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EXECUTIVE SUMMARY OF FINDINGS AND OPINION

This executive summary must be read together with the full report, annexures and exhibits in this matter.

Mandate

1. The Public Protector in her report on the Passenger Rail Agency of South Africa ("PRASA") investigation, directed the Office of the Chief Procurement Officer ("OCPO") to conduct forensic investigations in respect of all PRASA contracts above R10 million from 2012 to date.
2. Bowmans was mandated by National Treasury to investigate 20 PRASA contracts above R10 million awarded by PRASA from 2012 to date, which included *inter alia* the Conogon contract.
3. National Treasury selected the 20 PRASA contracts that Bowmans had to investigate.

Summary of findings and opinion

Supplier Development Program

4. On 2 May 2012, a request (Request #1) was sent to the Group Chief Executive Officer ("GCEO") to approve the Supplier Development Program ("SDP").
5. This program was intended to provide BBBEE companies an opportunity to develop by working together with well-established companies after which they would be capable of executing mandates independently.
6. The GCEO approved the SDP on 14 May 2012.
7. Nine suppliers were added to the SDP during the first request.
8. Three additional requests were submitted to the GCEO for approval where additional suppliers were added to the SDP:
 - a. Request #2 - 17 suppliers added on 11 December 2012
 - b. Request #3 – 27 suppliers added on 11 December 2013
 - c. Request #4 – 26 suppliers added on 9 January 2015
9. A total of 63 suppliers formed part of the SDP (there was some duplications between the various requests, therefore the total suppliers are less than the number of suppliers added during each request).
10. It is unclear how the SDP suppliers were selected by PRASA.
11. The PRASA Supply Chain Management ("SCM") Policies dated February 2009 and September 2013, respectively, are both silent on the SDP process.

Contract – 2 February 2014

12. PRASA and Conogon Trading CC trading as Conogon Engineering, signed an agreement for “ad hoc repair work, call out and technical support on an ‘as and when’ required basis” on 2 February 2014, contract number PR/HO/RS/025/04/2013.
13. The contract valued was R22,000,000 (Twenty Two Million Rand) including VAT.

Irregular contract period

14. The contract commenced on 1 April 2014 and the date of completion was agreed as being 31 March 2019 (i.e. a period of five years).
15. It should be noted that the PRASA SCM policy does not allow for contracts exceeding a period of 3 years (except for certain exceptions which is not relevant to this contract). This contract with Conogon was for a five year period.

Conogon not accredited prior to signing of contract

16. PRASA issued Conogon with an accreditation certificate dated 8 October 2012. This accreditation certificate was valid for a period of three years, as opposed to the five year contract period.

No quotations found of Conogon

17. We found no evidence that a competitive bidding process was followed with the appointment of Conogon.

Outstanding vendor registration information

19. PRASA was unable to supply us with the vendor registration information for Conogon.

Nature of the business

20. Conogon's nature of business according to the company search is stated as “Agriculture hunting forestry and fishing”.
21. Conogon performed electrical and mechanical refurbishment of coaches that were vandalised. The work performed by Conogon was different to the nature of the business as registered with the Companies and Intellectual Property Commission (CIPC).

Outstanding documentation

22. Bowmans requested all the supporting documentation for each payment made by PRASA to Conogon. The documentation received was incomplete which resulted in:
 - a. We were unable to verify 81% of the amount paid by PRASA to Conogon, against Conogon invoices.
 - b. We were unable to agree 86% of the total amount paid by PRASA to Conogon against PRASA acceptance certificates.

Report
Department of National Treasury
PRASA Conogon Trading CC
Account: 111040
Ad hoc repair work, call out and technical support

December 2016

23. The PRASA supply chain management policies and procedures does not allow for the appointment of contractors without inter alia, a competitive bidding process. It appears that the appointment of Conogon was at the least irregular as envisaged in the PFMA.

Contents

1.	BACKGROUND	10
2.	MANDATE, PERIOD, REPORT FORMAT AND QUALIFICATIONS TO OUR REPORT	11
3.	PROCEDURES PERFORMED	12
4.	COMPANY INFORMATION.....	14
5.	VENDOR REGISTRATION INFORMATION.....	15
6.	PRASA SUPPLY CHAIN MANAGEMENT POLICY – FEBRUARY 2009 AND SEPTEMBER 2013	15
7.	PRASA SCM POLICY (FEBRUARY 2009) – UNSOLICITED BIDS (PARA 11.3.3)	16
8.	PRASA SCM POLICY (SEPTEMBER 2013) – CONFINEMENT (PARA 12.3.8)	16
9.	SUPPLIER DEVELOPMENT PROGRAM.....	17
10.	DR DANIEL MTIMKHULU	21
11.	AD HOC CONTRACTORS - PROCEDURES.....	21
12.	AUDIT OF THE SUPPLIER'S SYSTEMS, PROCEDURES AND PRACTICAL CAPABILITY	22
13.	TENDER APPOINTMENT OF CONOGON TRADING CC.....	23
14.	AGREEMENT BETWEEN PRASA AND CONOGON DATED 2 FEBRUARY 2014	23
15.	AD HOC CONTRACTS FOUND TO BE IRREGULAR AND TERMINATED BY PRASA	23
16.	INTERVIEW – MR TINO GABRYK (NATIONAL MAINTENANCE OPERATIONS MANAGER, ENGINEERING SERVICES, METRO FLEET, PRASA RAIL.)	24
17.	INTERVIEW – MR JOSEPH PHOKO (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG NORTH).....	25
18.	INTERVIEW – MR MARCUS SITHOLE (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG SOUTH)	27
19.	INTERVIEW – MR NEIL DUNDAS (DIRECTOR OF CONOGON)	28
20.	PAYMENTS MADE BY PRASA TO CONOGON	29
21.	QUOTATIONS SUBMITTED BY CONOGON TO PRASA	34
22.	PHYSICAL VERIFICATION OF THE AD HOC WORK	35
23.	CONCLUSIONS AND REMEDIAL ACTION	36
	ANNEXURES.....	37
	EXHIBITS.....	38

Abbreviations

Descriptions and explanations of abbreviations and terms relevant to this report are listed below. These descriptions and explanations are intended to simplify the report content and are not intended to be authoritative.

Abbreviation / term	Description
BBBEE	Broad-Based Black Economic Empowerment as defined in the Broad Based Black Economic Empowerment Act no 53. of 2003.
Bowmans	Bowmans Inc., forensic investigators for National Treasury.
CIDB	Construction Industry Development Board
Conogon	Conogon Trading CC, registration number 2009/017099/23. Conogon was converted to a private company in 2015 and its new registration number is 2015/382095/07.
GCEO	Group Chief Executive Officer
Metrorail	Metrorail operates commuter rail services in urban areas
Dr Mtimkhulu	Dr Daniel Mtimkhulu, the former Executive Manager: Engineering Services
Dr Phungula	Dr Josephat Phungula, former Group Chief Procurement Officer
Mr Bopape	Mr Maishe Bopape, former Senior Manager of PRASA SCM
Mr Brian Dundas	Mr Brian William Kelvin Dundas, identity number 491 102 5095 088. Mr Brian Dundas is a director of Conogon.
Mr Gabryk	Mr Tino Gabryk, National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail.
Mr Khenani	Mr Nkosinathi Khenani, acting GCEO during 2015
Mr Kumalo	Mr Stanley Bhekumuzi Kumalo, identity number 630102 6133 088. Mr Kumalo is a director of Conogon.
Mr Mofi	Mr Mosenngwa Mofi, CEO PRASA Rail
Mr Montana	Mr Tshepo Lucky Montana, former GCEO of PRASA

