PUBLIC PROTECTOR'S ADVISORY REPORT ON ISSUES AFFECTING THE DELIVERY OF RDP HOUSES BY ALL SPHERES OF GOVERNMENT.
INDEX

1. INTRODUCTION 3

2. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR 5

3. ISSUES RAISED WITH THE PUBLIC PROTECTOR DURING THE STAKEHOLDER CONSULTATION 6

4. RECOMMENDATIONS 97
PUBLIC PROTECTOR’S ADVISORY REPORT ON ISSUES AFFECTING THE DELIVERY OF RDP HOUSES BY ALL SPHERES OF GOVERNMENT.

1. INTRODUCTION

1.1. The report follows public hearings and stakeholder consultations that the Public Protector conducted throughout South Africa during the 2011/2012 financial year.

1.2. The Public Protector South Africa has in the past, and continues to receive, complaints regarding Reconstruction and Development Programme houses (RDP houses). Due to the number of complaints received, the Public Protector in 2011/2012 financial year decided to embark on a process of consultations and hearings with stakeholders with a view to identifying the challenges relating to the delivery of RDP houses.

1.3. The report is based on the issues raised during these stakeholder meeting held across the country and includes observations of the Public Protector that focuses on the following five key issues identified during the stakeholder and public consultation:

1.3.1 Planning of Human Settlements

1.3.1.1 The complaints hereunder dealt with the planning and administrative processes involved in the delivery of RDP houses. The issues raised generally related to allegations of tardiness on the part of state institutions in the planning processes. This included allegations deviation by state institutions and/or officials from original plans in respect of RDP houses with regard to the size of the houses, the number of houses to be built, and the time periods within which to complete the projects, among others.
1.3.2 Procurement

1.3.2.1 The complaints listed under this topic related to allegations of delays on the part of the state to pay benefits due to beneficiaries in order for the RDP housing projects to commence. Complaints which related to the transfer of funds to the Accounts Administrator and/or failure on the part of the state to make funds available for the completion of certain projects also fall hereunder.

1.3.2.2 These complaints range from contractors challenging procurement processes to contractors complaining about payments after completion of projects.

1.3.2.3 The parties generally involved in this category of complaints were political leaders, municipal officials, and/or officials from the provincial Departments of Human Settlements.

1.3.3 Allocation of RDP houses

1.3.3.1 The issues raised under this heading related to the allocation of houses to unintended beneficiaries and allegations of removal or changing of names on the beneficiary lists/demand databases. Complaints were raised relating to bias and/or corrupt activities on the part of officials, in that RDP houses are allocated to the families and/or friends of officials. There were allegations that some officials had sold RDP houses and further that the RDP houses were knowingly given to persons other than the rightful beneficiaries. Complaints in respect of undue delays in the allocation of RDP houses were also listed under this topic.

1.3.3.2 These types of complaints were common in provinces where the majority of the people live in urban areas, e.g. Gauteng and Western Cape. Most complaints were lodged by people who applied for RDP houses as early as 1996 and have been on the waiting list or demand
database throughout the years. Complainants are usually provoked by the fact that some people who applied after them received housing subsidies. The parties usually involved in this category of complaints were political leaders, municipal officials, and/or officials from the provincial Department of Human Settlements.

1.3.4 Post allocation problems

1.3.4.1 There were a number of Complainants who had issues relating to the RDP houses which were already allocated to them. Some of the complaints related to allegations of failure by the state to ensure that title deeds are issued to the Complainants. Other complaints related to allegations of substandard RDP houses that were allocated and/or structural defects in the RDP houses which were allocated. Another issue raised was the alleged illegal sale of RDP houses by the beneficiaries after allocation.

1.3.5 Delay in issuing of Title Deeds

1.3.5.1 One of the major common issues identified across all provinces related to the alleged delay by Provincial Departments of Human Settlements and Municipalities in issuing title deeds to RDP housing beneficiaries.

2. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

2.1 The Public Protector is an independent constitutional body established under section 181(1) (a) of the Constitution to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

2.2 Section 182(1) of the Constitution provides that:

"The Public Protector has the power as regulated by national legislation –
(a) to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

(b) to report on that conduct; and

(c) to take appropriate remedial action."

2.3. Section 182(2) directs that the Public Protector has additional powers and functions prescribed by legislation.

2.4. The Public Protector is further mandated by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given power to resolve disputes through conciliation, mediation, negotiation or any other appropriate alternative dispute resolution mechanism.

2.5 The National Department of Human Settlements, Provincial Departments of Human Settlements and Municipalities are organs of state and their conduct amounts to conduct in state affairs, as a result the matter falls within the Public Protector’s ambit.

3. ISSUES RAISED WITH THE PUBLIC PROTECTOR DURING THE STAKEHOLDER CONSULTATION

3.1 PLANNING OF HUMAN SETTLEMENTS

3.1.1. Eastern Cape

3.1.1.1 Following the 2012 Public Protector Stakeholder consultations and public hearings the following issues were raised:

3.1.1.1.1 There were problems with RDP projects that were implemented without taking into account the provision of bulk infrastructure supply. For
example, in Sakhisizwe Local Municipality residents complained about houses being built without the provision of water and proper sanitation, and pit toilets that were too shallow. The residents of Extension 15, Sakhisizwe also complained about sanitation infrastructure that was provided without the provision of running water.

3.1.1.1.2 There were projects that were implemented without conducting a feasibility studies such as geotechnical studies on the land identified for building of RDP houses. For example, in Mquma City Local Municipality, residents complained that RDP houses in Ngqamakwe are built on a swamp.

3.1.1.1.3 There was a general concern that the RDP projects implemented in the province were not properly planned because in some areas houses that were built were not in accordance with the prescribed standards of 42m².

3.1.1.2 Government’s response

3.1.1.2.1 The letter dated 09 May 2014 received from the Eastern Cape Department of Human Settlements and Public Works (the Department), it indicated that the Municipality installed a “digester” system for the housing development in Cala around 2002 in compensation for the absence of bulk water and sanitation services. The Department highlighted further that the aforementioned system is failed due to its low carrying capacity. In order to remedy the situation, the MEC approved the construction of waste water treatment works and implementation of a full waterborne system in collaboration with the District Municipality to the tune of R58m.

3.1.1.2.2 The MEC further highlighted that the shortage of water in the area was due to the fact that there was a crisis in bulk water supply affecting the whole of Cala Town. The Department had been engaging the District Municipality regarding the provision of bulk infrastructure (water and
sewer) and the challenge was availability of funds to address the problem.

3.1.1.2.3 The Chris Hani District Municipality as a water services authority had been appointed as an implementing agent for services in Sakhisizwe Municipality. Any future Human Settlements developments required that adequate bulk infrastructure be in place and precedes housing development. Through Inter Government Reporting and other structures municipalities were made aware of this policy position.

3.1.1.2.4 An average 18000 units were planned per annum. This figure was based on factors such as ready projects, available budget, land availability and beneficiaries.

3.1.1.2.5 Bulk infrastructure is a municipal responsibility and environmental impact assessments must be undertaken by municipalities. The Department requires that there is a housing chapter in their Integrated Development Plans. Making land available is also a municipal competence.

3.1.2. Free State

3.1.2.1. In Free State a complaint was raised relating to projects that were implemented and not completed. The following are examples of such projects:

3.1.2.1.1 250 residents of Mangaung Metropolitan Municipality complained about approved projects which were never implemented. The residents were moved from old hostels which were demolished to one roomed shacks. The contractor built RDP houses but the project was not completed. The Complainants have lived in the one roomed shacks for over 18 years. Some houses were incomplete and did not have water and sanitation.
3.1.2.1.2 Residents of Moqhaka Local Municipality complained about open toilets.

3.1.2.1.3 Further issues were raised relating to bulk supply of infrastructure for RDP housing projects. For example, in Moqhaka Local Municipality residents complained about a project where RDP houses were built and the Municipality failed to supply electricity because it did not have money. Residents suggested that the Municipality should allow Eskom to provide the infrastructure and sell electricity directly to them. Residents were not happy about the solar system in the area.

3.1.2.2 Government's response

3.1.2.2.1 During a meeting held on 20 May 2013 between the former Public Protector, Adv. TN Madonsela, the Premier of Free State, Mr A Magashule and the MEC for Cooperative Governance, Traditional Affairs and Human Settlements it was indicated that the initial number of toilets counted was 1831, which were later enclosed jointly with the Development Bank of Southern Africa. The provincial Department of Human Settlements enclosed a further 255 toilets.

3.1.2.2.2 The MEC also mentioned that some members of the community, with encouragement from certain quarters demolished their structures.

3.1.2.2.3 The MEC mentioned further that the Department was in the final stages of feasibility studies in respect of the two hostels in Mangaung namely Silver City and Dark City.

3.1.2.2.4 The MEC mentioned that basic municipal infrastructure was installed in 7193 sites in the following six municipalities:
<table>
<thead>
<tr>
<th>Municipality</th>
<th>Number of sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dihlabeng</td>
<td>831</td>
</tr>
<tr>
<td>Mangaung Metro</td>
<td>3,685</td>
</tr>
<tr>
<td>Moqhaka</td>
<td>2,000</td>
</tr>
<tr>
<td>Maluti A Phofung</td>
<td>50</td>
</tr>
<tr>
<td>Kopanong</td>
<td>222</td>
</tr>
<tr>
<td>Phumelela</td>
<td>405</td>
</tr>
</tbody>
</table>

3.1.2.2.5 During a meeting held with the Free State Department of Human Settlements (FDHS) on 30 April 2014, Mr T Mokhesi, Head of FDHS mentioned that the Department is in the process of demolishing two roomed houses and upgrading them to four roomed houses. Mr Mokhesi highlighted that an amount of R200 million had been allocated for the project.

3.1.3. **Gauteng**

3.1.3.1. Following the stakeholders consultative forums the following issues were raised in relation to planning of RDP houses:

3.1.3.1.1 Complaints were raised in relation to houses built on a wetland. For example, in *Midvaal Municipality* residents complained about RDP houses which were built in a water filled area as a result, some residents were moved and others remained there.

3.1.3.1.2 Further complaints were received in relation to instances where land earmarked for RDP housing projects was transferred to private developers.

3.1.3.1.3 There were also complaints of delays in implementing housing projects while the budget was released or allocated. For example, one resident alleged that the delay in the delivery of RDP houses was also caused
by the fact that land reserved for RDP housing project would be given to private developers.

3.1.3.1.4 Complaints were received relating to projects where the number of beneficiaries approved for specific projects were more than the number of serviced stands and houses built. For example, in Ekurhuleni Metropolitan Municipality (the EMM), Tembisa, residents complained about a project which was implemented by the Department of Human Settlements where beneficiaries exceeded the number of serviced stands and houses built.

3.1.3.1.5 Residents complained about projects which were implemented without considering people with special needs, for example, people living with disabilities.

3.1.3.1.6 In the City of Johannesburg Metropolitan Municipality, it was alleged that an RDP housing project was delayed, despite the fact that government had released money for the project.

3.1.3.2 Government's response

3.1.3.2.1 According to the letter from the then Member of Executive Council Responsible for the then Department of Local Government and Housing, now Department Human Settlements most of the state owned land around the Gauteng Province is dolomitic. They conceded that this problem affected all municipalities in the province and they were unable to implement some of the projects.

3.1.3.2.2 At the meeting held on 19 March 2014, the Department further mentioned that there was a challenge with regard to privately owned land because once the owners learnt about government intention to purchase the land they escalated prices thus making it difficult for government to purchase the land.
3.1.3.2.3 In Ekurhuleni Metropolitan Municipality, the Department indicated that it was unable to build a number of RDP houses due to adverse dolomitic conditions of the land. In order for the Department to accommodate beneficiaries from the area who are on waiting list, the Department and the municipality identified two portions of land within the area, where a study would be conducted on the dolomitic land. The outcome of the study would have greater implications on future planning of the development of RDP houses.

3.1.3.2.4 The Department has a Quality Assurance Unit which is responsible for the inspection of houses in order to meet the National Building Standards.

3.1.3.2.5 Regarding the houses built on wetlands, all the housing developments must meet the Environmental Impact Assessment requirement, which included a detailed wetland delineation study. The Johannesburg Regional Office established a development forum which consisted of all infrastructure stakeholders and met on a quarterly basis to discuss the challenges and timeframes for the provision of services.

3.1.3.2.6 The City of Johannesburg Metropolitan Municipality entered into an agreement with ABSA Bank to provide rental units in Pennyville. ABSA Bank paid the Municipality for the land that they built the rental units on. The tenants then defaulted in paying the rentals to ABSA Bank. Several meetings were held between the Municipality, the Department, ABSA Bank and the tenants. The tenants were requested to make arrangements with ABSA Bank for payments of their arrear rentals, however most of the tenants did not honour the arrangements and ABSA evicted them.

3.1.3.2.7 The Special Needs Policy approved during February 2012 covered groups of people with special needs and the policy stipulated that the Department must take into account people with special needs when developing housing. The National Housing Code also makes provision
for the construction of subsidized houses for people with disability; however this depended on the individual level of disability. In order to accommodate people with special needs, houses were constructed in a manner that will accommodate their needs. It was however essential that the beneficiaries highlighted their disabilities during the beneficiary administration process so that the appropriate house is built for them.

3.1.4. Limpopo

3.1.4.1. The following issues were raised in relation to planning of human settlement:

3.1.4.1.1 Issues were raised relating to the instances where land earmarked for RDP housing were sold to private developers. For example, in Thabazimbi Local Municipality, Northam residents alleged that 800 stands were approved in 2002, and the stands were sold to a company called Brot Brush, who in turn sold them to a mine for R40 000.

3.1.4.1.2 Disabled people raised issues of construction of RDP houses which did not accommodate their needs. In Polokwane Local Municipality, disabled people complained about the RDP houses allocated to them without ramps.

3.1.4.2 Government’s response

3.1.4.2.1 At a meeting held on 21 May 2014 between the Public Protector team and officials from the Department of Cooperative Governance Human Settlements and Traditional Affairs (COGHSTA), the General Manager, Ms R Dikotla, mentioned that in the past payment for the construction of RDP houses did not include the cost of ramps because the applicants failed to disclose their disability status when completing applications for RDP houses. However, the Department had allocated a budget for disabled beneficiaries which will cover the cost of RDP houses with ramps.
3.1.5. **Mpumalanga**

3.1.5.1 In Mpumalanga the issue raised generally related to the tardiness on the part of responsible institutions in the planning process.

3.1.5.2 **Government Response**

3.1.5.2.1 In the letter dated 19 August 2014, the Head of Department of Human Settlements (the Department), Mr S.M Mtsweni, reported that planning of RDP housing projects is done at the provincial level based on submissions made by the local municipalities. The requests for projects by Municipalities are made based on the Integrated Development Planning (IDP) from which the Department gives allocations according to the available budget.

