepted Auditing Standards and we did not express an audit opinion. The findings of the investigation do not form part of any audit report.

Although we endeavour to be as comprehensive as possible in gathering information, we cannot guarantee the accuracy or completeness of information obtained from external sources. In this investigation there was little independent corroboration of statements made by witnesses. The evidence provided by each witnesses was assessed and corroboration was sought from other witnesses; however many facts could not be independently verified.

Although we have taken reasonable steps to ensure that the information obtained is authentic, we cannot guarantee the authenticity of the information. Our findings are based on information at hand to date of the report; as such, we cannot conclude that we have had sight of all relevant information.

The report is based on the facts established from documentation reviewed and information obtained during the course of the investigation. Should we receive any additional information after date of issuing this report, our findings and recommendations may change.

This report is to be used solely for the purposes of making internal management decisions on managing the situation and risks identified. This report may not be used for any other purpose, without our prior consent.

Information is provided to you on the basis that it will remain confidential and will not be disclosed to any third party, unless agreed to in writing.

Specific limitations

In this matter, it was clear to ENS that Mr Thabethe and/or other officials may have withheld information from the investigation team. We may therefore not have obtained access to all of the documents relevant to this project.

ENS was not able to interview Mr Vasram of Estina or Adv. Ditira of the State Attorney's Office because Mr Thabethe would not facilitate our access to these witnesses. Our report is therefore based on information available to us at the time that we finalised the investigation; we have not obtained Estina/Paras' version of events.



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Annex B – Investigation Methodology

Interviews

We conducted various interviews with officials employed by the FSDA&RD, the FSPT, NT, DAFF and FSAG. The list of officials interviewed is set out below:

Witness Interviewed	Designation
Mr Chris Adams	NT Director in the Intergovernmental Relations department
Ms S Dlamini	CFO of FSDA&RD; as well as chairperson of the department's BAC
Ms Anna Fourie	The FSPT Accountant General
Mr Gama	The office manager in Mr Thabethe's office; also the chairperson of the department's BEC
Mr Kgomongwe	The previous CEO of the FSPT
Dr Loubser	Farming expert that consulted to the FSDA&RD
Mr T Mabilo	The FSPT Acting Senior Executive Manager: Assets and Liability Management
Mr M Mahlatsi	The CEO of the FSPT
Dr T Masiteng	General manager district services for FSDA&RD
Ms Alta Meyer	The Vrede project FSDA&RD co-ordinator
Mrs L Mngomezulu	The head of procurement for the FSDA&RD
Mr I Moses	The FSPT Senior Executive Manager for Sustainable Resource Management
Ms Elder Mtshiza	DAFF CASP grant co-ordinator
Mr Chandrama Prasad	Vrede Dairy Project Manager/Project Co-ordinator for Estina
Mr P Thabethe	From March 2012 to March 2013; HOD of FSDA; from March 2013 HOD of FSDA&RD
Mr Weidemann	Manager in the Free State Auditor General's office
Mr Zwane	Senior Manager in the Free State Auditor General's office

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Review of documents

We reviewed all of the documents provided to us by the witnesses that we interviewed. The investigation was limited in that ENS was only able to rely on the documents provided to us, we were not required to forensically mirror-image the computers and other electronic devices in the possession of the witnesses.

Background checks

We conducted background checks on the companies and individuals involved to determine if we could establish any links between the parties.



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