Abbreviation / term	Description
Mr Mphafudi	<p>Mr Phesolo Jackson Alexander Mphafudi, identity number 560627 5729 084. Mr Mphafudi was a director of Conogon at the time the PRASA contract was signed. Mr Mphafudi resigned as director on 8 September 2015.</p> <p>Mr Mphafudi is also a director of Naledi Rail Engineering (Pty) Ltd that has a contract with PRASA for the general overhaul/upgrade of the PRASA coaches.</p>
Mr Neil Dundas	Mr Neil Duncan Dundas, identity number 740409 5204 084. Mr Neil Dundas is a director of Conogon.
Mr Phoko	Mr Joseph Phoko (Maintenance Support Manager, Rolling Stock, Gauteng North)
Mr Rasool	<p>Mr Wahed Abed Rasool, identity number 640518 5139 081. Mr Rasool was a director of Conogon at the time the PRASA contract was signed. Mr Rasool resigned as director on 8 September 2015.</p> <p>Mr Rasool is also a director of Naledi Rail Engineering (Pty) Ltd that has a contract with PRASA for the general overhaul/upgrade of the PRASA coaches.</p>
Mr Sithole	Mr Marcus Sithole, Maintenance Support Manager, Rolling Stock, Gauteng South
Mr Stassen	Mr Tobie Stassen, identity number 701026 5304 081. Mr Stassen is a director of Conogon.
Ms Ngoye	Ms Martha Ngoye, acting GCEO during 2015
National Treasury	National Treasury of the Republic of South Africa. National Treasury means the National Treasury as established in terms of section 5 of the Public Finance Management Act, 1999 (Act no 1 of 1999).
OCPO	Office of the Chief Procurement Officer
PRASA	Passenger Rail Agency of South Africa
Public Protector	<p>The Public Protector is appointed by the President, on the recommendation of the National Assembly, in terms of Chapter Nine of the Constitution, 1996. The Public Protector is required to be a South African citizen who is suitably qualified and experienced and has exhibited a reputation for honesty and integrity.</p> <p>The Constitution also prescribes the powers and duties of the Public Protector: Further powers, duties and the execution thereof are regulated by the Public</p>

Abbreviation / term	Description
	<p>Protector Act.</p> <p>The Public Protector has the power 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.</p>
R	Rand, the RSA currency.
RSA	Republic of South Africa
SCM	Supply Chain Management
SDP	Supplier Development Program. A program PRASA attempted to follow in order to provide BBBEE companies the opportunity to develop by working together with well-established companies.
Shosholozza	Shosholozza Meyl operates regional and inter-city rail services.
VAT	Value Added Tax

1. BACKGROUND

- 1.1 In December 2008, the Passenger Rail Agency of South Africa ("PRASA") was established, consolidating all of the passenger rail entities to better manage and aggressively address the underperformance of rail passenger services.
- 1.2 PRASA is a South African state owned enterprise responsible for most passenger rail services in the country. It consists of four branches:
- 1.2.1 Metrorail - operates commuter rail services in urban areas;
- 1.2.2 Shosholoza Meyl - operates regional and inter-city rail services;
- 1.2.3 Autopax - operates regional and inter-city coach services; and
- 1.2.4 Intersite - manages the property owned by PRASA.
- 1.3 Operating within six large cities across the country, today PRASA manages over 374 stations and transports over 2.2 million passengers daily through its local metropolitan line and 1.4 million passengers per annum through its main line passenger service.
- 1.4 On 2 May 2012, the former Senior Manager of PRASA's Supply Chain Management ("SCM") Department drafted a business case recommending that the GCEO approves the strategy for the Supplier Development Program ("SDP") that sought to insist on partnerships between well-established perway companies and emerging BBBEE companies for a period of three years.
- 1.5 After a period of three years, the BBBEE companies would have acquired the necessary skills, expertise, knowledge and competency to stand alone and fairly compete with well-established companies in the tendering process.
- 1.6 After the three years, PRASA would then award Perway contracts to these SDP suppliers.
- 1.7 During December 2012, December 2013 and January 2015, the GCEO was requested in a memorandum to approve additional suppliers for the Supplier Development Program. Conogon was approved as a SDP supplier during the second request submitted in December 2012.
- 1.8 On 2 February 2014, PRASA signed an agreement with Conogon, whereby Conogon was responsible to provide PRASA with ad hoc services.
- 1.9 During 2014, the Public Protector investigated various allegations of irregularities at PRASA. The Public Protector found widespread evidence of maladministration, improper conduct and nepotism at PRASA.
- 1.10 The Public Protector in her report on the PRASA investigation, directed the Office of the Chief Procurement Officer (OCPO) to conduct forensic investigations in respect of all PRASA contracts above R10 million from 2012 to date.
- 1.11 Bowmans were mandated to conduct forensic investigations into 20 PRASA contracts, which included *inter alia* the Conogon contract.

2. MANDATE, PERIOD, REPORT FORMAT AND QUALIFICATIONS TO OUR REPORT

Mandate

- 2.1 Bowmans was mandated by National Treasury to provide forensic investigation services in respect of PRASA. The principal objectives of our investigation were to:
- 2.1.1 Investigate the procurement processes which were followed in the appointment of the supplier.
 - 2.1.2 Determine whether the appointment of the supplier was made in line with relevant prescripts and were approved by relevant authorities.
 - 2.1.3 Establish where applicable, whether deviations were in-line with relevant prescripts.
 - 2.1.4 Determine whether payments correspond to the respective bid price and/or contractual agreement.
 - 2.1.5 Identify all persons or entities that unduly benefited as a result of irregular conduct.
 - 2.1.6 Advise on the remedial actions which must be taken, in instances of maladministration and/or where improper conduct has been detected.
 - 2.1.7 Provide a report on the findings.
- 2.2 We were not mandated to and did not conduct an audit in compliance with generally accepted auditing standards.

Period under investigation

- 2.3 Bowmans investigated the period from 2012 to April 2016.

Report format

- 2.4 Section 3 of the report sets out the work which we have performed. Section 4 onwards deals with our detailed findings.
- 2.5 References in this report in parenthesis are to the various annexures and exhibits, which must be read in conjunction with this report.

Qualifications to our report

- 2.6 This report is provided solely as an internal document, for the addressees and their legal Counsel to National Treasury. It may not be used for any other purpose or disseminated to any person without the prior written consent of Bowmans.
- 2.7 Our report deals only with the documentation with which we have been provided, together with other information which we have been able to obtain ourselves from third parties.
- 2.8 In compiling this report, we have accepted and relied on representations from persons and on the authenticity of documents provided to us. In order to make these representations and

documents admissible for Court purposes, the authors of the representations and documents would have to confirm these in the relevant Court process.

- 2.9 Should it come to light that material information has been withheld or additional information is brought to our attention, we have the right to amend our report.

3. PROCEDURES PERFORMED

Documents reviewed

- 3.1 Company search of Conogon.
- 3.2 PRASA SCM policy dated February 2009.
- 3.3 PRASA SCM policy dated September 2013.
- 3.4 First request dated 2 May 2012 compiled by Mr Bopape and submitted to the GCEO to approve the SDP.
- 3.5 Second request compiled by Dr Mtimkhulu, the former Executive Manager: Engineering Services, in a memorandum dated 10 December 2012 sent to the GCEO, whereby he requested the approval of additional suppliers for the SDP.
- 3.6 Third request compiled by Dr Mtimkhulu in a memorandum dated 26 November 2013 sent to the GCEO, where he again requested the approval of additional suppliers for the SDP.
- 3.7 Fourth request compiled by the former Group Chief Procurement Officer, Dr Phungula, sent to the acting GCEO, Ms Ngoye, in a Memorandum dated 12 December 2014, whereby he requested the approval of additional suppliers for the SDP.
- 3.8 SDP contracts register containing all 63 SDP suppliers.
- 3.9 Request sent on 8 December 2015 by Mr Bopape (SCM Senior Manager: Rail Operations) and Mr Letsane Rathaba (Acting Executive Manager: Engineering Services) to the Acting GCEO (Mr Nkosinathi Khena), whereby the Acting GCEO was requested to approve that the ad hoc works be finalised in the following four months, whilst the new tender and procurement processes are put in place.
- 3.10 Agreement between PRASA and Conogon dated 2 February 2014 for the ad hoc repair work, call out and technical support.
- 3.11 Termination of contract letters from PRASA to ad hoc suppliers dated April 2016.
- 3.12 Conogon creditor account in the accounting records of PRASA.
- 3.13 Conogon invoice and other supporting documentation for the payment made by PRASA to Conogon.
- 3.14 Accreditation certificates issued by PRASA to Conogon.
- 3.15 Business profile of Conogon.