3.1.5.2.2 Projects planned and successfully completed for 2012/2013 Financial Year:

<table>
<thead>
<tr>
<th>2012-2013</th>
<th>Target</th>
<th>Delivered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units</td>
<td>11 025</td>
<td>7 571</td>
</tr>
<tr>
<td>CRU's</td>
<td>294</td>
<td>224</td>
</tr>
<tr>
<td>Services</td>
<td>7 764</td>
<td>125</td>
</tr>
<tr>
<td>Rectification</td>
<td>120</td>
<td>0</td>
</tr>
</tbody>
</table>

3.1.5.2.3 Projects planned and successfully completed for 2013/2014 Financial Year:

<table>
<thead>
<tr>
<th>2013-2014</th>
<th>Target</th>
<th>Delivered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units</td>
<td>10 840</td>
<td>7 550</td>
</tr>
<tr>
<td>CRU’s</td>
<td>349</td>
<td>206</td>
</tr>
<tr>
<td>Services</td>
<td>4 846</td>
<td>17 578</td>
</tr>
<tr>
<td>Rectification</td>
<td>120</td>
<td>39</td>
</tr>
</tbody>
</table>

3.1.5.2.4 Challenges associated with planning of RDP housing projects were mainly that municipalities submitted areas of development that do not
have bulk infrastructure, no beneficiaries and no proclaimed township etc.

3.1.5.2.5 Measures taken to deal with the challenges:

(a) The Mpumalanga Province appointed Project Management Units to assist with project readiness metrics.

(b) The Province also appointed Beneficiaries Managers to assist municipalities with the collection of data on beneficiaries, and to provide funding for the upgrade of existing bulk infrastructure.

3.1.6. KwaZulu-Natal

3.1.6.1. The issue raised during the stakeholder’s consultative forum related to unavailability of land for RDP housing projects. For example, in eThekwini Municipality complaints were raised relating to identification of land for building RDP houses.

3.1.6.2. Government’s response

3.1.6.2.1 In a letter dated 14 May 2014, the Member of the Executive Committee responsible for Human Settlements and Public Works, Mr Ravi Naidoo mentioned that well located land still proved to be one of the biggest impediments to sustainable human settlement development and most of the land was in private hands. The process of land acquisition was slow and tedious at times and this contributed towards beneficiary unhappiness.

3.1.6.2.2 The MEC mentioned further that in terms of the individual project roll out process, there was constant interaction (Housing Forums) between the municipalities and their appointed Implementing Agent (IA) as well as the Department. These meetings occurred monthly and the progress
of the various projects were tracked against the approved roll out plan. Where delays were experienced, a formal request for the extension of the development programme was made to the Department together with support from the Municipality.

3.1.6.2.3 The MEC mentioned further that in KwaZulu-Natal the KZN Planning and Development Act (KZN PDA) replaced all other planning legislation besides the Spatial Planning and Land Use Management Act (SPLUMA). The KZN PDA also encompassed the prescripts of SPLUMA and was the planning approval route followed for all projects.

3.1.6.2.4 The KZN PDA does not apply to the Ingonyama Trust land. However, the Department, in its endeavour to ensure integration and sustainability, as envisaged in the National Development Plan (NDP), and the provincial equivalent, made it mandatory that the prescripts of the KZN PDA were followed for human settlement development projects.

3.1.6.2.5 In terms of the KZN PDA, the processing and ultimate approval of planning applications was delegated to municipalities. They were required to have relevant expertise and registered town planners. Where not possible, especially in the smaller rural municipalities, the Department of Cooperative Government and Traditional Affairs (COGTA) set up “shared services” consisting of registered town planners who dealt with KZN PDA applications on the municipalities’ behalf.

3.1.6.2.6 Projects were developed in two or three stages depending on the land ownership and tenure arrangements. The stages were as follows:

(a) Stage 1: Reservation of subsidies and desktop studies to determine viability as well as planning consent, development rights agreement, social compact, environmental scoping,
geotechnical investigation, bulk services investigation and land legal investigation.

(b) **Stage 2 and Stage 3**: Construction of services in urban areas and construction of top structures/houses in rural areas. There were various policies and guidelines that were developed over the years to assist with the planning and construction of human settlement projects.

3.1.6.2.7 The Department was not the custodian of planning legislation. This was the competency of COGTA. The planning process was regulated in terms of timelines for obtaining comments from interested and affected parties and no responses were deemed as tacit support for the development. If, however, there were information lacking, the application was referred back to the applicant to supply the outstanding information before approval.

3.1.6.2.8 Municipalities that had adequate professional resources were given delegated authority to approve their own planning applications. Projects which were implemented had to be contained in the municipalities’ Integrated Development Plans (IDP) and Housing Sector Plans, in order to get the Department’s support.

3.1.6.2.9 Once a project was approved by the MEC, a Project Steering Committee (PSC) was constituted in order to monitor progress in relation to the project milestones and monthly cash flow, as well as resolve any challenges which may have inhibited progress. The PSC members came from the Department, Municipality, Ward Councillor and elected community members. The PSC meetings were held monthly.

3.1.6.2.10 In addition and through the signing of a Social Compact Agreement between the Community and the Municipality, the roles and responsibilities were recorded together with a dispute resolution
process. The Social Compact Agreement also dealt with the allocation of houses to the respective beneficiaries in the project. Seventy percent (70%) of the beneficiaries had to be identified before the project could be further proceed.

3.1.6.2.11 The major difficulties experienced by the Department in terms of human settlement development planning were as follows:

(a) Lack of consistent commitment to long term planning by municipalities. The IDP was a 5 year strategic development document with a budget attached to it. Unfortunately large scale, human settlement projects took longer than 5 years to complete. This resulted in municipalities shifting their priorities, especially if the projects were not approved.

(b) Lack of adequate and experienced built environment professionals working at smaller municipalities. Rural and smaller municipalities were unable to retain professionals as they were taken up in the private sector. Further, they did not have dedicated Human Settlement Units and often saw human settlements development as add-on work.

(c) Community/ Social Issues: Development was sometimes challenged due to leadership contestations in communities, especially where informal settlement upgrade projects were implemented.

(d) Topography: KZN is hampered by steep topography especially in the urban context where the pressure on land is the greatest. The steeper the land, the bigger the individual plots needed to be in order to cater for cut and fill platforms. The sparse rural settlement patterns with dispersed homesteads made servicing of sites very expensive. Transportation costs for materials were also high.
(e) Bulk Infrastructure: The District Municipalities' priorities did not always support local municipalities' priorities for human settlement development. At times, the funding for bulk infrastructure through the MIG programme got redirected to other pressing needs.

(f) The silo mentality still persisted in some municipalities where the various units within the Municipality were not always aware of each other's developmental plans and as such projects were not budgeted for or priorities were different.

(g) eThekwini Metro received the Urban Settlement Development Grant (USDG) grant directly from the National Department of Human Settlements for bulk infrastructure to support Human Settlement Projects. The Municipality was utilising this grant to deliver on its infrastructure backlog resulting in new projects identified being stalled.

(h) Land and land invasions: Well located land was not always available and in many instances it was in private hands which made it expensive to purchase. Prime land in urban areas was constantly being invaded due to job opportunities and these areas eventually developed into slums due to an increase in the number of people. This resulted in queue jumping for housing and an increase in backyard shacks and over-crowding in homes.

(i) Migration: Migration to urban areas due to job opportunities further added to the increase in the number of informal settlements and queue jumping for subsidy housing. This resulted in social unrest.

(j) In terms of planning the Department had no cases under investigation and resolved four projects namely Cato Crest Slum Clearance; Isandlwana, Umlazi Ward B10 (Unit F, G & H); Umlazi Infill Part 2 Phase 1 and Umlazi Infill Part 5 Phase 1.
3.1.7. North West

3.1.7.1 In the North West, the main issue was that residents complained about lack of proper planning on the part of government which resulted in a number of projects being blocked within the province. Residents indicated that a number of RDP housing projects were left incomplete due to lack of proper planning. The following are examples of projects which were blocked:

3.1.7.1.1 In the City of Matlosana Complainants alleged that they were told that the Provincial Office blocked some of the projects as a result allocation of sites and the building of RDP houses could not proceed.

3.1.7.1.2 In the same Municipality, about 20 people complained about incomplete houses. Some had houses without toilets. In other cases, the Municipality built toilets only and there were no houses. Some people indicated that they had been staying in such houses since 2006.

3.1.7.1.3 There was a string of toilets built in the wilderness at Tigane. These toilets had been there since 2006 and the Municipality was not doing anything about them. Some toilets were looted and others used for criminal activities.

3.1.7.2 Government’s response

3.1.7.2.1. At a meeting held on 30 September 2014 between the Public Protector team and the North West Department of Human Settlements the Department conceded that previously there was no Planning Business Unit within the Department. It was further mentioned that they were solely relying on municipalities to deliver RDP housing projects. This resulted in poor planning when it came to the delivery of RDP housing within the province.
3.1.7.2.2. The Department used to transfer the RDP housing grants to municipalities and municipalities would do planning thereof. This resulted in some municipalities using the grants for other things other than the delivery of RDP housing.

3.1.7.2.3. The Department established a Planning and Research Chief Directorate (the Directorate). The Directorate was *inter alia* responsible for ensuring that proper systems were in place in order to identify beneficiaries. The Department indicated that previously projects were blocked because houses were constructed without first identifying beneficiaries. However, the Directorate was not fully functional due to financial constraints. The Department had since initiated a ward-based approach in order to properly plan RDP housing projects. This included the involvement of Ward Councillors and Community Development Workers in the identification of beneficiaries.

3.1.7.2.4. The Department further mentioned that there was a Chief Directorate for Project Management that was performing the functions of the Directorate. Some of the projects were previously blocked due to the fact that houses were constructed on dolomitic land. This was as a result of poor planning on the side of the Department and municipalities. The Department strengthened the project management aspect to ensure that they conducted geotechnical studies on the land identified prior to construction.

3.1.7.2.5. The Department indicated that they strengthened their relations with the National Home Builders Registration Council (NHBRC) in order to ensure that future projects are enrolled with the NHBRC in terms of the provisions of the Housing Consumers Protection Measures Act.

3.1.7.2.6. The North West Province is predominately rural and the Department conceded that previously some projects could not be enrolled due to the fact that the NHBRC was involved in urban based projects. The Department took responsible for the enrolment of the projects.
3.1.7.2.7. The MEC requested a list of all blocked projects from relevant municipalities in the Province and a plan was in place to implement a rectification programme.

3.1.8. **Northern Cape**

3.1.8.1 The following issues were raised in relation to planning of human settlements:

3.1.8.1.1 Issues were raised relating to RDP houses that were built in one area, as a result only residents from the same area benefited. For example, in Emathunjeni Local Municipality and Umsobomvu Local Municipality, one of the complaints was that the Municipality only built RDP houses in De Aar East and disregarded other areas.

3.1.8.1.2 Residents raised problems concerning projects which were implemented and remained incomplete as a result of poor planning. The following are examples of projects that could not be completed due to poor planning:

(a) In Emathunjeni Local Municipality and Umsobomvu Local Municipality residents raised complaints about the number of incomplete projects.

(b) In Colesberg a project for 2500 RDP houses was halted after only 200 houses were built and R51 million was alleged missing from the budget allocated for the project.

(c) In De Aar residents alleged that in 1999, 100 houses were supposed to have been built but only 87 were built and in 2005, 37 were built instead of 49. The residents wanted to know what happened to the rest of the money.

(d) In Sol Plaatjie Municipality, residents alleged that there was a project for 500 houses and only 120 houses were built.
3.1.8.1.3 Further issues were raised relating to low cost housing rent-to-buy units which were constructed in Sol Plaatjie Municipality. Residents alleged that due to poor planning the rental escalated and the majority of beneficiaries could not afford the rental and they were subsequently handed letters of eviction.

3.1.8.2 Government’s response

3.1.8.2.1 At a meeting held on 15 May 2014 between the Public Protector team and Ms G Botha, the Head of Department (HOD), of the Northern Cape Department of Cooperative Governance, Human Settlements and Traditional Affairs (the Department), the HOD mentioned that human settlements is a schedule 4A function in the Constitution since it is an integrated function performed by all three spheres of government.

3.1.8.2.2 The Department performs its functions as provided for in the Housing Act and the National Housing Code which include determination of policy and legislation; coordination of housing development; supporting Municipality capacity; intervention; multi-year planning of national and provincial programmes; accreditation and monitoring accredited municipalities.

3.1.8.2.3 The HOD mentioned that some municipalities are accredited with level 1 accreditation, which meant that they were also responsible for planning. Where there was a new housing development, municipalities were required to assist in the provision of bulk infrastructure such as water, electricity and sanitation.

3.1.8.2.4 The following is the information about assignment of housing functions to municipalities:
Levels of Accreditation

a) Level 1 – A level 1 accredited municipality can inter alia perform, Beneficiary Management; Subsidy Budget Planning and allocation; priority programme management and administration (delegated functions).

b) Level 2- A Level 2 accredited municipality perform full management and administration of all housing programmes in addition to level 1 functions (delegated functions)

<table>
<thead>
<tr>
<th>Municipalities</th>
<th>Level of Accreditation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sol Plaatjie Local Municipality</td>
<td>Level 1 &amp; 2</td>
</tr>
<tr>
<td>Pixedy Ka Seme District Municipality</td>
<td>Level 1 &amp; 2</td>
</tr>
<tr>
<td>Siyanda District Municipality</td>
<td>Level 1 &amp; 2</td>
</tr>
<tr>
<td>Khara Hais Local Municipality</td>
<td>Level 1 &amp; 2</td>
</tr>
<tr>
<td>Emathanjeni Local Municipality</td>
<td>Level 1</td>
</tr>
<tr>
<td>John Taolo Gaetsewe District Municipality</td>
<td>Level 1</td>
</tr>
<tr>
<td>Francis Baard District Municipality</td>
<td>Level 1 &amp; 2</td>
</tr>
</tbody>
</table>

c) Level 3 – A Level 3 accredited municipality perform financial administration and all functions a level 1 or 2 municipality can perform

3.1.8.2.5 The Department was implementing the following projects:

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Town &amp; Project Name</th>
<th>Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emathanjeni</td>
<td>De Aar 1000</td>
<td>Township establishment in process</td>
</tr>
<tr>
<td></td>
<td>De Aar 14001</td>
<td>Township establishment in process</td>
</tr>
<tr>
<td></td>
<td>Biritstown 800</td>
<td>Township establishment in process</td>
</tr>
<tr>
<td></td>
<td>Hanover 470</td>
<td>70% of water and 60% of Sewer reticulation pipes have been laid</td>
</tr>
<tr>
<td></td>
<td>Hanover 600</td>
<td>Township in progress</td>
</tr>
<tr>
<td>Sol Plaatjie</td>
<td>Kimberly: Phuthanang</td>
<td>740 Houses Completed</td>
</tr>
<tr>
<td></td>
<td>Kimberly: Infill Area</td>
<td>261 Houses completed</td>
</tr>
<tr>
<td>Municipality</td>
<td>Town</td>
<td>Project</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Frances Baard District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phokwane</td>
<td>Galeshewe</td>
<td>Lerato Park</td>
</tr>
<tr>
<td>John Taolo Gaitswe</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gamaraga</td>
<td>Kathu</td>
<td>Kathu Mixed Development</td>
</tr>
<tr>
<td>Siyanda District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ikheis</td>
<td>Stemhem</td>
<td>Stemhem</td>
</tr>
<tr>
<td>Siyanda</td>
<td>Mier</td>
<td>Mier Various</td>
</tr>
<tr>
<td>Tsatsabane</td>
<td>Groenwater</td>
<td>Groenwater</td>
</tr>
<tr>
<td>Pixley Ka Seme District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emathanjeni</td>
<td>Hanover</td>
<td>Hanover</td>
</tr>
<tr>
<td></td>
<td>De Aar</td>
<td>De Aar</td>
</tr>
<tr>
<td></td>
<td>Britstown</td>
<td>Britstown</td>
</tr>
<tr>
<td>Umusobombovu</td>
<td>Colesburg</td>
<td>Outboks</td>
</tr>
<tr>
<td>Ronosterberg</td>
<td>Phillipstown</td>
<td>Phillipstown</td>
</tr>
</tbody>
</table>

3.1.8.2.6 The following are green fields projects which were being implemented by the Department:

3.1.8.2.7 With regard to the Hull Street Rent-to-Buy Project, in a letter dated 30 May 2013, the Department mentioned that they funded the project for
development of 500 rental housing units in the Moshoeshoe Eco Village Pilot Project and Hull Street Integrated Project in De Beers.

3.1.8.2.8 The projects were funded through the Institutional Subsidy Programme (ISP), which is a programme specifically designed for rental housing projects. The ISP caters for various rental housing instruments such as Rent-to-Buy, Rental and the Community Residential Programme (CRU).

3.1.8.2.9 The ISP and all other subsidy programmes as per the Housing Code provided funding for the top structure and internal services. Funding was initially only provided for the top structure for Moshoeshoe Eco Village Pilot Project and Hull Integrated Project.

3.1.8.2.10 Alternative ecological-friendly systems were utilised for sanitation in these projects. However, it emerged that the systems were not user friendly; hence the Department funded R23 000.00 for installation of conventional toilets. The funding had no bearing on the cost price.

3.1.8.2.11 An Institutional Subsidy (IS) was only converted to an individual subsidy after 4 years when the beneficiary takes transfer of the property through a rent-to-buy instrument. It was not converted to an individual subsidy when a person became unemployed. Normally, if a beneficiary of the IS became unemployed that person will be advised to apply for a normal subsidy and the IS will be overridden.

3.1.8.2.12 Tenant management was the responsibility of the Sol Plaatjie Housing Company (SPHC). SPHC is a section 21 company established by Sol Plaatjie Municipality and the Department. Only 127 units were constructed despite the fact that the Department paid for 500 IS units. However, the ISP could not be continued because it was insufficient for the target market. 373 units were to be constructed during the 2013/2014 financial year.
3.1.8.2.13 The project was approved for 500 IS units and not just for the rent-to-buy instrument but for all instruments under the ISP. It was in the discretion of the SPHC to determine what instrument to implement within ISP.

3.1.9 Western Cape

3.1.9.1 The following issues were identified in relation to planning of human settlements:

3.1.9.1.1 The Complainants alleged that there was a general issue of tardiness on the part of responsible institutions in the planning processes relating to RDP houses.

3.1.9.1.2 The issue of the size of the RDP houses was also raised during the stakeholder consultation. In Saldanha Bay Municipality, a complaint was raised that the houses were too small and the beneficiaries were unable to extend them.

3.1.9.2 Another issue raised related to the People Housing Process (PHP) which could not be completed due to poor planning and coordination. The following are examples of issues relating to PHP:

3.1.9.2.1 In the City of Cape Town Metropolitan Municipality, issues were raised by the Chairperson of Mzomhle Housing Project that their project was deliberately not considered by the Department of Human Settlements and the City of Cape Town.

3.1.9.2.2 Another complaint concerned a housing project called Masakhe Housing Project (2011) which had 305 beneficiaries in total. They were advised that after the submission of business plans that they should join other projects already approved by the City of Cape Town or they would not get any housing. The Complainants did not wish to join any other
project. They thus requested that their project plan be revised and approved.

3.1.9.3 Government Response

3.1.9.3.1 During the public hearing held on 29 August 2012, the Western Cape leadership conceded that the Province was affected by massive demographic movement of people from rural to urban areas and that budgetary constraints contributed to their inability to respond to the challenge adequately.

3.1.9.3.2 In a letter dated 26 October 2012, the former MEC Responsible for human settlements, Mr Bonginkosi Madikizela, indicated that the minimum size of an RDP house was 40m² and that any improvements or extensions to the house would be at the cost of the beneficiary.

(i) Challenges associated with planning were identified as follows:

(a) There were not enough new projects ready for implementation due to inadequate forward planning.

(b) In-situ developments were dependent on the willingness of affected communities to relocate temporarily to allow construction to take place.

(c) Fiscal belt-tightening combined with cost escalation due to the rising cost of units, and sites meant some of the projects were phased in over long periods of time.

(ii) Challenges associated with planning were mitigated in the following manner:

(a) Planning approval processes were to be co-ordinated with competent authorities.
(b) Detailed project readiness were to be properly assessed before setting targets to avoid postponements of project delivery dates.

(c) Development of multi-year project pipelines.

(d) Identifying links with strategic programmes in order to procure additional funding.

(e) Incorporation or adoption of public-private partnership strategies in order to accelerate delivery of houses.

(f) Planned targets vs actual performance in the delivery of housing.

<table>
<thead>
<tr>
<th>2013/2014</th>
<th>Units</th>
<th>Sites</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Target</td>
<td>11 802</td>
<td>6 642</td>
<td>1 959</td>
</tr>
<tr>
<td>Actual</td>
<td>11 853</td>
<td>6 642</td>
<td>3 036</td>
</tr>
<tr>
<td>Percentage achieved</td>
<td>100%</td>
<td>100%</td>
<td>155%</td>
</tr>
</tbody>
</table>

3.1.9.3.3 In a letter dated 16 May 2013, the Honourable Premier, Mrs Helen Zille, reported that the formula through which the national grant for housing subsidies is financed needed to be reviewed in order to align it with the changing distribution of housing across the country. The Premier also quoted the 2011 Census which showed that between 2001 and 2011, the Western Cape’s population grew by 28.7%, which translated to an annual growth rate of 2.6%.

3.1.9.3.4 The Premier indicated that in response to the high demand for housing, the Department devolved the fixed assets in the Western Cape Housing
Development to municipalities. Municipalities could also apply to the Department for finance to purchase privately owned land which municipalities identified as suitable for housing. The Department further encouraged municipalities to approach the Housing Development Agency (HDA) for assistance to obtain land for housing.

3.1.9.3.5 Mr. Thando Mguli, the Head of Department in the Department of Human Settlements (the Department) reported during a meeting held with the Public Protector investigation team on 01 April 2014 that the housing need in Western Cape was standing at approximately 500 000 with the lion’s share of the need being in the City of Cape Town Metropolitan Municipality (the City of Cape Town).

3.1.9.3.6 The HOD mentioned further that the province experienced a growing need for housing in recent years and the response to this need has been constrained by the unit cost of housing provision and the grant budget the province receives from the National Department of Human Settlements.

3.1.9.3.7 According to Mr Mguli, the province’s budget in the provision of housing was R1.9 billion. However, even with the increase in the total budget, the fact that the cost of each unit rose to R130 000.00 during 2014-2015 financial year does not necessarily translate in a rise in the number of units the province can deliver.

3.1.9.3.8 In as far as planning was concerned, Mr Mguli reported that each Municipality submitted plans to the Department to address the housing needs in their localities on an annual basis. Once the plans were approved by the Department, the information was fed into the Housing Pipeline. Once the project was fully financed, the implementation of the project commenced.

3.1.9.3.9 The province also had an Emergency Housing Programme which aimed to provide temporary accommodation to beneficiaries during the
upgrading of informal settlements. This programme also provided relief to the households which were displaced due to natural or man-made disasters. There were a number of temporary residential units which could be found in the City and the Delft areas, amongst other areas.

3.2 Issue 2: Procurement

3.2.1 Eastern Cape

3.2.1.1 The following issues were raised relating to procurement:

3.2.1.1.1 Community members complained about the appointment of contractors from outside the province, contracts awarded mainly to members of the ruling party, and non-payment of contractors, which resulted in some projects not being completed.

3.2.1.2 Further complaints were raised concerning contracts awarded without due processes.

3.2.1.3 Community members also complained about RDP housing projects which were awarded to the same contractors. They further raised a complaint about tenders which were not awarded to local contractors. For example in Sakhisizwe Local Municipality, Ward 9 residents complained about tenders being awarded to 3 companies only.

3.2.1.4 There were general concerns about the number of incomplete projects which were left incomplete by contractors. For example in Nxuba Local Municipality, Bedford and Adelaide residents raised issues about building of houses which commenced, but remained incomplete. In Mnquma City Local Municipality, Ngqamakwe residents complained about 20 pilot houses which were built, but the project was as yet not complete.
3.2.1.1.5 In Nelson Mandela Bay Municipality, a contractor was allegedly not paid for building 1445 RDP houses.

3.2.1.1.6 The complaints further related to delays on the part of the state to pay beneficiaries benefits due to them in order for the RDP housing projects to commence.

3.2.1.1.7 Complaints also related to the transfer of funds to the Accounts Administrator and/or failure on the part of the state to make funds available for the completion of certain projects.

3.2.1.2 Government's response

3.2.1.2.1. In respect of procurement within the equitable share, the Department indicated that it used a committee system to decide, under delegation, all procurement. Formal tender procedures were followed for the procurement of goods and services through the Conditional Grant. The process included advertising through the media.

3.2.1.2.2. Annual tenders for inclusion in the database were advertised and this database was used for companies to compete for the construction of houses. Companies were placed into categories based on their Construction Industry Development Board (CIDB) rating. The pre-qualification conditions are listed below:

a) Appropriate CIDB rating;
b) NHBRC;
c) TAX Clearance;
d) Company registration; and
e) Financial guarantees.

3.2.1.2.3. The tender process was significantly influenced by functionality, including experience, as the reliance on price produces substandard work. The following process was followed in the finalisation of tenders:
3.2.1.2.4. In the past the Department attracted contractors who knew how to fill out the tender forms to be awarded work, however the Department is now able to assess the ability of contractors through a verification process.

3.2.1.2.5. The Department is able to produce a report revealing the physical address of contractors and the majority of contractors are from the province. There are no issues regarding contractors from outside the province. On the contrary, this has produced necessary competition that has lifted the quality of the products being produced. It has also allowed for cheaper materials to come into the province.

3.2.1.2.6. The Department advertises its bids to all contractors irrespective of their locality and contractors are appointed after the Supply Chain Management processes have been followed. Contractors that are
appointed must meet the compliance requirements that were stipulated in the Treasury regulations and National Housing Code.

3.2.1.2.7. The political affiliation of the directors of companies was not considered during the tender process; however it was confident that none of the known office bearers of the ruling party have been awarded contracts.

3.2.1.2.8. Payment was only made on value created. The payment process goes as follows:

(a) The Departmental regional office received an invoice from the contractor. On receipt the Departmental inspector went on site to verify value created.

(b) After the Departmental inspector a NHBRC inspector also went on site to verify and confirm whether it meets the construction standards in terms of building regulations.

(c) Thereafter, the invoice was processed for payment but payment was only made on the Housing Subsidy Portal (HSS) when a beneficiary was linked to the house, funding was available and all relevant documentation was available and compliant. Delays could occur for a number of reasons; however, the linking to the identified and legitimate beneficiary was the major cause of delay.

3.2.1.2.9. There were several projects in the province which resulted in a decision to block work on site due to poor quality/shoddy workmanship. This was primarily due to the fact that before the introduction of the NHBRC the housing standards did not meet basic building requirements. Furthermore, contractors exploited the lack of supervision on site. After 2009, the number of blocked projects was significantly reduced and currently there are no blocked projects from the past approvals.

3.2.1.2.10. In terms of the 2013-14 Auditor General unqualified audit opinion of the Department, all due processes were followed in procuring services and contracts.
3.2.1.2.11. The Department cited two serious cases of dishonesty and fraud that resulted in the suspension of officials. The one related to dishonesty was surrounding the payment of an advance to a contractor by the OR Tambo regional officials. All four officials implicated were suspended. The cases related to fraud were both in court and the subject of an internal disciplinary hearing. This case also had a contractor charged with fraud and corruption. The matter was handled by the Hawks.

3.2.1.2.12. In Bedford the Department unblocked the following 3 projects:

(a) Bedford Nyarha- which was under procurement;
(b) Bedford Zink houses- a contractor was appointed;
(c) Bedford Goodwin Park- There were 48 slabs completed, 48 wall plates completed and 48 units were in finishes out of the total of 52 units due for unblocking;
(d) Adelaide 624 and Adelaide 481 unblocking potion were completed in 2011/12 financial year; and
(e) Adelaide 624 and 481 rectification programme was scheduled for implementation in the 2014/15 financial year. It must be noted that these were blocked projects due to a protracted land restitution claim.

3.2.1.2.13. The matter related to the payment of a contractor in the Nelson Mandela Bay Metropolitan Municipality was heard before the Provincial Petitions Committee, the Provincial Portfolio committee and the National Portfolio Committee on Human Settlements. The petitioner did not accept the Department’s position on the matter and took the matter to court. The Legal section of the Department was handling the matter with the State Attorney’s office.

3.2.2 Free State

3.2.2.1 The following issues were raised in relation to procurement of human settlements:
3.2.2.1.1 Issues were raised relating to instances where projects were left incomplete because contractors were not paid. For example, residents of Moqhaka Local Municipality complained that about 2000 houses were not completed since contractors were not paid on time. Some residents alleged that suspensions of contracts were usually caused by contractual issues.

3.2.2.1.2 Community members alleged that the Municipality advertised a tender for 625 houses, while houses in the area were only 150.

3.2.2.1.3 Residents raised concerns about building contracts which were allegedly awarded to contractors aligned to the ruling party.

3.2.2.2 Government's Response

3.2.2.2.1 In terms of the letter dated 14 May 2014 Director Legal Services Adv. Phaladi indicated that a service provider was appointed by the Department to conduct payment reconciliation between Basic Accounting System (BAS) and the HSS loading of the non-financial information per project and enhancement of security features on the HSS.

3.2.2.2.2 Adv. Phaladi mentioned that NURCHA Construction Finance and Programme Management (NURCHA) conducted a financial reconciliation of the advance payment of R500 million transferred to various suppliers and contractors. This was done by NURCHA in consultation with the Department, taking into account the quantity of material delivered and used during construction, payments made to suppliers by the Department and material left in stock with suppliers. In terms of 2012/2013 financial statement the amount disclosed as advance payment to be recovered was R147 369 787.07.
3.2.2.2.3 Adv. Phaladi mentioned that projects were allocated by the MEC in terms of Section 7(3) (a) of the Housing Act, 1997.

3.2.2.2.4 The MEC mentioned that the Special Investigations Unit was investigating allegations of irregularities in relation to the awarding of contracts.

3.2.3 Gauteng

3.2.3.1 The following issues were raised in relation to Procurement of RDP houses:

3.2.3.1.1 Complaints were raised relating to poor workmanship by contractors within the Province. The complaints related to the appointment of incompetent contractors who delivered substandard houses. Further complaints were raised relating to contractors who failed to complete their projects. For example, in Merafong Municipality, Khutsong South residents complained about 15 RDP houses which were left incomplete.