Interviews Conducted

3.16 We held discussions with the following individuals:

Name	Position
PRASA	
Ms Sarah du Plessis	Assistant Manager: SCM
Mr Tino Gabryk	National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail.
Mr Joseph Phoko	Maintenance Support Manager, Rolling Stock, Gauteng North
Mr Marcus Sithole	Maintenance Support Manager, Rolling Stock, Gauteng South
Conogon	
Mr Neil Dundas	Director and shareholder of Conogon

Other Procedures Performed

- 3.17 Performed a company search on Conogon.
- 3.18 Performed director searches on all the Conogon directors.
- 3.19 Obtained and perused the SCM policy and procedures for the period under investigation.
- 3.20 Obtained and perused the four requests relating to the SDP.
- 3.21 Read and reviewed appointment of Conogon as supplier of PRASA.
- 3.22 Obtained and reviewed the agreement between PRASA and Conogon dated 2 February 2014.
- 3.23 Obtained the Conogon creditors account in the accounting records of PRASA, in electronic format.
- 3.24 Obtained the supporting documentation for the payments made by PRASA to Conogon.
- 3.25 Compared Conogon's creditor accounts in the accounting records of PRASA, to the physical Conogon invoices.
- 3.26 Conducted various preliminary interviews with PRASA officials and the Conogon director.
- 3.27 Compiled a report on the findings.

4. COMPANY INFORMATION

4.1 Conogon Trading CC ("Conogon"), registration number 2009/017099/23, was founded in 2009 (Exhibit 1). Conogon was converted to a private company in 2015 and its new registration number is 2015/382095/07.

4.2 Conogon has four directors as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date	Resignation date
1	Mr Neil Duncan Dundas	740409 5204 084	11 February 2009	
2	Mr Brian William Kelvin Dundas	491102 5095 088	11 February 2009	
3	Mr Stanley Bhekumuzi Kumalo	630102 6133 088	11 February 2009	
4	Mr Tobie Stassen	701026 5304 081	14 September 2012	
Directors who resigned after PRASA contract was signed				
5	Mr Phesolo Jackson Alexander Mphafudi	560627 5729 084	20 September 2012	8 September 2015
6	Mr Wahed Abed Rasool	640518 5139 081	20 September 2012	8 September 2015

4.3 We noticed that both Mr Wahed Abed Rasool and Mr Mphafudi were also directors of Naledi Rail Engineering (Pty) Ltd, registration number 2004/032945/07, and had also been awarded a general overhaul/upgrade contract currently with PRASA. PRASA paid over R280 million to the said Naledi contract.

4.4 Conogon's business address is 1289 Cobham Road, Queenswood, Pretoria.

4.5 Conogon's nature of business according to the company search is stated as "*Agriculture hunting forestry and fishing*" (Exhibit 1).

4.6 Mr Neil Dundas is also a director/member of the following entities (Exhibit 2):

#	Entity	Registration number
1	VSA Tourism Services CC	1998/030665/23
2	Domain Name Services (Pty) Ltd	1998/001640/07
Resigned as director after contract with PRASA was signed		
3	ZA Central Registry NPC	1988/004299/08

#	Entity	Registration number
4	Meadowview Huiseienaars Vereniging	1998/008576/08

4.7 Mr Stanley Bhekumuzi Kumalo is also a director/member of the following entities (Exhibit 3):

#	Entity	Registration number
1	Kutlwano Africa Investments CC	1995/028972/23
2	Ntirhisano-Wa-Mitirho Trading CC	2003/017011/23
3	Rightscan CC	2004/037726/23
4	Phiwokuhle Designs CC	2006/220375/23
5	Flowing Desert Trading	2011/076332/23
6	Dofuture (Pty) Ltd	2014/174901/07
7	Ragogang Investments (Pty) Ltd	2004/001780/07
8	MMI Infrastructure and Operations (Pty) Ltd	2005/013683/07
9	Letlotlo Engineering Services and Equipment (Pty) Ltd	2006/036066/07
10	AA Kumalo Investments (Pty) Ltd	2008/027296/07

5. VENDOR REGISTRATION INFORMATION

5.1 Bowmans has requested but have not received any vendor registration information from PRASA.

6. PRASA SUPPLY CHAIN MANAGEMENT POLICY – FEBRUARY 2009 AND SEPTEMBER 2013

6.1 The PRASA SCM policies dated February 2009 and September 2013 stipulates that for (Exhibits 4 and 5):

6.1.1 All amounts less than R350,000 - a minimum of three written quotes should be obtained from suppliers listed on the PRASA database.

6.1.2 All amounts more than R350,000 - a competitive tendering process is applicable.

6.2 Exceptions for competitive tendering will only be considered in the following circumstances (Exhibits 4 and 5):

6.2.1 In the case of an emergency;

6.2.2 In the case of a sole source; and

6.2.3 In the case of confinements.

6.3 Contracts must be awarded for a period of not more than three years except bids for lease agreements for immovable property, which may be awarded for a period of not more than five years.

7. **PRASA SCM POLICY (FEBRUARY 2009) – UNSOLICITED BIDS (PARA 11.3.3)**

7.1 According to PRASA's SCM Policy dated February 2009, unsolicited bids are generally prohibited unless it is approved for consideration by the GCEO (Exhibit 4).

7.2 However, the GCEO should take the following into account (Exhibit 4):

7.2.1 That the unsolicited bid is a unique concept or offering.

7.2.2 That the offering of the bid cannot be provided efficiently through competitive bidding process.

7.2.3 That there are no suppliers in the market that can provide a similar offering without copying from the unsolicited bid.

8. **PRASA SCM POLICY (SEPTEMBER 2013) – CONFINEMENT (PARA 12.3.8)**

8.1 According to paragraph 12.3.8 of the PRASA SCM policy dated September 2013, "Confinement" occurs "where the needs of the business preclude the use of the competitive tendering process and for practical reasons only one or a select number of tenderers are approached to quote for goods and/or services" (Exhibit 5).

8.2 Situations where the method of "Confinement" are used include, but are not limited to the following (Exhibit 5):

8.2.1 The task that represents a natural continuation of previous work carried out by the firm;

8.2.2 An assignment where only one or a limited number of firms are qualified or have experience of exceptional worth for the assignment;

8.2.3 Appointment of professional services such as legal, financial, technical contracts and security where unique expertise and/or security are required; and

8.2.4 If it is an emergency as defined in clause 12.3.6 (refer below).

8.3 The decision to make use of the confinement process has to be motivated by PRASA for approval and ratification by the GCEO (Exhibit 5).

Emergency purchases (Para 12.3.6)

- 8.4 Purchases made for emergency "situations" where competitive tendering would be inappropriate is limited to the following types of situations (Exhibit 5):
- 8.4.1 Disasters (e.g. damage from cyclone, flood, fires, etc.);
 - 8.4.2 System failures (including supporting items which could affect the system); and
 - 8.4.3 Security risk.
- 8.5 During emergencies the required goods, works or services may be obtained by means of quotations by preferably making use of PRASA's supplier database (Exhibit 5).
- 8.6 A motivation of the emergency purchase has to be submitted by PRASA to the GCEO for ratification (Exhibit 5).