3.2.3.1.2 Complaints were also raised concerning external contractors who were appointed to construct houses in Gauteng. For example, in Emfuleni Local Municipality, concerns were raised about external contractors allegedly being used instead of recognising local contractors.

3.2.3.1.3 Further complaints were raised relating to instances where materials bought to build RDP houses were used to renovate private houses.

3.2.3.2 Government’s response

3.2.3.2.1 Government conceded that there are instances where substandard houses were constructed. Previously, there were no requirement that housing projects be registered with the NHBRC. However, from 2002 the Housing Consumer Protection Measures Act (No 95 of 1998) made the registration and enrolment of subsidized housing compulsory.
3.2.3.2.2 During the first 5 years of democracy, government only focused on quantity of houses and the issues of quality assurance were not part of the housing construction process.

3.2.3.2.3 Government introduced the Rectification Programme in order to address the issue of substandard houses constructed between 1994 and 2002. After 2002 there was an introduction of the NHBRC registration and enrolment of houses.

3.2.3.2.4 Houses built between 1994 and 2002 qualify for rectification but the process was preceded by a technical audit of each affected house to detail the defects in each house. The defects were categorised into maintenance defects, minor defects, major defects or structural defects. An engineer would then specify what remedial action was appropriate for each defect and the rectification process was carried out accordingly. After the rectification each house was inspected again.

3.2.3.2.5 The Department's construction norms and standards state that all building materials had to be SABS approved. Contractors were instructed to use only SABS approved materials in projects. Architectural drawings and spot-checks were done on materials during site inspections, where the SABS stamp for approval on materials was checked.

3.2.3.2.6 In all projects the contractor would make use of local labour as far as possible, and normally from the ward in which the project was developed. A Community Liaison Officer was appointed to serve as a link between the contractor and the local labour. It was also his/her responsibility to provide the contractor with the number of local labourers.

3.2.3.2.7 Building materials for the construction of RDP houses were procured and supplied by the contractor appointed to build the houses. The Department was responsible for monitoring the construction of houses.
according to specific milestones. However, payment was made after the
approved inspection assuring that each stage of the completed
milestones satisfied the norms and standards.

3.2.3.2.8 On completion of the procurement process the Department handed
over the construction site to the appointed contractor who then
assumed full responsibility for the site until handover of houses to the
approved beneficiaries. The contractor had to ensure that the whole site
was secured including building materials and completed houses, prior
to the handover up to the last stage of the handover.

3.2.4 Mpumalanga

3.2.4.1 The following issues were raised in relation to procurement of human
settlements:

3.2.4.1.1 The issue of improper administration of the RDP housing projects was
raised.

3.2.4.1.2 In Mbombela Municipality, residents alleged that they were requested
by the contractor to pay R25 000.00 in order to qualify for a house.

3.2.4.2 Government’s response

3.2.4.2.1 During the meeting held on 10 April 2014, the Department indicated
there is no requirement that beneficiaries pay a contractor in order to
qualify for an RDP house. The Department further indicated that
allocation of RDP houses was done by municipalities and not by
contractors.

3.2.5 Kwa Zulu Natal

3.2.5.1 The following issues were raised in relation to procurement of human
settlements:
3.2.5.1.1 Issues were raised regarding contractors being from outside the province, contracts allegedly awarded mainly to members of the ruling party, and non-payment of contractors, with the result that projects were not completed. There were also issues raised around incomplete projects caused by defective performance on the part of contractors. Further, contracts were awarded without due process.

3.2.5.2 Government’s response

3.2.5.2.1 In terms of the letter from the MEC dated 14 May 2014 South Africa is a unitary state and the Department cannot exclude bids from outside the Province. Such bids were evaluated in terms of the objective criteria applicable to all bids. Larger companies with a national footprint had better capacity. The Department was satisfied that the overwhelming majority were from within the Province.

3.2.5.2.2 With regard to the issue of awarding of contracts to members of the ruling party, the MEC stated that municipalities were developers in the province and they procure the services of service providers. The Preferential Procurement Policy Framework Act, Act 5 of 2000 does not preclude the appointment of contractors who were members of the ruling party. Membership of a political party was not a criterion for the evaluation of a bid. If there was a specific allegation that processes were subverted to achieve such an objective, the Department would have had a duty to investigate and if necessary, take corrective action.

3.2.5.2.3 With regard to the issue of non-payment of contractors the MEC mentioned that all contractors were paid within the specified timeframe of 30 days unless the invoice was not correct due to variances, incomplete information and expired tax clearance certificates. Non-compliance with the 30 day payment requirement was viewed in a serious light and was strictly monitored by Provincial Treasury.
3.2.5.2.4 With regard to the issue of incomplete Projects caused by defective performance on the part of contractors the MEC referred to the following projects.

<table>
<thead>
<tr>
<th>AREAS</th>
<th>CONTRACTOR</th>
<th>REASON FOR INCOMPLETE PROJECT</th>
<th>INTERVENTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kwamaphumulo</td>
<td>Stedone Development</td>
<td>Contractor is under Business Rescue</td>
<td>Project is continuing with sub-contractors appointed by Stedone under close supervision of the Business Rescue Manager</td>
</tr>
<tr>
<td>iNyoni</td>
<td>Vuleldele and Lulekana</td>
<td>Defective performance</td>
<td>Contractor's appointment was terminated and a new contractor was appointed following the procurement process</td>
</tr>
<tr>
<td>Albert Luthuli Housing Project</td>
<td>Lady Brick (IA)</td>
<td>Defective performance</td>
<td>Contractor’s appointment was terminated and a new contractor was appointed following the procurement process. Monies were recovered from the contractors</td>
</tr>
<tr>
<td>Etaseni Housing Project</td>
<td>Lady Brick (IA)</td>
<td>Defective performance</td>
<td>Contractor’s appointment was terminated and a new</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>No.</th>
<th>Investigations</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Shallcross Housing Project</td>
<td>These investigations led to the registration of a docket with the South African Police Services for criminal investigation. This docket has recently been transferred to the Anti-Corruption Task Team for further investigations. Arising from these investigations, the Department has finalised disciplinary cases against 4 senior officials with different sanctions. The Department is continuing to monitor the criminal investigations.</td>
</tr>
<tr>
<td>2.</td>
<td>Austerville Housing Project</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Nondweni Housing Project</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Msunduzi Wirewall</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Copesville Housing Project</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Townview Housing Project</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Tagging of Flood planes</td>
<td></td>
</tr>
</tbody>
</table>

3.2.5.2.5 On the issue of tenders awarded without following due process the MEC conceded that the Department was aware of the following cases which were subject to forensic investigations in 2009:

Various Areas: Storm Damage and OSS houses  
Various Contractors on the Database  
Non-performance of contractors created a huge backlog  
Contractor’s appointment was terminated and a new contractor was appointed following the procurement process.
3.2.5.2.6 All contracts in the above table were declared in the schedule of irregular expenditure and reported to the Provincial Treasury.

3.2.5.2.7 Based on the weaknesses identified in the investigation, the Department has strengthened its Supply Chain Management (SCM) processes as follows:-

a) The use of SCM Delegation 5.1 has been curbed;

b) All projects were presented to the Housing Evaluation and Assessment Committee and then submitted to the MEC for approval. Thereafter, the SCM tender process was followed;

c) The Accounting Officer signed all Service Level Agreements;

d) Monthly Management Committee meetings, Executive Committee meetings and weekly Strategic meetings were held to ensure accountability of Management, sound financial management, human resource management, policy and governance and risk management strategies were incorporated to achieve the outcomes of the Department; and

e) All orders were scrutinized and authorized by the CFO for all amounts of goods and services procured.

3.2.5.2.8 Cases/Complaints which have been resolved by the Department

The table below reflects cases investigated by the Department
<table>
<thead>
<tr>
<th>STATUS OF OTHER INVESTIGATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low Income Housing Fraud by Government and Municipal Officials: 2006-</strong></td>
</tr>
<tr>
<td>The investigation has yielded positive results, which has led to the registration of 566 dockets with the South African Police Services with 459 successful prosecutions with various outcomes. Furthermore, 1,585 acknowledgements of debts were signed with non-qualifying beneficiaries to the value of R20m and a total sum of R16m was recovered from these debtors. This also resulted in 385 disciplinary cases against various Government employees being successfully finalised.</td>
</tr>
</tbody>
</table>

| Allegation of Fraud and Corruption-Copesville Housing Project: 2009-2013 |
| The investigation has led to the dismissal of 2 employees and 2 cases were registered with the South African Police Services. The criminal cases have been finalised via the courts |

| Allegation of Fraud and Corruption-Brackenham Housing Project: 2009- |
| The investigation has led to the dismissal of 1 employee and the registration of a docket with the South African Police Services. This matter is currently on the court roll for trial |

| Allegation of Housing Fraud-Maguzwane and Stepmore Housing Project: 2009 |
| The investigation has been finalised and the correct beneficiaries were allocated houses |

| Allegation of irregularities relating to allocation of houses-Horse Shoe and Shayamoya Housing Project: 2008. |
| The investigations were finalised and the report was sent to the Municipality via the Inland Region Project Management Team. The Department is appointing a team of professionals to unblock and address the allocation of houses to individuals in these projects |

| Allegations of irregularities relating to allocation of |
| Preliminary investigations revealed the need for a multi-disciplinary team of professionals to be |
houses - Vryheid Housing Project: 2014. appointed to address the findings. The Department is currently appointing these teams to investigate and resolve the challenges.

Allegation of irregularities relating to allocation of houses-Mtubatuba Housing Project: 2014. Preliminary investigations revealed the need for a multi-disciplinary team of professionals to be appointed to address the findings. The Department is currently appointing these teams to investigate and resolve the challenges.

Allegations of invalid tax clearance certificates on Operation Sukuma Sakhe: 2014 The Department investigated the allegation of invalid tax clearance certificates to obtain contracts. Based on the findings, the contracts were terminated and two cases were registered with the South African Police Services to pursue criminal action.

3.2.5.2.9 With regard to the blacklisting of contractors the MEC indicated that there were no new cases under forensic investigation. Therefore, no service providers were blacklisted formally. However, the procurement process ensured that the track record of any bidder must be considered before appointment.

3.2.6 Limpopo

3.2.6.1 The following issues were raised in relation to procurement of human settlements:

3.2.6.1.1 Issues were raised relating to appointment of contractors who were not suitably qualified to construct RDP housing. For example, in Thabazimbi Local Municipality, residents alleged that appointed contractors were not suitably qualified to build RDP houses because 80% of the houses were substandard. Residents also complained about blocked projects.
3.2.6.1.2 Residents alleged that tenders were awarded to those aligned to the ruling party. In Polokwane Municipality, some contractors alleged that the Department terminated their contracts for building of RDP houses. Some contractors alleged further that their companies were unfairly blacklisted at the Department of National Treasury.

3.2.6.2 Government’s response

3.2.6.2.1 During the meeting held on 21 May 2014, Ms. Dikotla mentioned that COGHSTA appointed 3 contractors under the Rectification Programme to specifically address the issue of RDP defective houses.

3.2.6.2.2 In a letter dated 27 August 2014, the Head of Department mentioned that the matter was being defended in court on the basis that the termination of the contract was lawful.

3.2.7 North West

3.2.7.1 In North West, the main issue identified by residents under procurement was a number of projects that were left incomplete by contractors. The following were given as examples of such projects:

(a) In Dinaledi Municipality, a project for R4.5 million was approved and 2000 RDP houses were supposed to have been built. The project was left incomplete, the contractor was paid and later the contract was terminated.

(b) In the City of Matlosana Municipality, about 20 people complained about incomplete houses.
3.2.7.2 Further issues relating to nepotism and appointment of contractors without following proper procedures were raised. Issues relating to appointment of contractors from other provinces were also raised.

3.2.7.3 Government's response

3.2.7.3.1 During the meeting held on 30 September 2014, the Department indicated that like any other public entity they followed fair procurement procedures. The Department had a supplier database which was open to everyone in South Africa.

3.2.7.3.2 Suppliers were categorised in the database according to different levels depending on the services they may render to the Department. The database was also extended to youth, women and people with disabilities. Contractors had to register their information on the database.

3.2.7.3.3 The Department mentioned that the procurement of contractors were previously delegated to municipalities. The "trench payment" arrangement between the Department and municipalities were approved by the National Department of Human Settlements.

3.2.7.3.4 In some municipalities, funds were used for projects other than the RDP housing projects. The Department has put measures in place in an attempt to recover the funds from those municipalities. So far, out of R500 million which was outstanding R480 million has been recovered.

3.2.7.3.5 The Department mentioned further that trench payment has affected the Department's previous audit report.

3.2.7.3.6 With regard to the issue of incomplete projects, the Department mentioned that they were aware of the situation and they were already utilising conditional grant funds in order to complete those projects.
3.2.8 Northern Cape

3.2.8.1 The following issues were raised in relation to procurement of human settlements:

3.2.8.1.1 In Emathjeni and Umsobomvu Local Municipalities, one of the residents' complaints was that every time there was an RDP housing project, contractors from the Eastern Cape were appointed. These contractors then subcontracted local contractors. This jeopardised the opportunities of locals to participate in the projects because contractors normally brought their own employees.

3.2.8.1.2 One resident alleged that a project was incomplete because the contractor was not paid.

3.2.8.1.3 A Complainant alleged that in Tswelelang there was a project for 5000 housing units and the contractor was appointed. R500 million was allegedly allocated for the project and the contractor was only paid R10 Million.

3.2.8.2 Government's response

3.2.8.2.1 During the meeting held on 15 May 2014, the Head of Department indicated that contractors were paid based on the progress made. The contractor invoices the Municipality and the Municipality in turn submits the invoice to the Department. On receipt of the invoice, the Municipality and the Department's inspectors inspect the work done and when they are satisfied payment is made within 30 days.

3.2.8.2.2 With regard to Tswelanang project, the Head of Department mentioned that the area did not have sites available to accommodate 5000 houses and beneficiaries who needed houses in the area would have to be accommodated somewhere else. Therefore, the project did not exist.
3.2.8.2.3 In Sol Plaatjie Municipality, the project was built in three phases. Only 5 houses were built later after complaints were received from some beneficiaries.

3.2.8.2.4 The Head of Department conceded that in Kriesberg the contractor was supposed to build 82 houses, but only delivered 78. The contractor informed the Municipality that he would not be completing the project. The Municipality agreed to complete the project but they encountered difficulties in finalising the project and later requested the Department to intervene. The Department requested the Municipality to send a formal communication capturing the status of the contract between the contractor and the Municipality.

3.2.9 Western Cape

3.2.9.1 The following issues were raised in relation to procurement of human settlements:

3.2.9.1.1 The issue of blocked projects were raised. For example, in the City of Cape Town officials approved the Sinako Ukuzenzela housing project in 1999 and the houses were built in 2003. In 2005, the project was blocked by the City of Cape Town due to the low subsidy, resulting in an uncompleted project.

3.2.9.1.2 Further issues were raised relating to construction companies that were allegedly corrupt and built substandard houses.

3.2.9.2 Government’s response

3.2.9.2.1 The former MEC Mr Madikizela confirmed that Sinako Uzenzela project was blocked and subsequently referred to the Professional Resource
Team to provide the City with additional capacity to unlock and implement the project.