9. SUPPLIER DEVELOPMENT PROGRAM

- 9.1 During 2010, PRASA invited suppliers to bid for various tenders and during an open tender process PRASA obtained bids from interested suppliers for the following tenders (Annexure A):
- 9.1.1 Tender HO/PR/INFR (P) 202/12/2010: Ballast Tamping Machine for Gauteng South;
 - 9.1.2 Tender HO/PR/INFR (P) 211/09/2011: Ballast screening of Track Nationally;
 - 9.1.3 Tender HO/PR/INFR (P) 301/09/2011: Grinding and Pre-Profiling of Rails Nationally;
 - 9.1.4 Tender HO/PR/INFR (P) 209/09/2011: Ballast Regulating of Tracks Nationally.
- 9.2 A formal tender process was followed regarding the four tenders referred to above. PRASA received tenders submitted by interested suppliers (Annexure A).
- 9.3 The tender processes were then put on hold by PRASA (Annexure A).

REQUEST 1:

- 9.4 On 2 May 2012, the former Senior Manager of PRASA Rail SCM Department, Mr Maishe Bopape ("Mr Bopape"), drafted a business case recommending that the GCEO approves the strategy for the SDP that sought to insist on partnerships between well-established perway companies and emerging BBBEE companies for a period of three years as part of the awarding of future Perway contracts (Exhibit 6).
- 9.5 Mr Bopape stated in the business case that three companies were appointed by PRASA on an emergency basis to assist PRASA rail in restoring the rail tracks to acceptable levels of safety and operation. According to Mr Bopape, these companies had continuous monopoly of service provision and participation over a long period of time (Exhibit 6).
- 9.6 According to Mr Bopape, a number of BBBEE companies showed an interest in participating in the maintenance of the PRASA railway tracks. However, because of the massive infrastructure, specialised equipment and training required for effective participation in the sector, some

BBBEE companies have been reluctant to invest without first signing contracts with PRASA (Exhibit 6).

- 9.7 Once the BBBEE companies sign contracts with PRASA, it enables the companies to apply for funding at a financial institution (Exhibit 6).
- 9.8 There was insufficient time for the BBBEE company to participate in tenders advertised by PRASA, as it required at least a year to manufacture the machinery required for the maintenance of the tracks (Exhibit 6).
- 9.9 According to Mr Bopape, the same companies were appointed by PRASA every time at exorbitant costs (Exhibit 6).
- 9.10 Mr Bopape stated that if the emerging BBBEE companies could partner with the well-established construction companies, after a period of three years, the BBBEE companies would have acquired the necessary skills, expertise, knowledge and competency to stand alone and fairly compete with well-established companies in the tendering process (Exhibit 6).
- 9.11 Nine companies were recommended for consideration by the GCEO for the SDP (Exhibit 6).
- 9.12 On 14 May 2012, Mr Tshepo Lucky Montana ("Mr Montana"), the GCEO, approved the business case (Exhibit 6).
- 9.13 The GCEO directed as part of his approval that wider internal consultation should include (Exhibit 12 – Memorandum dated 14 March 2013):
- 9.13.1 Leadership by the OCPO should be the cornerstone of the strategy.
- 9.13.2 PRASA's key business units affected by this process be engaged in the development of the implementation strategy i.e. the SCM Department of PRASA Rail and PRASA Technical.
- 9.14 External consultations were conducted with (Exhibit 12 – Memorandum dated 14 March 2013):
- 9.14.1 Well established companies, i.e. Plasserail (Pty) Ltd, Aveng Manufacturing (Lenning Rail Services) and the Construction Industry Development Board (CIDB);
- 9.14.2 The emerging BBBEE service providers; and
- 9.14.3 Department of Trade and Industry's Rail Transport Equipment Directorate represented by Ms Mmetisa Lebelo and Mr Nicholas Pule.
- 9.15 PRASA would present training to the Supply Development Program suppliers. Once the training was completed, the Supply Development Program suppliers were expected to commence with the implementation of their work packages/streams during February 2013 (Exhibit 12 – Memorandum dated 14 March 2013).

REQUEST 2:

- 9.16 Dr Daniel Mtimkhulu ("Dr Mtimkhulu"), the former Executive Manager: Engineering Services, in a memorandum dated 10 December 2012 requested the approval of additional suppliers to the SDP (Exhibit 7).

- 9.17 According to Dr Mtimkhulu, there was inadequate technical team support after hours, which added pressure on the limited staff and which resulted in increasing delays in operations (Exhibit 7).
- 9.18 Dr Mtimkhulu stated that urgent interventions were required to assist the technical team to increase the capacity on the call-out basis based on the negotiated rate with various service providers to minimise delays and on route failures (Exhibit 7).
- 9.19 The submission to the GCEO was to request approval to extend the technical support to 17 (seventeen) service providers including *inter alia* Conogon Engineering (Exhibit 7).
- 9.20 Mr Bopape supported the recommendation by Dr Mtimkhulu on 10 December 2012 (Exhibit 7).
- 9.21 Mr Mosenngwa Mofi ("Mofi"), PRASA Rail CEO, recommended the memorandum on 10 December 2012.
- 9.22 On 11 December 2012, the GCEO, Mr Montana, approved the request (Exhibit 7).

REQUEST 3:

- 9.23 Dr Mtimkhulu, in a memorandum dated 26 November 2013, requested the approval of additional suppliers to the SDP (Exhibit 8).
- 9.24 According to Dr Mtimkhulu, the staff members and personnel of PRASA were engaged in a number of projects and work activities resulting in the organisation being "thin" on capacity to deal with other priority areas of work (Exhibit 8).
- 9.25 Therefore, PRASA required identified service providers outside of the organisation to provide services on negotiated rates to perform ad hoc works in order to provide technical support (Exhibit 8).
- 9.26 Dr Mtimkhulu requested the approval of 27 (twenty-seven) service providers.
- 9.27 The technical support by the service providers were recommended for a period of two years (Exhibit 8).
- 9.28 Mr Bopape signed the request on 6 December 2013 as proof that he supported the request (Exhibit 8).
- 9.29 Mr Saki Zamxaka, PRASA Technical CEO, recommended the memorandum.
- 9.30 Mr Mofi, CEO PRASA Rail, recommended the request on 6 December 2013 (Exhibit 8).
- 9.31 The GCEO, Mr Montana, approved the request on 11 December 2013 (Exhibit 8).

REQUEST 4:

- 9.32 The former Group Chief Procurement Officer, Dr Josephat Phungula ("Dr Phungula"), in a memorandum dated 12 December 2014, requested the approval of additional suppliers for the SDP (Exhibit 9).

- 9.33 Prior to 2000, PRASA procured all its rails and rail related perway material from Transwerk which was sold to Voestalpine VAE (Pty) Ltd. Since 2000, PRASA has been procuring all rails and rail related perway material from Voestalpine VAE SA (Pty) Ltd (Exhibit 9).
- 9.34 Voestalpine VAE SA (Pty) Ltd has workshops at Isando, Bloemfontein and Kimberley. Voestalpine VAE SA (Pty) Ltd is currently the sole supplier in the country that provides both PRASA and Transnet and possible other private companies with all rails and rail related material (Exhibit 9).
- 9.35 According to Dr Phungula, this monopoly has created a number of challenges for PRASA, e.g. Voestalpine VAE SA (Pty) Ltd was unable to honour PRASA's requirement of rails to address an urgent safety related situation in the Western Cape. Upon failure by Voestalpine VAE SA (Pty) Ltd to meet PRASA's urgent requirements, PRASA had to engage an international supplier to supply the required rails (Exhibit 9).
- 9.36 Dr Phungula recommended eight companies. These companies were recommended and included in the memorandum dated 14 May 2012 (Exhibit 9).
- 9.37 Also, an additional 26 (twenty-six) companies were recommended.
- 9.38 These companies were recommended to provide the following services (Exhibit 9):
- 9.38.1 Replacement of rail fasteners
 - 9.38.2 Drainage rehabilitation
 - 9.38.3 Turn-outs replacement
 - 9.38.4 Rails and formation rehabilitation
 - 9.38.5 Overhauling and Transformers
 - 9.38.6 Supply, delivery and installation of concrete sleepers
 - 9.38.7 Rail grinding and profiling
 - 9.38.8 Ultrasonic rail flaw detection and measuring
 - 9.38.9 Provision of on-track machines and maintenance services of the tracks nationally.
- 9.39 The Acting GCEO, Ms Martha Ngoye, approved the request on 9 January 2015 (Exhibit 9).
- 9.40 At the PRASA SCM office a record is kept of all the suppliers selected for the SDP and relevant information regarding the contracts. To date, PRASA have a total number of approximately 63 (sixty-three) suppliers registered for the SDP. The contracts with the 63 (sixty-three) suppliers amount to more than R1.5 billion in contracts (Exhibit 10).
- 9.41 All of the suppliers for the SDP (except Active Power Projects) were appointed as "Confinement Suppliers". A normal tender process was followed for the appointment of Active Power Projects (Annexure A).

Memorandum dated 14 March 2013

- 9.42 The Senior Manager of PRASA SCM submitted a request to the GCEO on 14 March 2013. The request was for the approval from the GCEO for (Exhibit 11):
- 9.42.1 The implementation of the SDP.
- 9.42.2 Request for the confinement of the appointments of the companies identified in the memorandum dated 14 May 2012 as part of the transformation of the Perway sector to allow BBBEE companies to play a significant role in this Perway sector, thus creating competition and addressing the undesirable challenges related to monopoly and the lack of competition in the sector.
- 9.42.3 Introduce and implement training, development and accreditation program to assist the identified BBBEE companies to execute their mandates in line with PRASA's safety plan and other related requirements in time to ensure systems availability and readiness for the launch of the New Rolling Stock Fleet in 2015

10. DR DANIEL MTIMKHULU

- 10.1 The Times Live reported on 16 February 2016 that Dr Daniel Mtimkhulu was dismissed by PRASA during August 2015 as he had falsified his qualification as disclosed to PRASA.
- 10.2 Mtimkulu was introduced in 2015 as the designer of the controversial Afro 4000 locomotives that were unsuitable for South African infrastructure.
- 10.3 The issue was that the trains were 4.264 meter high whereas the national limit was 3.965 meter. It later emerged that Mtimkulu did not have the qualifications he claimed to have. He was suspended and subsequently fired *in absentia* last year after an internal disciplinary for gross dishonesty.
- 10.4 "Dr" Mtimkulu had claimed he had a National Diploma in Mechanical Engineering, a B Tech Degree in Engineering (Maintenance) from the Vaal University of Technology, a Degree in Mechanical and Maintenance Engineering from the University of the Witwatersrand, a Masters Degree in Engineering as well as a Doctorate in Engineering Management.

11. AD HOC CONTRACTORS - PROCEDURES

- 11.1 The ad hoc suppliers/contractors were required to undergo an accreditation process. The purpose of accreditation was to ensure the minimum competency, capacity and facility requirements of any service provider to build, refurbish and supply new material and components for PRASA as required by the Railway Safety Regulatory Act and the SANS 3000-1 Standard for Safety Management (Exhibit 11).
- 11.2 The first stage of the accreditation entails an audit of the suppliers systems and procedures to ensure capacity to deliver. The staff, facilities, equipment and infrastructure of the supplier is assessed as part of the process (Exhibit 11).

- 11.3 Apart from the audit, the supplier is assessed on their practical ability to carry out the required maintenance and repairs on the assets. On successful conclusion of this process, an accreditation certificate is issued, and the contractor work quality is monitored on an ongoing basis (Exhibit 11).
- 11.4 The issuing of work is done on an "as and when" basis where accredited ad hoc contractors are requested to submit quotations based on a technical work list. Work is allocated to service providers considering the quality, repair turnaround times and warranty repair performance (Exhibit 11).
- 11.5 Once accredited, the normal process for engaging the contractor is as follows (Exhibit 11):
- 11.5.1 The depot assesses the work load on a coach.
- 11.5.2 A request is made for development of scope of work.
- 11.5.3 All ad hoc contractors are invited for a site briefing where the Quality Assessor develops scope of work jointly with them to minimize variations on execution.
- 11.5.4 The scope of work is then issued to all the contractors with specific response deadlines and expected mean time to repair.
- 11.5.5 Before invoicing and payment is made, the work is verified to ensure it is completed as per the work list and that the work meets the PRASA quality standards.
- 11.5.6 The job card and an acceptance certificate are then signed off.
- 11.5.7 The documentation which includes the work list, works order, job card and acceptance certificate is then submitted to the PRASA Finance Department for payment.
- 11.5.8 The capitalization documentation is then completed and payment requisition documents are validated and signed off by the Project Manager and Executive Manager for final payment.

12. **AUDIT OF THE SUPPLIER'S SYSTEMS, PROCEDURES AND PRACTICAL CAPABILITY**

- 12.1 PRASA issued the following accreditation certificates to Conogon:
- 12.1.1 Technical accreditation – 6 August 2009
- 12.1.2 Product/component/supplier acceptance certificate – 3 September 2009
- 12.1.3 Ad hoc work service acceptance certificate – 8 October 2012
- 12.2 The Technical accreditation certificate was only valid for one year. Therefore, the certificate expired on 5 August 2010.
- 12.3 The other two certificates were valid for three years.
- 12.4 Considering the above, PRASA did not perform an updated "audit" on Conogon and had not issued Conogon with a accreditation certificate valid for the period of the current contract,

that was signed on 2 February 2014 and that is valid for the period from April 2014 to March 2019 (i.e. a period of five years).

13. TENDER APPOINTMENT OF CONOGON TRADING CC

13.1 PRASA did not follow a tender process to appoint Conogon for the ad hoc repair works, call out and technical support contract.

14. AGREEMENT BETWEEN PRASA AND CONOGON DATED 2 FEBRUARY 2014

14.1 PRASA and Conogon Trading CC trading as Conogon Engineering signed an agreement on 2 February 2014 for “*ad hoc repair work, call out and technical support on an ‘as and when’ required basis*”, contract number PR/HO/RS/025/04/2013 (Exhibit 14).

14.2 The contract valued was R22,000,000 (Twenty Two Million Rand) including VAT (Exhibit 14).

14.3 The contract commenced on 1 April 2014 and the date of completion was stipulated as 31 March 2019 (i.e. period of five years) (Exhibit 14). It should be noted that the PRASA SCM policy does not allow for contracts longer than a period of three years. This contract with Conogon was for a five year period, which is thus irregular.

14.4 A Performance Bond condition precedent was waived by PRASA. A “Performance Bond” was defined in terms of the agreement as (Exhibit 14):

“... an unconditional and on demand bank guarantee to the value of 10% of the Contract Price as indicated pursuant to clause 30.5, to be issued by a South African registered bank in favour of the Employer, substantially in the form set out in the RFT or Request of Quotation”.

14.5 According to the agreement, Conogon did not have the right to subcontract the entire contract but only a portion of the services subject to the written approval of PRASA (para 16.2.1) (Exhibit 14).

14.6 PRASA's written consent prior to the sub-contracting should be obtained (para 16.3.3) (Exhibit 14).

14.7 Annexure B under part “*Scope of work and service payment schedule*” no schedules were attached to the agreement (Exhibit 14).