3.2.9.2.2 The MEC conceded during the stakeholder meetings that there were massive corruption in housing nationally. In the Western Cape in particular, a number of people had been arrested.

3.2.9.2.3 The Premier reported that the Department had a well-established procedure for identifying corrupt activities amongst contractors. Allegations of corruption and fraud were referred to the Province’s Forensic Investigation Unit (FIU) for investigation. The Department was assisted by the Special Investigation Unit (SIU) to identify and prosecute housing related fraud and corruption matters.

3.3 Issue 3: Allocation of RDP houses

3.3.1 Eastern Cape

3.3.1.1 The following issues were raised relating to allocation of RDP houses:

3.3.1.1.1 Issues relating to RDP houses which were allocated to beneficiaries who do not meet qualifying criteria. For example in Senqu Local Municipality, residents complained about allocation of houses to government employees. Further complaints were raised relating to 802 houses allegedly built in Senqu and not allocated to beneficiaries.

3.3.1.1.2 Further issues were also raised about illegal allocation of RDP houses by Municipal officials and Councillors. For example, in Sakhisizwe Local Municipality and Nxuba Local Municipality residents complained about illegal allocation of RDP houses by Municipal officials and Councillors. They made reference to a situation where a house was allocated to a beneficiary who could not be traced and as a result the house remained unoccupied.
3.3.1.2 Government's response

3.3.1.2.1 The Department observed beneficiary management challenges in housing delivery and created a directorate to intervene in projects that had beneficiary issues. In the 2013/14 financial year, the MEC launched a campaign on "one beneficiary one house" in Chris Hani District. Where illegal allocation is found, such incidents would be directed to the Department for investigation. No such cases had been reported from Sakhisizwe Municipality.

3.3.2 Free State

3.3.2.1 The following issues were raised in relation to allocation of RDP housing:

3.3.2.1.1 Community members raised issues relating to undue delays in processing their RDP subsidy applications. A majority of the complaints related to applications that were submitted in 1996. In Moqhaka Local Municipality, the residents who raised issues related to the beneficiary waiting list were those who applied in the late 1990s and those who applied in 2006. The majority of people who applied in the 1990s were older people and those who applied in 2006 were young adults.

3.3.2.1.2 The second common issue identified related to residents whose subsidy applications were approved but no houses were allocated.

3.3.2.1.3 The third common issue identified related to instances where applications were approved and houses were constructed, but they were allocated to other people.

3.3.2.1.4 There were complaints relating to allocation of single RDP houses to two or more beneficiaries. Some residents alleged that they were allocated stands which had already been allocated to someone else.
3.3.2.1.5 Residents further alleged that officials allocated houses to other beneficiaries and promised the original beneficiaries new houses.

3.3.2.2 Government’s Response

3.3.2.2.1 During the meeting held on 20 May 2013, MEC Mokhesi conceded that there were challenges relating to allocation of RDP houses. The Department mentioned that allocations were made in accordance with the state of readiness of the respective municipalities as determined mainly by the availability of serviced sites against the approved beneficiary list signed off by the Municipality. MEC Mokhesi mentioned further that their policy required that they only build on serviced sites. The Department highlighted that allocations were agreed to with beneficiaries. However, in instances where there were no beneficiaries, they closed the list.

3.3.2.2.2 MEC Mokhesi mentioned that mobile trucks were being utilised to bring services to the people especially the elderly who did not have to travel long distances to either submit an application or check the status of their applications.

3.3.2.2.3 MEC Mokhesi mentioned that the Department started a project in April 2012 wherein projects were identified and recommendations were made to formalise settlements in the identified sites. The Department then finalised the appointment of service providers for the creation of 26 915 sites in 19 areas of the province. A process was underway to finalise development plans regarding these areas. In line with the informal settlement upgrading processes, 9047 sites were planned and surveyed in the following areas:
### Areas

<table>
<thead>
<tr>
<th>Areas</th>
<th>Number of sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mamafubedu</td>
<td>600</td>
</tr>
<tr>
<td>Petsana</td>
<td>800</td>
</tr>
<tr>
<td>Mahaseng and Tsele</td>
<td>1461</td>
</tr>
<tr>
<td>Bakenpark</td>
<td>1421</td>
</tr>
<tr>
<td>Mooiplatz</td>
<td>2614</td>
</tr>
<tr>
<td>Lindley</td>
<td>1001</td>
</tr>
<tr>
<td>Maokeng</td>
<td>150</td>
</tr>
<tr>
<td>Rammulotsi</td>
<td>1000</td>
</tr>
</tbody>
</table>

**3.3.2.2.4** MEC Mokhesi conceded that they had a backlog in relation to the allocation of RDP houses. This was as a result of shortages of land, since most of the land in the Free State was privately owned. MEC Mokhesi mentioned that most beneficiaries were approved but not yet allocated RDP houses.

**3.3.2.2.5** Adv. Phaladi from Legal Services indicated further that the Department became aware of a number of irregularities and allegations of misconduct and corruption related to the manipulation of the HSS by certain departmental officials. The Department then appointed a service provider called Open Waters to investigate allegations of misconduct and corruption in relation to allocation of RDP houses.

**3.3.2.2.6** From the preliminary report produced by Open Waters, a total of 13 officials were suspended, which included 6 senior managers and 7 junior officials. He further indicated that there were disciplinary hearings against these persons.

**3.3.2.2.7** The Department mentioned that a service provider was appointed to do a HSS clean-up and training of officials.

**3.3.2.2.8** Adv. Phaladi further highlighted that with regard to the manipulation of the approvals of individual subsidies by officials, a new control measure had been introduced wherein Legal Services verified the factual
information in the application and verified the beneficiary's right to occupy the property, before the subsidy is presented to the MEC for approval.

3.3.3 Gauteng

3.3.3.1 The following issues were raised in relation to allocation of RDP houses:

3.3.3.1.1 Complaints were raised relating to delays in allocating completed RDP houses. For example in Emfuleni Local Municipality, residents of Evaton complained about undue delays in allocating houses.

3.3.3.1.2 Complaints were raised relating to residents who have been on the waiting list or demand database dating back to 1996. For example, people who recently applied for RDP houses were allocated and those who applied as early as 1996 were still waiting to be allocated houses.

3.3.3.1.3 Further complaints were raised relating to illegal allocation of RDP houses by departmental officials, municipal officials and councillors. In the City of Ekurhuleni Metropolitan Municipality, a Complainant alleged that her house was illegally allocated to someone else by the municipal ward councillor. She succeeded in obtaining an eviction order against the illegal occupants. However, her house was eventually burnt down.

3.3.3.1.4 In the City of Ekurhuleni Metropolitan Municipality, disabled people complained that RDP houses meant to be allocated to them were being sold to other people.

3.3.3.1.5 In the Randfontein Local Municipality, Complainants alleged that their houses were being sold to people who were employed (i.e. people who did not qualify for RDP houses).
3.3.3.1.6 In the Mogale City Local Municipality, Reedvlei Extension 2 and 3 residents accused the Municipal Ward Councillor of selling RDP houses. There were allegations of Councillors who were selling houses to foreigners.

3.3.3.1.7 In the City of Tshwane Metropolitan Municipality, there were allegations in Kanana, Hammanskraal, that houses were being sold by Municipal Ward Councillors, and as a result, they were occupied by illegal occupants. In Soshanguve Ward 90, the Municipal Councillor allegedly sold land and stands reserved for the building of RDP houses for shack construction to friends and family.

3.3.3.1.8 Complaints were also raised relating to RDP houses allocated to more than one beneficiary.

3.3.3.1.9 Complaints were also raised about instances where subsidies were approved and “happy letters” were signed but no house allocated, as the house was already occupied. An old woman from Soweto was living in a shack which was burnt down with her two grandchildren inside. The Department advised her not to build a shack again. On 25 June 2012, she was informed that her subsidy was approved. However, she was later informed that a house could not be allocated to her because she does not live in Protea Glen.

3.3.3.1.10 A woman from Thokoza alleges that she signed a “happy letter” on 17 February 2009 and when she went to the house she found it occupied. The Complainant was still living in a shack she has occupied since 1973. She further mentioned that she did not know how the other person came to occupy her house. The Municipality had since promised to evict the current occupant.

3.3.3.1.11 In Thokoza, a Complainant went to the Regional Office and was informed that his house had been allocated. He went to the address and found that somebody was living in the house.
3.3.3.1.12 Cases were reported relating to instances where a beneficiary’s subsidy had been approved on the Department’s HSS for an RDP house, but no houses were allocated. For example, in the City of Johannesburg Metropolitan Municipality, a woman from Alexandra alleged that she applied for a house in 1999 and upon enquiry in 2009, was informed that a house had been allocated to her. She was also given the stand and house numbers.

3.3.3.1.13 There were also allegations that the Municipality failed to renovate defective houses.

3.3.3.1.14 In another case, a person was allocated a house, but upon his death the house was not allocated to his dependants.

3.3.3.1.15 A woman from Ekurhuleni indicated that she was evicted from an RDP house which she had occupied illegally. She had occupied the house illegally because she had applied for an RDP housing subsidy in 1997 without joy.

3.3.3.1.16 A Councillor was alleged to own more than 5 RDP houses. It was further alleged that material bought for building RDP houses were used to renovate the Councillor’s house.

3.3.3.2 Government’s response

3.3.3.2.1 In a letter from the Gauteng MEC for Human Settlements the Department conceded that they were aware of the number of beneficiaries who were on the waiting list and that some of them have been on the waiting list since 1996. Communities on the waiting list for RDP houses for more than 10 years since 1996 would be given preference. However, the Department has been unable to accommodate a number of them because of adverse dolomitic conditions around the province.
3.3.3.2.2 All housing waiting lists would be discontinued and approved on the provincial demand database. All applicants would be categorized according to their geographical location where housing projects were identified for development. The Department would during the process of allocation prioritize the 1996/97 beneficiaries who were still in need of housing and all the beneficiaries who had been allocated houses would be removed from the demand database.

3.3.3.2.3 Furthermore, the Department highlighted that they had previously identified beneficiaries from the 1996/1997 waiting list to be accommodated in the Eden Park Extension 5 development. However, the community unlawfully occupied those houses.

3.3.3.2.4 In Phola Park area (Coleyard informal settlement consisting of approximately 500 families) a project was identified in order to reduce the overflow of families in the area. The families were relocated to Edenpark West, Extension 1 developments towards the end of 2012. This reduced the number of beneficiaries on the waiting list. The Department was also in the process of implementing a project in Phola Park Greenfields development.

3.3.3.2.5 The Department further indicated that a beneficiary who was registered on the demand database was part of the waiting list of potential beneficiaries for future projects and that this did not indicate impending housing allocation. When housing projects were implemented beneficiaries were identified from the demand database and housing applications were processed for these beneficiaries.

3.3.3.2.6 Approval of subsidy simply indicates that the beneficiary had been earmarked for allocation in a certain project.

3.3.3.2.7 Usually, stand numbers were not linked to any applicant. In Greenfields projects beneficiaries were usually allocated reference numbers.
3.3.3.2.8 Reference numbers were not necessarily linked to the stand numbers. Until a "happy letter" was issued and signed and the allocation was done, it was only at that point that the beneficiaries would be linked to a stand number.

3.3.3.2.9 According to the Department, this was not the only project where the number of subsidy applications processed and approved exceeded the number of stands serviced and houses constructed. This problem was common throughout the province. The Department and the Municipality took a decision to prioritise approved beneficiaries in the subsequent projects. However, there was not sufficient land to cater for new development as most of government owned land was dolomitic.

3.3.3.2.10 The Department was aware that all beneficiaries whose subsidies were approved but not allocated houses were unable to benefit in other areas. As such, they were considering implementing a system where beneficiaries will be deregistered from the HSS in order to enable them to benefit from future projects.

3.3.3.2.11 Due to the fact that this was a greenfield project (an RDP housing development project in a new area) beneficiaries were allocated dummy/reference numbers because allocation was usually not made against the stand or a house. In Greenfield projects, approval of subsidy applications could be done prior to allocation of stands and provision of services.

3.3.3.2.12 Once the RDP house had been built, inspected and approved by the Department’s Quality Assurance Unit, a qualifying beneficiary was informed and called for inspection of the house. If the beneficiary was satisfied he/she must sign the necessary documentation and the keys were handed over to the beneficiary to take occupation. Houses in Lakeside Estates Extension were allocated immediately after completion. The delay experienced was the last 20 houses of the
project, due to the fact that the qualifying beneficiaries were not coming forth for allocation, although the Department took all reasonable steps to allocate the houses immediately after completion.

3.3.3.2.13 In Eden Park Extension 5, housing development had been identified for 1996/1997 waiting list beneficiaries from Greater Alberton area, which also included beneficiaries from Thokoza, Katlehong and Vosloorus. However, during 2008 approximately 903 houses were invaded by community members from Eden Park Township. As a result, the Department and the Municipality took the matter to court. On 21 September 2012, the High Court ruled in favour of the illegal occupants and the case was dismissed with costs. The Department and the Municipality applied for leave to appeal the decision and it was granted by the Court and the appeal will be heard by the Court of Appeal.

3.3.4 Mpumalanga

3.3.4.1 The following issues were raised in relation to allocation of RDP housing:

3.3.4.1.1. The complaints raised were that people have been placed on waiting lists for some time. For example, residents of Mooiplaas, Ekulindeni, Elukwatini, and Moremela complained that they applied for housing subsidies in 2003 and to date they have not been approved for an RDP house.

3.3.4.1.2. Further complaints raised were that municipalities were not responding to the applications made to them. For example, residents of Mooiplaas, Steynsdorp, Moremela and Matibidi have indicated that municipalities are not responding to applications for housing subsidies.
3.3.4.2 Government’s Response

3.3.4.2.1 In the letter dated 30 April 2014, the Department indicated that due to some irregularities by municipal councillors and officials, it has introduced a monitoring mechanism to monitor the administration of the beneficiary management system. In this regard, Regional Deputy Directors responsible for the verification of the subsidy qualification criteria had been appointed. The Department were to assess every application to determine if the applicant qualifies and thus minimise complaints of nepotism by councillors and officials.

3.3.4.2.2 The process of identifying beneficiaries had been delegated to municipalities who were custodians of beneficiaries’ database. However, different grading levels in terms of the Accreditation of municipalities’ policy had been allocated to municipalities to handle the administration of the beneficiary management system. The grading system determines the functions a Municipality may perform with regard to the administration of beneficiary management administration.

3.3.4.2.3 The qualification criteria were detailed in the Beneficiary Management Policy approved on 4 of December 2013. According to this policy, the applicant had to satisfy the following criteria:
(a) Be a resident of the Republic of South Africa;
(b) Be competent to contract;
(c) Have not previously benefited from a housing subsidy scheme; and
(d) Have not previously owned a fixed residential property.

3.3.4.2.4 In addition to the above criteria, the applicant had to satisfy one or more of the following requirements:

(a) Married or cohabitating;
(b) Single with financial dependents;
(c) The gross monthly household income must not exceed the maximum limit as approved by the Minister from time to time;
(d) Child-headed households;
(e) Persons living with disabilities;
(f) Persons classified as aged; and
(g) Persons who are beneficiaries of the Land Restitution Programme.