15. AD HOC CONTRACTS FOUND TO BE IRREGULAR AND TERMINATED BY PRASA

15.1 During December 2015 all confinements were declared irregular by PRASA Internal Audit and all contracts were stopped and/or cancelled with the suppliers. The PRASA Internal Auditors found the ad hoc contracts to be irregular because of the following reasons (Exhibit 11):

15.1.1 Non-application of the preferential point system as required by the Preferential Procurement Policy Framework Act in all procurement activities above R30,000. The key issue was the non-application of the 90/10 point system.

- 15.1.2 The sourcing of emerging suppliers to be placed on the ad hoc supplier lists for the provision of services to the infrastructure and rolling stock disciplines on an “*as and when*” basis was non-transparent.
- 15.1.3 Technical capability and capacity of the suppliers placed on the ad hoc supplier lists was not assessed as contractors were appointed on the basis of a confinement.
- 15.1.4 The suppliers placed on the ad hoc lists did not have the CIDB grading applicable to their allocated contract values in case of construction projects.
- 15.2 PRASA provided all the suppliers with letters of regret (Exhibit 13).
- 15.3 On 8 December 2015, Mr Bopape (SCM Senior Manager: Rail Operations) and Mr Letsame Rathaba (Acting Executive Manager: Engineering Services) sent a request to the Acting GCEO (Mr Khena) (Exhibit 11).
- 15.4 They requested the Acting GCEO to approve the finalisation of the ad hoc works, which would still be in process in the upcoming four months, whilst the new tender and procurement processes were put in place (Exhibit 11).
- 16. INTERVIEW – MR TINO GABRYK (NATIONAL MAINTENANCE OPERATIONS MANAGER, ENGINEERING SERVICES, METRO FLEET, PRASA RAIL.)**
- 16.1 Mr Tino Gabryk (“Mr Gabryk”) is employed as the National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail (Annexure B).
- 16.2 According to Mr Gabryk, PRASA appointed several service providers as “Confinement Suppliers”.
- 16.3 PRASA made use of a panel of ad hoc service providers to assist with work that the depots had no capacity to carry out. This was done to sustain PRASA’s coach availability.
- 16.4 Mr Gabryk’s involvement with the Conogon contract was mainly on contractual validation of compliance documentation required for payment at a Head Office level, i.e. work lists, quotations, job cards, works orders or purchase orders.
- 16.5 An acceptance certificate is completed for payment by the quality officials at the depot to confirm that the work was done.
- 16.6 The allocation of work for the suppliers was done at depot level, taking into account the quality of the workmanship and the repair turnaround time on work allocated.
- 16.7 Conogon mainly provided services to the Wolmerton and Braamfontein depots.
- 16.8 Conogon was appointed through the confinement process which was approved by the Group CEO, Mr Montana. Conogon performed electrical and mechanical refurbishment of coaches that were vandalised. They replaced cables that were stolen and repaired high tension electrical switch compartments and electrical components.

- 16.9 They furthermore conducted light collision coach repairs when the coaches were not damaged excessively.
- 16.10 The two depots allocated the work to the service providers. The depot would ensure that they issue a work list to the service provider and the service provider then submit their quotation for the work requested as stipulated per the works list.
- 16.11 The depots ensured that the pricing was aligned to the PRASA price book. If the depot was satisfied with the quotation, they signed it as proof of acceptance and forwarded it to the PRASA Head Office who would then issue a works order / purchase order for the work to proceed.
- 16.12 The depot received the purchase orders from Head Office and then tasked the service provider to proceed with the work they quoted for.
- 16.13 The service provider submitted their invoices. The invoices would be accompanied by the acceptance certificate signed by both parties. The acceptance certificate stated that the work was completed according to the PRASA standards.
- 16.14 The depot submitted the invoice with the following documentation:
- 16.14.1 Work list
 - 16.14.2 Quotation
 - 16.14.3 Job card
 - 16.14.4 Acceptance certificate
- 16.15 All the documentation was submitted to PRASA Rail Head Office where the documentation was processed for payment to the supplier.
- 16.16 Mr Gabryk's involvement was to validate the documentation in terms of relevant work performed, e.g. to check that the pricing was fair, to check all accompanying documentation, capitalisation of the work performed on the coach, etc.
- 16.17 Once Mr Gabryk checked for the completeness of the abovementioned documentation, he would recommend payment to the supplier.
- 16.18 During December 2015 all confinements were declared irregular by PRASA Internal Audit and all contracts stopped and/or were cancelled with the confinement suppliers.

17. INTERVIEW – MR JOSEPH PHOKO (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG NORTH)

- 17.1 Mr Joseph Phoko ("Mr Phoko") is employed as the Maintenance Support Manager, Rolling Stock, Gauteng North, PRASA Rail. His office is situated at the Wolmerton Depot, Pretoria North (Annexure C).

- 17.2 According to Mr Phoko, PRASA appointed several service providers as "Confinement Suppliers".
- 17.3 PRASA made use of the confinement supplier, Conogon. Conogon were based at the PRASA Wolmerton Depot.
- 17.4 PRASA issued an accreditation certificate to Conogon, before they commenced with work at the depot in terms of the ad hoc appointments. It was required that Conogon comply with *inter alia* all the Health and Safety requirements. After Conogon met all the accreditation requirements, PRASA allocated work to them.
- 17.5 Conogon commenced with work during June 2015.
- 17.6 Conogon was based in Pretoria and they visited the depot as and when required.
- 17.7 Conogon was tasked with performing small repairs to the PRASA coaches. The allocation of work to the suppliers was done at depot level, taking into account the quality of the workmanship and the repair turnaround time on work allocated.
- 17.8 Conogon performed electrical and mechanical refurbishment of coaches that were vandalised, replacing cables that were stolen and any repairs of high tension electrical switch compartments and electrical components.
- 17.9 They furthermore repaired light collision coach repairs when the coaches were not damaged excessively.
- 17.10 The Wolmerton depot allocated the work to the service providers. The depot would ensure that they issue a work list to the service provider and the service provider then submit his quotation for the work requested as per the works list.
- 17.11 Mr Phoko would check that the pricing is aligned to the price book. If he was satisfied with the quotation, he would sign it as proof of acceptance and forward it through to the PRASA Head Office, where a works order/purchase order would be issued for the work to proceed.
- 17.12 The depot would receive the works order/purchase order from Head Office and then task the service provider to proceed with the work quoted for.
- 17.13 When the service provider submits an invoice, it has to be accompanied by the acceptance certificate signed by both parties. The certificate states that the work was completed according to the PRASA standards (electrical and mechanical testing was conducted before PRASA signed the acceptance certificate).
- 17.14 The depot submits the invoice with the work list, quotation, job card and acceptance certificate to PRASA Rail Head Office, where the documentation is processed for payment to the supplier.

18. **INTERVIEW – MR MARCUS SITHOLE (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG SOUTH)**

- 18.1 Mr Marcus Sithole ("Mr Sithole") is the Maintenance Support Manager, Rolling Stock, Gauteng South, PRASA Rail. His office is situated at the Braamfontein depot, Johannesburg (Annexure D).
- 18.2 According to Mr Sithole, PRASA appointed several service providers as "Confinement Suppliers".
- 18.3 PRASA made use of Conogon as an ad hoc works supplier. Conogon was based at the PRASA Braamfontein depot and used containers for the storage of the tools and spares they use. Mr Sithole worked with Conogon at the depot.
- 18.4 PRASA Engineering Services issued an accreditation certificate to Conogon before Conogon commenced with work at the depot. In terms of the ad hoc appointments, it was required that Conogon complies with all the Health and Safety Requirements. After Conogon met the requirements, PRASA could allocate work to them.
- 18.5 Conogon provided PRASA with all the relevant information and documentation required, e.g. list of Conogon employees and their qualifications, registration with the Department of Labour, Health and Safety requirements and previous accreditation certificates issued by PRASA.
- 18.6 Conogon was tasked with performing small to medium repairs and electrical work to the PRASA coaches. The allocation of work for the suppliers was done at depot level taking into account the quality of the workmanship and the repair turnaround time on work allocated.
- 18.7 PRASA used Conogon to perform electrical and mechanical refurbishment of PRASA coaches that were vandalised, replacing cables that were stolen and any repairs of high tension electrical switch compartments and electrical components.
- 18.8 The depot allocated the work to the service providers, the depot ensures that they issue a work list to the service provider and the service provider then submits a quotation for the work requested in the works order.
- 18.9 PRASA checked that the pricing was aligned to the price book. If PRASA was satisfied with the quotation, they signed it as acceptance and forwarded it through to Head Office who would then issue a works order/purchase order for the work to proceed.
- 18.10 Mr Sithole then receives the works order/purchase order from Head Office and then tasks the service provider to proceed with the work he quoted for.
- 18.11 When the service provider submits an invoice, it is has to be accompanied by the acceptance certificate signed by both parties. The certificates states that the work was completed according to the PRASA standards (electrical and mechanical testing were conducted before PRASA signed the acceptance certificate).

18.12 The depot submits the invoice with the work list, quotation, job card and acceptance certificate to PRASA Rail Head Office, where the documentation is processed for payment to the supplier.

19. INTERVIEW – MR NEIL DUNDAS (DIRECTOR OF CONOGON)

19.1 Mr Neil Dundas ("Mr Dundas") is one of the Directors of Conogon Engineering; the administration physical address is at 1289 Cobham Road, Queenswood, Pretoria (Annexure E) (Exhibits 15 to 19).

19.2 Conogon's operational physical address is Unit 5, Acquila Park, 62 van Niekerk Street, Rosslyn East, Gauteng.

19.3 Conogon currently has a total of four directors in the company. This will change to seven directors in the near future due to a BBBEE shareholding transaction (Exhibit 17).

19.4 During 2015, Conogon converted its business from a Close Corporation to a private company, namely Conogon Trading (Pty) Ltd (Exhibit 15).

19.5 According to Mr Dundas, PRASA started an ad hoc program as they realised that they were unable to keep up with the maintenance demands. Conogon was awarded a service contract for the ad hoc work repairs, call out and technical support.

19.6 PRASA entered into an agreement with Conogon under contact number PR/HO/RS/025/04/2013, the contract commenced on 1 April 2014 and completion date was set on 31 March 2019, the contract value was limited to R22,000,000.00 (Twenty Two Million Rand).

19.7 Conogon did not utilise the full contract value during the period of the contract, but Conogon were allocated approximately 75% of the contract value in purchase orders.

19.8 Conogon provided the ad hoc work for PRASA at the Wolmerton and Braamfontein Rolling Stock depots. Conogon was requested to provide PRASA with quotations and "if and when" PRASA accepted their quotation. PRASA would issue Conogon with a purchase order for the work to be performed.

19.9 Once Conogon had completed the work, Conogon provided PRASA with their delivery note. PRASA would check Conogon's work and would then sign the delivery note and subsequently authorise the invoice for payment.

19.10 Conogon submitted their invoices with the accompanying supporting documentation to PRASA Head Office for payment.

19.11 Conogon were accredited by PRASA to provide component product repairs and ad hoc repair works on Metrorail coaches.

19.12 PRASA performed a technical accreditation "audit" on Conogon (Exhibits 20 to 23).

19.13 On 1 April 2016, PRASA in a letter informed Conogon that PRASA was terminating the contract and gave Conogon 90 days' notice period from 1 April 2016 to 30 June 2016 (Exhibit 24).

20. **PAYMENTS MADE BY PRASA TO CONOGON**

20.1 Conogon issued a total of 82 invoices to PRASA, which PRASA paid (Annexure F) (Exhibit 26):

#	Invoice #	Document Date	Amount (Rand)
1	INV00526	2014/05/19	226 222
2	INV00547	2014/07/22	368 571
3	INV00552	2014/08/07	293 285
4	INV00481	2014/01/31	276 028
5	INV00555	2014/09/04	346 080
6	INV00599	2014/11/27	314 760
7	INV0598	2014/11/27	29 137
8	INV00617	2015/02/10	138 466
9	INV00619	2015/02/10	7 992
10	INV00618	2015/02/10	136 977
11	INV00620	2015/02/13	7 992
12	INV00629	2015/02/13	70 610
13	INV00622	2015/02/13	9 159
14	INV00621	2015/02/13	9 159
15	INV00597	2014/11/27	199 052
16	INV00596	2014/11/27	15 714
17	INV00623	2015/02/13	9 159
18	INV00632	2015/02/13	57 473

Report
 Department of National Treasury
 PRASA Conogon Trading CC
 Account: 111040
 Ad hoc repair work, call out and technical support

December 2016

#	Invoice #	Document Date	Amount (Rand)
19	IN00595	2015/02/13	82 114
20	INV00626	2015/02/13	62 246
21	INV00627	2015/02/13	100 831
22	INV00628	2015/02/13	75 644
23	INV00630	2015/02/13	64 005
24	INV00625	2015/02/13	129 514
25	INV00633	2015/02/13	52 472
26	INV00612	2015/01/29	68 204
27	INV00614	2015/01/29	63 771
28	INV00647	2015/02/28	20 927
29	INV00649	2015/02/28	32 995
30	INV00648	2015/02/28	41 853
31	INV00646	2015/02/28	51 362
32	INV00652	2015/03/17	111 465
33	INV00665	2015/04/23	116 481
34	INV00666	2015/04/23	125 862
35	INV00667	2015/04/23	121 598
36	INV00668	2015/04/23	114 335
37	INV00651	2015/03/17	71 619
38	INV00656	2015/03/31	7 028
39	INV00655	2015/03/31	3 430

Report
 Department of National Treasury
 PRASA Conogon Trading CC
 Account: 111040
 Ad hoc repair work, call out and technical support

December 2016

#	Invoice #	Document Date	Amount (Rand)
40	INV00662	2015/04/23	24 704
41	INV00660	2015/04/23	85 191
42	INV00663	2015/04/23	24 704
43	INV00661	2015/04/23	85 191
44	INV00664	2015/04/23	24 704
45	INV00674	2015/06/12	44 802
46	INV00678	2015/06/23	113 846
47	INV00680	2015/06/24	63 524
48	INV00679	2015/06/24	397 327
49	INV00681	2015/06/25	14 372
50	INV00683	2015/06/26	7 063
51	INV00682	2015/06/26	7 063
52	INV00636	2015/02/28	9 159
53	INV00642	2015/02/28	7 992
54	INV00691	2015/08/18	24 647
55	INV00702	2015/09/18	83 106
56	INV00701	2015/09/18	152 772
57	INV00698	2015/09/18	112 757
58	INV00700	2015/09/18	144 256
59	INV00699	2015/09/18	180 314
60	INV00697	2015/09/18	174 910

Report
 Department of National Treasury
 PRASA Conogon Trading CC
 Account: 111040
 Ad hoc repair work, call out and technical support

December 2016

#	Invoice #	Document Date	Amount (Rand)
61	INV00695	2015/09/18	325 427
62	INV00709	2015/09/21	150 456
63	INV00705	2015/09/21	127 081
64	INV00708	2015/09/21	130 962
65	INV00707	2015/09/21	103 032
66	INV00732	2015/11/09	34 211
67	INV00733	2015/11/09	151 881
68	INV00741	2016/02/08	51 855
69	INV00745	2016/02/08	72 577
70	INV00744	2016/02/08	152 899
71	INV00743	2016/02/08	127 560
72	INV00742	2016/02/08	88 019
73	INV00696	2015/09/18	224 079
74	INV00706	2015/09/21	130 962
75	INV00786	2016/02/26	125 473
76	INV00787	2016/02/26	108 539
77	INV00781	2016/02/26	68 907
78	INV00782	2016/02/26	121 998
79	INV00784	2016/02/26	30 517
80	INV00785	2016/02/26	70 755
81	INV00793	2016/03/23	126 876

Report
 Department of National Treasury
 PRASA Conogon Trading CC
 Account: 111040
 Ad hoc repair work, call out and technical support

December 2016

#	Invoice #	Document Date	Amount (Rand)
82	INV00792	2016/03/22	42 118
		Total	8 382 175

- 20.2 Of the total amount of R8,382,175, Bowmans was able to reconcile a total of R1,563,436 (19%) to the physical invoices that were submitted by Conogon to PRASA during May 2014 to April 2016.
- 20.3 Bowmans was unable to reconcile R6,818,739 (81%) against physical Conogon invoices.
- 20.4 PRASA made 16 (sixteen) payments totalling R8,382,175 to Conogon (Annexure F) (Exhibits 25 and 26).