3.3.4.2.5 Through the three appointed Deputy Directors, the Department would monitor and prioritise the placement of needy beneficiaries. This was intended to minimise complaints relating to allocation of RDP houses.

3.3.4.2.6 In a nutshell, it was the municipalities that identified the beneficiaries and the Department approved the beneficiaries after being satisfied that the beneficiaries met the requirements in terms of the Beneficiary Management Policy and had been verified against the Human Settlements System.

3.3.5 Kwa Zulu Natal

3.3.5.1 The following issues were raised in relation to allocation of RDP housing:

3.3.5.1.1. The issues raised under allocation related to the allocation of houses to unintended beneficiaries and allegations relating to the removal or changing of names on the beneficiary lists.

3.3.5.1.2. Complaints were raised relating to bias and corrupt activities on the part of officials in that RDP houses were allocated to the families and or friends of officials. There were also allegations that some officials had sold RDP houses and further that such houses were knowingly given to persons other than the rightful beneficiaries.
3.3.5.2 Government’s response

3.3.5.2.1 In a letter dated 14 May 2014 the MEC mentioned that the Department noted and acknowledged concerns raised with regard to allocation of RDP houses. In the Province, all allocations of RDP houses were undertaken by municipalities through the Implementing Agents in consultation with the relevant Project Steering Committee and Ward Councillors.

3.3.5.2.2 The Implementation Agents thereafter submitted completed subsidy application forms for all beneficiaries to the Department, for verification and approval on the HSS. Investigations by the Department revealed gaps which resulted in an allocation policy being developed.

3.3.5.2.3 The Department is currently investigating complaints from the public related to misallocation of houses in 2 housing projects, viz Mtubatuba Housing Project and Vryheid Housing Project. Preliminary investigations revealed the need for a multi-disciplinary team of professionals to be appointed to address the findings. The Department appointed these teams to investigate and resolve the challenges.

3.3.5.2.4 The Department resolved several cases in Brackenham Housing and Copesville Housing Project.

3.3.6 Limpopo

3.3.6.1 The following issues were raised in relation to allocation of RDP housing:

3.3.6.1.1 In Thabazimbi Local Municipality, residents of Matikiring alleged that 906 RDP houses had been approved, but not yet allocated. Raphuti residents alleged that municipal ward councillors were leasing RDP houses to people of Pakistani origin. Some residents complained that
Councillors were involved in the allocation of houses as well as the administration of the application process. They determined who should get a house.

3.3.6.1.2 Residents of Smashblock alleged that RDP houses were allocated to applicants who were in possession of “happy letters” but the houses had been illegally occupied by other people.

3.3.6.1.3 Residents of Phalaborwa, Mopani district raised concerns relating to the undue delay by Ba-Phalaborwa Municipality to issue RDP houses.

3.3.6.2. Government’s response

3.3.6.2.1 In a letter dated 19 July 2013, the Head of Department mentioned that the Department had conducted an investigation and in relation to the allegations of undue delay by the Ba-Phalaborwa Municipality to issue RDP houses, decided that the affected beneficiaries would be prioritised in the next housing allocations.

3.3.6.2.2 The Head of Department indicated that it was agreed that the Ba-Phalaborwa Municipality would provide the Department with the development areas to cater for the beneficiaries in the next housing allocations. The Department and the Municipality would liaise with the community of Phalaborwa about the programme of action.

3.3.6.2.3 The Department provided the Public Protector team with a progress report relating to the illegal occupation of RDP houses in Northam Extension 7. In terms of the progress report the Department highlighted that most of the RDP houses were occupied illegally by people mostly working in the mines.

3.3.6.2.4 A task team was established to deal with the verification of beneficiaries. The task team responsible was composed of municipal and COGHSTA officials from risk and legal services, South African
Police Services, Community Development Workers, Councillors, Ward Committees as well as representatives from the office of the Minister.

3.3.6.2.5 The task team from COGHSTA was deployed to Northam extension 7 for the consultation process. On arrival, the residents of Northam extension 7 were not co-operative and the task team was intimidated, as a result the team could not proceed. The verification process was on-going.

3.3.6.2.6 With regard to the issues relating to the allegations of illegal allocation of RDP houses by Councillors and the illegal occupation of RDP houses by unintended beneficiaries, COGHSTA conceded that it was aware of the aforementioned issues within the area.

3.3.6.2.7 The Department provided the Public Protector team with a progress report relating to the illegal occupation of RDP houses in Northam Extension 7. In terms of the progress report the Department highlighted that most of the RDP houses were occupied illegally by people mostly working in the mines.

3.3.6.2.8 A task team was established to deal with the verification of beneficiaries. The task team responsible was composed of municipal and COGHSTA officials from risk and legal services, South African Police Services, Community Development Workers, Councillors, Ward Committees as well as representatives from the office of the minister.

3.3.6.2.9 The task team from COGHSTA was deployed to Northam extension 7 to start with the process of consultation. On arrival, the residents of Northam extension 7 were not co-operative and the task team was intimidated, as a result the team could not proceed. The verification process was on-going at that time.

3.3.6.2.10 With regard to the issues relating to the allegations of illegal allocation of RDP houses by councillors and the illegal occupation of RDP houses
by unintended beneficiaries, COGHSTA conceded that it was aware of the aforementioned issues within the area.

3.3.6.2.11 COGHSTA mentioned that it will embark on a process of conducting an audit which will guide the Municipality on regularizing of occupation, estimation of the volume of services required to cater for the number of beneficiaries and basic services to be installed. The Department mentioned further that the consultation by the COGHSTA task team and the members of the civil society was also on-going.

3.3.7. North West

3.3.7.1. The following issues were raised in relation to allocation of RDP housing:

3.3.7.1.1 There were common complaints raised relating to undue delays in processing applications for RDP housing subsidies. It emerged that some residents who applied as early as 1995 and 1996 were still waiting for their subsidies to be processed. For example, in the City of Matlosana Local Municipality, Complainants alleged that they applied for subsidies for RDP houses as early as 1995.

3.3.7.1.2 The second common issue identified related to residents whose subsidy applications were approved but not allocated houses.

3.3.7.1.3 The third common issue identified related to instances where applications were approved and houses were constructed, but they were allocated to other people. The following are examples of these instances:

(a) In the City of Matlosana Local Municipality, one resident alleged that her house was given to a person who was an employee of Eskom. At the time, the house was given away she was in hospital. She indicated
that while someone was enjoying the benefit of her house she was without a house and has a chronic heart disease, diabetes and high blood pressure.

(b) Another resident alleged that the Housing Manager informed her that the Municipality was building her an RDP house somewhere and that construction has started. It is only after they had built her a house that she will get occupation. Presently, the municipal services account were in her name and she was not living in the house or utilising the municipal services.

(c) Another Complainant alleged that someone living in his RDP house opened a tavern. The councillor took the Complainant’s permit and said it has been taken by people in Mafikeng.

3.3.7.1.4 It was further identified that there were issues relating to instances where approved beneficiaries were forced to sign “happy letters” despite the fact that there was no RDP houses allocated to them. Although this was not a common issue across all the provinces it was at least raised in two different areas. The following are examples of complaints raised relating to this issue:

(a) In Dinaledi Municipality, Matlonyane village residents were allegedly forced to sign “happy letters” despite the fact that no houses were allocated to them.

(b) In Mafikeng Local Municipality, Ext 39 Mmabatho residents were allegedly also forced to sign “happy letters”. The matter was reported to the Municipality and nothing was done.
3.3.7.2 Government's response

3.3.7.2.1 During the meeting held on 30 September 2014, the Department conceded that there were serious challenges related to the allocations of RDP houses across the province. This was mainly caused by the fact that the Department was relying on municipalities when it comes to allocation of RDP housing and identification of beneficiaries.

3.3.7.2.2 The responsibility to allocate houses was delegated to municipalities. However, the Department was not apportioning the blame to municipalities.

3.3.7.2.3 The Department also acknowledged that they were aware of a number of people who applied as early as 1995 and 1996 whose subsidies were not processed. The Department was also aware of beneficiaries whose subsidies were approved but not yet allocated.

3.3.7.2.4 In order to address issues relating to allocation, the Department had developed and implemented a Housing Needs Register (the HNR). The HNR was to assist the Department to identify beneficiaries who were in need of houses. The Department had accordingly plan in line with the information contained on the HNR.

3.3.7.2.5 The Department also mentioned that the HSS introduced by the National Department of Human Settlements was also a good system that would assist in addressing allocation issues. The Department had identified officials who would identify those beneficiaries on the HSS whose subsides were approved but not yet allocated.

3.3.8. Northern Cape

3.3.8.1. The following issues were raised in relation to allocation of RDP housing:
3.3.8.1.1. Common issues were raised relating to beneficiaries who were on waiting list since 1996. Some residents applied for RDP housing subsidies in 1996 and others in 1999. The majority of residents applied for subsidies in 2002 and 2006 and they still had not received houses.

3.3.8.1.2. Some of the issues raised related to instances where a person applied for a house in 1996, and although various RDP housing projects had been implemented, the applicant’s name was removed from the list.

3.3.8.1.3. One of the common issues raised related to instances where RDP houses were allocated to people who did not reside within the same town/Municipality.

3.3.8.1.4. Complainants further raised complaints concerning substitution of beneficiaries from the list with friends and families of municipal councillors and officials in De Aar.

3.3.8.1.5. Complaints were also raised about contractors allocating houses to beneficiaries who were not on the beneficiary list. One Complainant mentioned that her house was approved, but was allocated to somebody else by the contractors. She further alleged that her house was rented out to a policeman. She also mentioned that the municipality sends invoices under her name.

3.3.8.1.6. In some instances, where a beneficiary is deceased, the Municipality or the Department of Human Settlements’ system would indicate that the house was still registered under the name of the deceased, when someone else is occupying the house.

3.3.8.2 Government’s response

3.3.8.2.1 The HOD mentioned that municipalities are developers in the province and are therefore responsible for the housing application process. There were also municipalities that were delegated some of the housing
functions. The Housing Demand Database was managed through the District municipalities and some accredited municipalities.

3.3.8.2.2 With regard to the issues of illegal allocation of RDP Houses, the HOD mentioned that problems arose where the houses were still owned by municipalities. This created problem where the Municipality had to evict illegal occupiers unless the house was registered to a particular beneficiary. The only possible solution was to find an alternative site to accommodate the legitimate beneficiary. In Sol Plaatjie Municipality there were no sites available to accommodate beneficiaries.

3.3.8.2.3 The following was the status report on housing need in the Northern Cape:

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Total–Informal Households (Housing Need)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Namakwa District Municipality</td>
<td>2 092</td>
</tr>
<tr>
<td>Pixley-ka-Seme District Municipality</td>
<td>6 725</td>
</tr>
<tr>
<td>Siyanda</td>
<td>12 612</td>
</tr>
<tr>
<td>Frances Baard</td>
<td>17 299</td>
</tr>
<tr>
<td>John Taolo Gaetsewe</td>
<td>14 369</td>
</tr>
<tr>
<td>Total</td>
<td>53 097</td>
</tr>
</tbody>
</table>

3.3.9. Western Cape

3.3.9.1 The following issues were raised in relation to allocation of RDP houses:

3.3.9.1.1 The issue of undue delay in the provision of RDP houses where people alleged to have been on the waiting list for a considerable period of time was raised.
3.3.9.1.2 Issues of people with disabilities being marginalised and allegations of favouritism being shown to certain beneficiaries were also raised. Mr JC Mohamed on behalf of DEAFSA complained that a number of deaf people were not being allocated houses in the Province.

3.3.9.2 Government's response

3.3.9.2.1 In terms of the letter dated 26 October 2014, Mr Madikizela mentioned that some of the people who complained about being on the waiting list for a long time only applied in 2009.

3.3.9.2.2 According to Mr Mguli, allocation of houses in the Province was done primarily by the respective municipalities who served the role of a developer. In this regard, the Department will only an oversight role.

3.3.9.2.3 The Premier reported that in 2010, the Western Cape Housing Demand Data Improvement Programme (WCHDDIP) was initiated in order to address fairness and inaccuracy of housing demand data. After the WCHDDDB was born, the database was designed to be utilised as a tool for the selection of beneficiaries for Greenfields subsidy housing projects. The identity numbers of beneficiaries were ran against the HSS to identify applicants who were either deceased or had already benefited from the scheme.

3.3.9.2.4 The Premier reported that in September 2012, the Department formally adopted a framework policy of norms and standards for municipalities to select beneficiaries termed the "Western Cape Provincial Framework Policy (the Framework Policy) for the Selection of Housing Beneficiaries in ownership-based subsidy projects". The purpose of the framework was to enhance the fairness and transparency of processes used by municipalities when selecting beneficiaries. In terms of this framework, municipalities were urged to select beneficiaries in the order in which
they were registered for housing assistance on the municipal databases, commencing from the oldest to the most recent registration.

3.3.9.2.5 During the meeting with Mr Mguli, he further clarified that allocation of housing should also take into account various factors such as the age of the beneficiary, beneficiaries in need, the number of dependants the beneficiary has, etc. He reiterated that the above-mentioned Provincial Framework Policy was adopted to deal with the unending issues and complaints which arise during allocation.

3.3.9.2.6 In the letter dated 26 October 2012, Mr Madikizela indicated that in terms of the City of Cape Town’s allocation policy, 15% of all housing projects were allocated to people with special needs. He also emphasised that the date of application or registration onto the demand database was also used.

3.3.9.2.7 Mr Mguli disputed the allegation of councillors being responsible for allocation and indicated that the Political Principals like Ministers and Councillors may only play a symbolic role of handing over the keys. He asserted that communities sometimes confuse these gestures with the administrative task of allocating houses which was undertaken at the municipal level. Furthermore, the Political Principals may also be involved in bringing a plight of a particular beneficiary to the municipality’s attention, however, it was the Municipality as the administrator that takes the decisions.

3.3.9.2.8 Human Settlement Development Grant (HSDG) expenditure and delivery per metro and districts.
<table>
<thead>
<tr>
<th>MUNICIPALITY</th>
<th>ALLOCATION</th>
<th>EXPENDITURE</th>
<th>DELIVERY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Houses</td>
</tr>
<tr>
<td>City of Cape Town</td>
<td>733 484 000</td>
<td>733 484 000</td>
<td>4939</td>
</tr>
<tr>
<td>Provincial Districts</td>
<td>228 912 000</td>
<td>278 868 000</td>
<td>564</td>
</tr>
<tr>
<td>Winelands District</td>
<td>254 350 000</td>
<td>200 533 000</td>
<td>1 997</td>
</tr>
<tr>
<td>Overberg District</td>
<td>121 089 000</td>
<td>118 130 000</td>
<td>852</td>
</tr>
<tr>
<td>Central Karoo District</td>
<td>37 124 000</td>
<td>36 778 000</td>
<td>483</td>
</tr>
<tr>
<td>Eden District</td>
<td>293 402 000</td>
<td>285 286 000</td>
<td>1 557</td>
</tr>
<tr>
<td>West Coast District</td>
<td>114 049 000</td>
<td>110 636 000</td>
<td>750</td>
</tr>
</tbody>
</table>

3.4 Issue 4 Post Allocation

3.4.1 Eastern Cape

3.4.1.1 The following issues were raised relating to post allocation of RDP houses:

3.4.1.1.1 There were a number of Complainants who had issues relating to the RDP houses which were already allocated to them. Some of the complaints related to failure by the state to ensure that title deeds are issued to the Complainants. Other complaints related to substandard RDP houses being allocated and/or structural defects in the RDP houses which were allocated. Another issue raised was the illegal sale of RDP houses by the beneficiaries after allocation.

3.4.1.2 Complaints were raised relating to the quality of the houses built. For example residents of Sakhisizwe Local Municipality complained
about the substandard houses wherein some of the houses had cracks and when it rains water seeps through the walls.

3.4.1.2 Government's response

3.4.1.2.1 The Department conceded that the houses that were built around the year 2002 were substandard. However, the Department was in the process of rectifying these houses under project Cala 514. The contractors had recently been appointed for these houses and the Department was in the process of finalising the procurement process.

3.4.1.2.2 There were 140 000 units identified for rectification which were built over the past 20 years. National government had capped the budget for rectification at 10% of the housing budget. In 2011 the Department introduced a new service delivery model to address challenges which focussed on developing the regions.

3.4.2 Free State

3.4.2.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.2.1.1 Issues were raised relating to the quality of RDP houses which were constructed and allocated. For example in Mangaung Municipality, residents raised concerns about houses which were built from material other than bricks.

3.4.2.2 Government's response

3.4.2.2.1 During the meeting held on 20 May 2013, the MEC mentioned that the Department had implemented processes and procedures in order to eliminate the risk of poor quality houses. No payment will be made without obtaining five verifications of all the building milestones which
include inspections by the Department and municipal inspectors, departmental engineers, and NHBRC and NURCHA inspectors.

3.4.2.2.2 The MEC mentioned further that an amount of R50 million was ring-fenced within the Human Settlements grant for the 2013/14 financial year under the rectification programme to specifically address the issue of RDP defective houses.

3.4.2.2.3 The MEC highlighted that the Department was able to secure the technical assistance of 10 Cuban professionals which included 8 Civil Engineers and 2 architects who were placed within the Department for a period of 3 years under the bilateral agreement between the Cuban and South African governments. The Department also redefined key positions at district level and revised job descriptions from the level of Assistant Director and higher, with the aim of eliminating the risk of poor quality houses.

3.4.2.2.4 Mr. Mokhesi mentioned that the Department took a policy decision that for the 2013/2014 financial year, the budget would be utilised for defective/unfinished houses and that no new project would be started.

3.4.3 Gauteng

3.4.3.1 The following issues were raised in relation to allocation of RDP houses:

3.4.3.1.1 Complaints were raised relating to failure by the Department to renovate defective houses. Concerns were also raised about houses being sold to people who under normal circumstances would not qualify prior to the expiry of the 8 year period as stipulated in the policy.

3.4.3.1.2 There was a general feeling that the problem of incorrect allocations resulted in people being evicted from houses. Some were evicted from the houses due to the fact that they owe the municipality.
3.4.3.1.3 In the City of Ekurhuleni Metropolitan Municipality (EMM), it was alleged that Lakeside RDP houses were built in a water filled area. Some residents were moved to another area but the majority remained in Lakeside.

3.4.3.1.4 It was also alleged that RDP houses were not transferred into the names of the beneficiary’s dependants after his/her death.

3.4.3.1.5 It was further alleged that people were evicted from RDP houses as a result of allocations done by the Department. In certain instances, the people were evicted due to the fact that they owe the municipality.

3.4.3.2 Government’s response

3.4.3.2.1 With regard to the issue where the Department allocates houses to people who never occupied the houses, this was identified by the Department as an issue since 2006, more especially in the area of Phola Park. During an occupancy audit that was carried out by the EMM, it was found out that out of 292 beneficiaries that were previously allocated serviced sites, only 121 matched the original data captured by the municipality.

3.4.3.2.2 It was noticed that 171 beneficiaries were no longer on their serviced sites.

3.4.3.2.3 In an effort to address the problem, the Municipality obtained a Council resolution to regularize the current occupants that were found on the serviced stands. Subsequently, an advertisement was placed whereby the original occupants on the EMM database were requested to come forward within a period of 30 days. It was also stated that if beneficiaries did not claim their stands or approach the Department, then priority would be given to the person residing on the serviced stand, should
they qualify for a subsidy. If they do not qualify for a housing subsidy, a person on the waiting list would then be allocated a serviced stand.

3.4.3.2.4 Some of the beneficiaries came forward and they were placed on stands and subsequently received houses. “Happy letters” were signed and issued. However, some beneficiaries did not present themselves to the Department during the said period and subsequently forfeited their right to the subsidized house.

3.4.3.2.5 It was later found that a number of approved beneficiaries have since vacated the stands/houses and placed tenants in the house. This appears to be an ongoing challenge faced by the Department.

3.4.3.2.6 There were certain beneficiaries who previously occupied the serviced sites who applied for housing subsidies and were approved for houses and houses also constructed. As the houses were ready for occupation, it was discovered that the beneficiaries left the area and placed tenants with the promise that the tenants would be allocated the houses. As a result, the Department did not allocate the houses under these instances and no “happy letters” were signed and issued.

3.4.3.2.7 The Department was faced with a serious challenge when beneficiaries approach the Department and apply for housing subsidies, and later the same applicants rented out their houses. The Department took a decision to conduct another occupancy audit of all 292 stands in order to determine the number of houses that were allocated to approve beneficiaries who subsequently vacated their houses and placed tenants inside the houses. Once the exercise was completed the Department was to make a decision on how to deal with the matter.

3.4.3.2.8 The Department explained that the Law of Succession was taken into account in instances where parents were in possession of a title deed. Minor children were given the opportunity to inherit their late parent’s registered house. Where the children were allocated or in occupation
but prior to the finalization of the registration, one of the conditions was that an older person or relative should be appointed as guardian. After they had reached the majority age, such children can then fully inherit the house.

3.4.3.2.9 The Housing Policy allows beneficiaries to sell their houses after a period of eight (8) years from the date of completion. However, the policy did not make any reference with regard to renting of houses. But it is presumed that beneficiaries who rent their houses are doing so at their own risk and arrangements.

3.4.4 Mpumalanga

3.4.4.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.4.1.1 There were issues raised concerning houses which were sold illegally. For example, residents of Mbombela Municipality indicated that houses illegally sold were converted into taverns.

3.4.4.1.2 Further complaints about poor workmanship were raised by residents. Further, some of the houses were without plastering whilst others were left without a roof.

3.4.4.2 Government's response

3.4.4.2.1 During the meeting held on 10 April 2014, the Department indicated that they were not aware of houses that were sold illegally.

3.4.4.2.2 In a letter dated 30 April 2014, the Department reported that where there was an issue of structural defects, poor workmanship or incomplete houses, a normal legal process was followed.
3.4.4.2.3 Where the discovery was made during the construction or the running of the project, the contractor was instructed to rectify or demolish or rebuild the house at its cost.

3.4.4.2.4 Where the discovery was made before the expiry of a 5 year period, the rectification process was undertaken by the NHBRC. In this regard, the project must have been enrolled with the NHBRC in order to provide a warranty to the contractor.

3.4.4.2.5 Where the discovery was made after the expiry of 5 years, the Department, depending on the severity of the problem, may resolve the problem through a rectification programme\(^1\) designed to deal with such problems.

3.4.4.2.6 In cases of incomplete houses, new contractors were appointed to deal with those problems at the cost of the Department or a municipality.

3.4.5 Kwa Zulu Natal

3.4.5.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.5.1.1 There were a number of Complainants who had raised issues relating to RDP houses which had already been allocated to them. Other complaints relate to substandard RDP houses being allocated and structural defects in the RDP houses which were allocated. Another issue raised was the illegal sale of RDP houses by the beneficiaries after allocation.

3.4.5.2 Government’s response

3.4.5.2.1 Regarding structural defects the Department acknowledged that both post and pre 1994 projects had defects. These projects were in the

\(^{1}\) In terms of the Housing Code.
project pipeline for rectification in accordance with the National Housing Rectification Programme. The under-mentioned projects were some of the projects that had structural defects and were in the process of rectification. It must be noted that these projects were to be rectified over a MTEF period due to funding constraints.

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>CHALLENGES</th>
<th>INTERVENTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>KwaMashu projects</td>
<td>Pre 1994: Houses are very old and have structural defects due to poor storm water drainage and no maintenance</td>
<td>The project is in construction</td>
</tr>
<tr>
<td>Lamontville</td>
<td>Pre 1994: Houses are very old and have structural defects due to poor storm water drainage and no maintenance</td>
<td>The project is in construction</td>
</tr>
<tr>
<td>Umlazi</td>
<td>Pre 1994: Houses are very old and have structural defects due to poor storm water drainage and no maintenance</td>
<td>The project is in construction</td>
</tr>
<tr>
<td>Ezakheni, Argosi Farm, Edendale,</td>
<td>Post 1994: Structural defects due to poor workmanship and inferior building material utilised. Project was not</td>
<td>Ezakheni and Edendale projects are under construction. Argosi Farm project will start 2015.</td>
</tr>
<tr>
<td>PROJECTS</td>
<td>CHALLENGES</td>
<td>REMEDIAL MEASURES</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Horseshoe and Shayamoya</td>
<td>Informal sale of houses to non-qualifying beneficiaries and foreigners</td>
<td>Department is appointing professionals to undertake a door to door investigation and provide solutions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Department is appointing professionals to undertake a door to door investigation and provide solutions</td>
</tr>
<tr>
<td>Edendale H</td>
<td>Houses were invaded by illegal occupants</td>
<td>Department is appointing professionals to undertake a door to door investigation and provide solutions</td>
</tr>
</tbody>
</table>

4.5.2.2 Regarding the issue on illegal sale of RDP Houses the Department mentioned that there were allegations that houses were being sold by the rightful beneficiaries to other non-qualifying beneficiaries illegally, despite the 8 year pre-emptive clause in the Title Deed. The Department had undertaken a sample forensic investigation in the following projects:
3.4.5.2.3 Furthermore, the Department has intensified housing consumer education to beneficiaries with regard to home ownership and the importance of Title Deeds. As and when cases were referred to the Department they would be investigated.

3.4.5.2.4 The Department was in the process of appointing an Ombudsperson to assist with housing complaints.

3.4.5.2.5 On the issue regarding shoddy workmanship the Department stated that:

(a) Since 2010 the Department had enforced the enrolment of each home with the NHBRC, who assumed the risk for the structural stability and construction standards and methodology in terms of the “Housing Consumer Protection Act, 1998 which provided the stipulated frameworks in terms of latent defects. The NHBRC was vested with the appropriate powers to deal with non-performing service providers, as the custodian of the home builders registration database.

(b) Furthermore, additional quality assurance inspectors were appointed to ensure that all houses being built are of quality and in compliance with the NHBRC norms and standards.

(c) The Department had 19 building inspectors and went on an intensive recruitment drive and appointed an additional 34 building inspectors.

3.4.6. Limpopo

3.4.6.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.6.1.1 In Thabazimbi Local Municipality, residents alleged that RDP houses allocated to them had structural defects. Most of the houses were
already falling apart in that they were already cracking, some very badly to an extent that they were not suitable for occupation.

3.4.6.1.2 Residents of Ga-Rena, in Polokwane Municipality complained that they do not have basic services, and that their water and electricity were cut by the City of Polokwane.

3.4.6.2 Government's response

3.4.6.2.1 During the meeting held on 4 September 2013 with the Public Protector team, Polokwane Housing Association (PHA) and the residents of Ga-Rena, it was established that there was no compliance by the residents of Ga-Rena in that the residents had not been paying their monthly rentals and municipal rates as required.

3.4.6.2.2 The representatives of the residents of Ga-Rena conceded that there were some residents who had stopped paying rental and for water. A consensus was reached between the PHA and the representative of Ga-Rena that the latter should inform residents that they have a contractual obligation to pay their monthly rentals and Municipal rates.

3.4.6.2.3 It was agreed further that those who were unable to pay their monthly rentals should approach the PHA and make arrangements on how the existing debts would be paid. The representatives of the Ga-Rena residents made an undertaking to convey the message to all residents.

3.4.6.2.4 Once all residents who were in arrears started paying and once payment arrangements were made, the Municipality would then present to council a proposal relating to the selling of units to residents.

3.4.6.2.5 Ms Dikotla mentioned that the Department had embarked on a process of addressing issues relating to defective RDP houses through the Rectification Programme.
3.4.7 North West

3.4.7.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.7.1.1 With regard to the North West the common issue identified related to houses built which were substandard and defective. There were several complaints relating to the standard of houses constructed. A majority of those houses were reported to have cracks and roof leaks. The following were examples of substandard houses issues raised:

(a) In the City of Matlosana Municipality residents of Extensions 3, 5, 6 and 11, Jouberton, complained about shoddy work done in the building of their RDP houses. Their complaints related to cracks, leaking roofs, doors and windows that did not close properly. They reported the defects to the Housing Manager, Mr Phala who allegedly told them that they had signed “happy letters” and that they had three months within which to complain. There has since been a lapse in time.

(b) In 2007 heavy floods destroyed most of the RDP houses. The matter was reported to the Municipality which informed beneficiaries that the province was attending to the matter. Some people had their houses fixed whereas others were left without a solution. Even then, their houses were still unattended. Some elected to repair their houses rather than wait for the province to do so.

3.4.7.2 Government’s response

3.4.7.2.1 During the meeting held on 30 September 2014, the Department acknowledged that it was aware of houses constructed which were substandard. They mentioned further that these were because the province was predominately rural and some of the projects were not
enrolled with the NHBRC because in the beginning the NHBRC was focusing on urban areas.

3.4.7.2.2 All regional Directors’ performance agreements contain a Key Performance Area relating to rectification of defective houses within their respective regions. The Department was involved in a number of rectification projects annually. However, it was not possible to rectify all the projects within one financial period due to financial constraints.

3.4.7.2.3 The Department also indicated that it had also strengthened its relations with the NHBRC in order to ensure that all future projects are enrolled with the NHBRC in terms of the provisions of Housing Consumers Protection Measures Act.

3.4.8. **Northern Cape**

3.4.8.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.8.1.1. In Emathanjeni and Umsobomvu Local Municipalities, many residents raised complaints relating to the size of the RDP houses.

3.4.8.1.2. The majority of complaints from RDP houses beneficiaries related to the quality of the houses. Residents raised complaints about houses with cracks, broken doorframes and window frames, and the quality of the walls.

3.4.8.1.3. Residents from Platfontein complained about the quality of the RDP houses built in the area. They mentioned that the houses have cracks because they were built from inferior materials. One Complainant raised the issue of the quality of bricks that were used to erect 1500 RDP houses in the area.
3.4.8.1.4. He further mentioned that the size of the houses was not the same (square metres are different because they range between 42 and 54 square metres).

3.4.8.2 Government’s response

3.4.8.2.1 During the meeting held on 15 May 2014, the HOD mentioned that there was a Rectification Programme that dealt with pre 1994 and post 1994 housing stock. On annual basis, the Department set a budget for the implementation of the Rectification Programme focusing on a specific project which required rectification. In the 2013/2013 financial year, the budget was directed to the Sol Plaatjie Municipality.

3.4.8.2.2 The HOD mentioned further that there was a list of projects identified by different municipalities. Projects were prioritised based on the severity of the defects. In some instances, beneficiaries will complain about maintenance problems which were not covered by the policy. In these instances, consumer education will be utilised to disseminate information on how to maintain the properties.

3.4.8.2.3 For new projects going forward, the National Department of Human Settlements projects were enrolled with the NHBRC. However, the budget for enrolment was still covered by the province.

3.4.8.2.4 In the event the defects were due to the contractor’s poor workmanship, such contractor was requested to rectify the defects at their own cost. Where the defect cannot be attributed to the contractor, the state bears the cost of fixing the defects. For example, 700 houses in Lonmin were rectified due to the soil condition.
3.4.9 Western Cape

3.4.9.1 The following issues were raised in relation to post allocation of RDP housing:

3.4.9.1.1 The issue of houses with structural defects was also raised against the Department. For example, in the City of Cape Town the Anti-Eviction Campaign complained that there were many houses in areas like Gugulethu, Philippi, Mitchells Plain, Eastridge and Hanover Park which were structurally defective.

3.4.9.1.2 The issue of the illegal sale of RDP houses was also raised during the stakeholder consultation. For example in the City of Cape Town, Khayelitsha residents raised concerns that there were RDP houses which were being sold illegally.

3.4.9.1.3 Issues were raised relating to indigent beneficiaries of the RDP houses who were unable to afford the basic maintenance of their houses.

3.4.9.2 Government’s response

3.4.9.2.1 During the stakeholder consultation, it was reported that the Western Cape Government had decided to rectify the houses which need to be repaired, despite the fact that the policy did not accommodate this.

3.4.9.2.2 Through her letter dated 16 May 2013, the Premier reported that the Department was implementing a Rectification Programme in the Western Cape within the strict confines or parameters approved by the Human Settlements MUBMEC in 2012. In terms of this programme, only beneficiaries living with defects arising from poor workmanship by contractors on houses that were built between 1992 and 2002 and not built through the PHP can benefit. The funding for the Rectification
Programme in a Municipality was limited to not more than 10% of its annual housing grant.

3.4.9.2.3 The National Department of Human Settlements had since roped in the NHBC to quality assure the houses at different stages in order to address the issue of structural defects and poor workmanship. Furthermore, the contracts awarded have a clause which places the responsibility of rectifying the defective houses on the contractors.

3.4.9.2.4 On the issue of illegal sales of RDP houses, the Department indicated that it had a policy which prevented the selling of houses before the expiry of 8 years and a similar clause is contained in the contract signed with a beneficiary. However, the challenge for the Department is detection of the sales as the houses were sold informally.

3.4.9.2.5 On the issue of illegal occupation or invasion of houses and the question of who is responsible for the eviction of the illegal occupier. The HOD emphatically said the Developer, i.e. the municipality or province, will be responsible to accord the rightful owner occupation of the house. He indicated that it was incorrect for a Municipality to refer the legal owners to seek recourse directly from the courts.

3.5 Issue 5: Title Deeds

3.5.1 Eastern Cape

3.5.1.1 The following issues were raised in relation to issuing of title deeds:

3.5.1.1.1 There was a common complaint that the Department was delaying to issue title deeds to RDP housing beneficiaries.

3.5.1.1.2 Residents further raised complaints relating to RDP houses which were not registered in the names of beneficiaries.
3.5.2 Free State

3.5.2.1 There was a common complaint that the Department was delaying to issue title deeds to RDP housing beneficiaries.

3.5.2.2 Government’s response

3.5.2.2.1 In a letter dated 25 September 2014, Mr Mokhesi conceded that there are delays in the issuing of title deeds. The delays were caused by beneficiaries’ response, deceased estates, unresolved succession cases and incorrect description of the properties.

3.5.2.2.2 Mr Mokhesi highlighted that the Department had appointed a service provider to assist with the HSS clean-up, which included the updating of the deeds field and compiling a report on projects that still require title deeds. The Department will allocate the registration of deeds amongst conveyancers on their database. The Department also requested attorneys to deliver all title deeds in their possession to the Department but only a few were received. The report on the deeds field on the HSS will assist to trace some of the attorneys who still have title deeds in their possession. Municipalities were requested to provide the Department with programmes of action for the handover of title deeds and monthly reports regarding their handover. The Department is facilitating the implementation of district fora to reinforce, emphasise and follow-up on the implementation of action plans on handover of title deeds.

3.5.2.2.3 Mr Mokhesi mentioned further that a total of 3638 title deeds were issued to beneficiaries of RDP houses in the 2013/2014 financial year. The Department handed approximately 7700 title deeds to municipalities for handover to individual beneficiaries. Municipalities must still issue 4062 title deeds. This figure excludes title deeds in the custody of municipalities prior to the handover of 7700.
3.5.3  **Gauteng**

3.5.3.1 In Gauteng there was a common complaint that the Department is delaying to issue title deeds to RDP housing beneficiaries.

3.5.3.2 **Government’s response**

3.5.3.2.1 The Department was in the process of registering title deeds. The process entails the registration and or transfer of the property into the names of the beneficiary and then thereafter the Department hands over the title deeds.

3.5.3.2.2 This process of registration and transfer of the properties was also dependant on other things such as:

(a) the opening of a township register and provision of the correct personal particulars, information and documentation by beneficiaries;

(b) the appointment of professionals to investigate and establish the status of opening of township registers per township with all projects situated in the specific township;

(c) the establishment of the status of transfers done per township to individual beneficiaries;

(d) liaison with the relevant Regions and Local Authorities to gather all available title deeds and compilation of a programme with timeframes for the issuing of outstanding title deeds to individual beneficiaries; and

(e) to speed up the delivery of house construction in certain townships where there is already an approved SG plan but awaiting the township register to be opened.
### 3.5.4 Kwa Zulu Natal

#### 3.5.4.1 In Kwa Zulu Natal there was a common complaint which relate to the failure of the state to ensure that title deeds are issued to the Complainants.

#### 3.5.4.2 Government’s response

#### 3.5.4.2.1 The Department acknowledged a backlog of title deeds that still had to be issued to beneficiaries. The following projects are listed:

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>CHALLENGES</th>
<th>REMEDIAL MEASURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wembezi and various projects in Edendale</td>
<td>Old Legislation allowed for the houses to be built without land consolidation being undertaken.</td>
<td>The Department is assisting the municipality with the consolidation and passing of transfers.</td>
</tr>
<tr>
<td>Oribi Village</td>
<td>Old Legislation allowed for the houses to be built without land consolidation being undertaken.</td>
<td>The Departments has appointed a professional team to undertake regularisation all the town planning issues. Once finalised the properties will be transferred to the beneficiaries.</td>
</tr>
<tr>
<td>R293 Townships</td>
<td>Old Legislation allowed for the houses to be built without land consolidation being undertaken.</td>
<td>The Department is assisting municipalities with the consolidation and passing of transfers to the beneficiaries.</td>
</tr>
<tr>
<td>Various Areas</td>
<td>Backlog in the Office of the State Attorney due to limited capacity.</td>
<td>The Department has augmented this capacity by appointing private conveyancers to fast track transfer of properties to the home owners.</td>
</tr>
</tbody>
</table>
3.5.4.2.2 The Department was fast tracking the issuing of title deeds to the rightful beneficiaries. In this regard, significant progress was made and to date 207,659 title deeds were issued.

3.5.4.2.3 The Department intensified housing consumer education to beneficiaries with regard to home ownership and the importance of title deeds. When cases are reported the Department will investigate.

3.5.5 Limpopo

3.5.5.1 In Limpopo the common complaint was that the Department was delaying to issue title deeds to RDP housing beneficiaries.

3.5.5.2 Government’s response

3.5.5.2.1 During a meeting held on 21 May 2014, Ms Dikotla conceded that the Department had a backlog in relation to the issuing of title deeds to RDP housing beneficiaries. She mentioned that the Department is responsible for issuing title deeds and that the Housing Code provides that a title deed must be issued to a beneficiary before taking occupation of the RDP house.

3.5.5.2.2 In a letter dated 27 August 2014, the Acting Head of Department, Mr. Nape Nchabeleng, conceded that there was a delay in the issuing of title deeds to RDP housing beneficiaries. Mr Nchabeleng highlighted that the delays were caused by incomplete township registers at the Deeds Office, which made it difficult for the Registrar to register title deeds, deceased estates and illegal occupation of RDP houses.

3.5.5.2.3 He also mentioned that the Department had appointed Conveyancers to update the township registers at the Deeds Office. The Conveyancers will liaise with the beneficiaries, municipalities and the Master of the High Court to assist with the registration of title deeds.
3.5.5.2.4. He further mentioned that there were policy gaps relating to the provisioning of title deeds. Co-habiting partners are not covered by policy provisions in case of separation/divorce in relation to section 10(a) and (b) of the Housing Act as amended, read with sections 13 and 14 of the Limpopo Housing Act which prohibit the selling or letting of these subsidised properties.

3.5.5.2.5. In polygamous marriages the family has an opportunity to get only one house. The policy does not cater for each spouse getting her own house. This had a negative effect on the possibility of housing everyone within the family.

3.5.5.2.6. An orphan who is under the age of 18 is not permitted to register for an RDP house. Such a person can only get a house with the assistance of a guardian. The challenge was that some guardians ultimately evict the beneficiary knowing that the property was registered in their names. As a result, the beneficiaries are left without shelter and the law does not cover such instances.

3.5.5.2.7. Finally, he mentioned that the Department has issued 17620 title deeds. The Department will issue 12072 title deeds to the RDP housing beneficiaries. A total of 3000 units have been earmarked for transfer in 2014/15 financial year.

3.5.6 Mpumalanga

3.5.6.1 In Mpumalanga the common complaint was also that there was an undue delay in the issuing of Title Deeds to the beneficiaries of RDP housing.

3.5.6.2 Government's response

3.5.6.2.1 In the letter dated 19 August 2014, the Department conceded that there was undue delay in the issuing of title deeds. The Department was
unable to provide the exact number of title deeds backlog except to say that the backlog on proclaimed townships did not exceed 25 000.

3.5.6.2.2 The delay was attributed to the townships which are not proclaimed. Furthermore, many townships in rural areas were still not proclaimed and thus made it difficult to issue title deeds in those instances. Some of these townships required steps for the state land release processes to be finalised and such settlements have Permission to Occupy (PTO).

3.5.6.2.3 Furthermore, the delays were also attributable to the issuing of Clearance Certificates by municipalities, long registration processes which include verification and untraceable beneficiaries to sign the Deeds of Sale.

3.5.6.2.4 The following were measures taken by the Department to prevent delays in issuing of title deeds:

(a) The engagement of Community Development Workers;
(b) Meetings with municipalities invoking section 118 of the Municipal Systems Act; and
(c) Targeting proclaimed townships as well as proclaiming the townships where RDP houses are in a majority.

3.5.7 North West

3.5.7.1 In North West, the common issue raised was relation to a complaint that the Department was delaying to issue title deeds to RDP housing beneficiaries.

3.5.7.2 Government’s response

3.5.7.2.1 The Department conceded that as the provincial government they were not performing well when it comes to the issuing of title deeds to
beneficiaries. As the Department, they mentioned that they did experience backlogs in respect of issuing of title deeds. There was a separate milestone dealing with the issuing of title deeds. The relevant policy was changed and it created problems for the Department.

3.5.7.2.2 However, the Department mentioned that they had introduced a new system in terms of which contractors will not be paid until the property has been transferred and registered in the names of beneficiaries. The backlog was a problem and they were considering appointing a conveyancer to assist therewith.

3.5.8 Northern Cape

3.5.8.1 The undue delay to issue title deeds to RDP housing beneficiaries was raised as a common complaint in Northern Cape.

3.5.8.2 Government's response

3.5.8.2.1. During the meeting held on 15 May 2014, the HOD mentioned that the transfer of land to the beneficiaries after the completion of the project was going well until they encountered difficulties with regard to the procurement of conveyancers. Subsequent to that, the Department decided to advertise a tender for procurement of conveyancers.

3.5.8.2.2. The other factor that contributed to the delay in issuing of title deeds to beneficiaries was proclamation of townships. In Sol Plaatjie Municipality, there was a project which was implemented and completed prior to the proclamation of the township.

3.5.8.2.3. The backlog in relation to issuing of title deeds was 28 430.
3.5.9 Western Cape

3.5.9.1 There was a general complaint that government was delaying in issuing title deeds to the beneficiaries of RDP houses.

3.5.9.2 Government’s response

3.5.9.2.1 Mr Mguli reported that the backlog or the number of outstanding title deeds between 1994 and 2010 was standing at 53 119. He conceded that there had been considerable backlog associated with the issuing of Title Deeds for RDP houses.

3.5.9.2.2 The study conducted in March 2011 indicated that since 1994, approximately 36% of subsidy beneficiaries had not received their title deeds. However, a total of 31 419 title deeds were issued since 2010 and the backlog was reduced from 36% to 25%.

3.5.9.2.3 The reasons attributed to the backlog were identified as follows:

(a) Land Ownership 8% - In some instances there were delays in the transfer of the land between public entities of the land where RDP houses were built.

(b) Town Planning Approval 6% - finalisation of proclamations of townships being curtailed by issues around rezoning and sub-divisional applications.

(c) Land surveying 14% - delays in the approval process of general plans, incomplete pegging, practical challenges within informal settlements where dwellings were built across boundaries and surveying challenges resulting in contracts being terminated.

(d) Conveyancing 30% - general delays during the conveyancing process.
(e) **Beneficiary and subsidy administration 43%** - the delays in the finalisation of this process.

4. **RECOMMENDATIONS**

Having considered the above issues and the periods of time that has lapsed since the issues were raised, I am making the following recommendations with a view to assisting the state to address the issues raised in the provisioning of RDP houses by the State:

4.1 **Planning**

4.1.1 The state should consider establishing a Compliance Monitoring Divisions to ensure that the required processes are complied with before the implementation of RDP projects.

4.2 **Procurement**

4.2.1 The aforementioned Compliance Monitoring divisions should also be tasked with monitoring compliance with prescripts in the procurement of RDP projects.

4.3 **Allocation**

4.3.1 The government should consider putting in place plans with clear timeframes to prioritise the adjudication of RDP house applications lodged between 1996 and 2006. Such plans should also have timeframes for the adjudication of applications lodged after 2006 to date.

4.3.2 The government should also adopt an effective communication strategy to disseminate information regarding the process and status of RDP house applications to applicants on a regular basis.
4.4 Post Allocation

4.4.1 The state should through “happy letters” advice beneficiaries on the process to be followed where structural defects are discovered after the handing over of RDP houses.

4.5 Title Deeds

4.5.1 The state should develop and adopt a strategy with clear timeframes on how to eradicate the existing backlog in the issuing of title deeds to beneficiaries.

ADV BUSISIWE MKHWEBANE
PUBLIC PROCTOR OF THE REPUBLIC OF SOUTH AFRICA
DATE: 23/08/2018