Invoice number	Document Date	Amount (Rand)
1	2014/09/30	888 078
2	2014/12/18	622 108
3	2015/03/31	314 760
4	2015/04/16	409 492
5	2015/05/22	848 223
6	2015/07/10	868 853
7	2015/07/31	326 569
8	2015/08/31	647 996
9	2015/09/15	17 151
10	2015/11/04	1 709 720
11	2016/02/04	186 092
12	2016/03/03	492 909

Invoice number	Document Date	Amount (Rand)
13	2016/03/23	224 079
14	2016/03/31	657 150
15	2016/04/15	126 876
16	2016/04/29	42 118
	Total	8 382 175

21. **QUOTATIONS SUBMITTED BY CONOGON TO PRASA**

- 21.1 PRASA submitted work lists to Conogon, stipulating the work required by PRASA on a particular coach.
- 21.2 Based on these worklists, Conogon submitted detailed quotations to PRASA. PRASA would then authorise the quotation prior to the commencement of work by Conogon.
- 21.3 Of the total amount paid by PRASA to Conogon (R8.3 million), Bowmans was only able to obtain quotations submitted by Conogon, totalling R4.3 million as listed in the table below:

Date	Amount	Coach #
21-Jan-15	122 103.02	41036
29-Jan-15	14 538.49	41036
23-Jun-15	536 030.74	9306
16-Sep-15	16 208.52	18336
20-Jul-15	175 720.64	18336
11-Feb-15	93 868.32	41074
13-May-14	207 192.00	17623
07-Jan-15	581 558.09	195858, 9501, 13385, 42030, 13689, 19531, 19581, 13691, 17569

Date	Amount	Coach #
21-Jan-15	784 275.93	17623, 9150, 13489, 41035, 13415, 9273, 13642, 13109, 9343, 13424, 9024
06-Jan-14	318 903.48	13611, 13609, 13466, 9345, 9345, 50945, 50217
06-Jan-14	147 137.02	13244, 42105, 13244
30-Nov-14	63 523.92	10951
21-Jan-15	258 440.41	13220, 50217, 42057
12-Jun-15	113 846.44	51091
10-Jun-15	44 802.00	50942
18-Jun-15	475 222.38	9307, 10951
11-May-15	151 881.17	10263
20-Jul-15	156 057.92	18380
23-Sep-15	42 601.80	18380
Total	4 303 912.29	

21.4 We could find no evidence that this appointment was made in terms of a competitive bidding process.

22. PHYSICAL VERIFICATION OF THE AD HOC WORK

22.1 As a result of the time difference between when Conogon completed the ad hoc work and when Bowmans commenced the investigation, it was not possible for Bowmans to perform a physical verification of the work completed by Conogon.

22.2 Therefore, Bowmans relied on the inspection and verification by PRASA at the time when the work was completed by Conogon.

22.3 The Conogon ad hoc work completed, was checked by Messrs Phoko and Sithole.

22.4 The Conogon invoices were signed as proof of approval by Messrs Milford Chemere (Planning and Logistics Manager at the Braamfontein Rolling Stock depot), Lamba and Yende.

22.5 Bowmans was able to verify a total of R1,174,184 (14%) against PRASA acceptance certificates.

22.6 Bowmans was unable to reconcile R7,207,991 (86%) against PRASA acceptance certificates.

23. **CONCLUSIONS AND REMEDIAL ACTION**

23.1 Due to the fact that it appears that the appointment of and the awards to Conogon were made in contravention of PRASA policy, all payments to the organisation should be regarded as irregular expenditure and should be reported as such.

23.2 The PRASA Board should consider its legal remedies against the individuals involved with regard to possible disciplinary action, criminal investigation and /or civil recovery of losses. Further investigation will be required in this regard.

23.3 Legal action against Conogon could be considered with regard to the portion of payments that were not reconcilable to quotations, invoices and/or acceptance certificates. Further evidence would have to be prepared in this regard.

23.4 Internal control processes as identified in the National Treasury Irregular Expenditure guidelines must be developed and implemented to ensure irregular expenditure is adequately addressed within the organisation in the future.

ANNEXURES

The detailed report should be read in conjunction with the annexures listed below. Annexures constitutes the working paper of Bowmans:

Annexure #	Description
A	Notes of interview conducted with Ms Sarah du Plessis
B	Notes of interview conducted with Mr Tino Gabryk (National Maintenance Operations Manager: Engineering Services, Metro Fleet, PRASA Rail)
C	Notes of interview conducted with Mr Joseph Phoko (Maintenance Support Manager, Rolling Stock, Gauteng North)
D	Notes of interview conducted with Mr Marcus Sithole (Maintenance Support Manager, Rolling Stock, Gauteng South)
E	Notes of interview conducted with Mr Neil Dundas (shareholder and director of Conogon)
F	Conogon invoices paid by PRASA as per the Conogon creditor account in accounting records of PRASA compared and agreed to the physical Conogon invoices

EXHIBITS

The detailed report should be read in conjunction with the exhibits listed below. Exhibits are third party documentation obtained from e.g. PRASA and Conogon:

Exhibit #	Description
1	Company search of Conogon
2	Director search on Mr Neil Dundas
3	Director search on Mr Stanley Bhekumuzi Kumalo
4	PRASA SCM policy dated February 2009
5	PRASA SCM policy dated September 2013
6	First request dated 2 May 2012 compiled by Mr Bopape and submitted to the GCEO to approve the SDP.
7	Second request by Dr Mtimkhulu, the former Executive Manager: Engineering Services, in a memorandum dated 10 December 2012, whereby he requested the approval of additional suppliers to the SDP.
8	Third request by Dr Mtimkhulu, in a memorandum dated 26 November 2013, where he furthermore requested the approval of additional suppliers to the SDP.
9	Fourth request by the former Group Chief Procurement Officer, Dr Phungula, in a memorandum dated 12 December 2014, whereby he requested the approval of additional suppliers for the SDP
10	SDP contracts register containing all 63 SDP suppliers
11	Request sent on 8 December 2015 by Mr Bopape (SCM Senior Manager: Rail Operations) and Mr Letsane Rathaba (Acting Executive Manager: Engineering Services) to the Acting GCEO (Mr Khena), requesting the Acting GCEO to approve the finalization of the ad hoc works, which would be in process for the following four months, whilst the new tender and procurement processes were put in place.
12	Termination of contract letters from PRASA to ad hoc suppliers
13	Agreement between PRASA and Conogon dated 2 February 2014
14	Registration certificate issued by the Companies and Intellectual Property Commission

Exhibit #	Description
	for the conversion of Conogon from a close corporation to a private company dated 27 October 2015 obtained from Mr Neil Dundas
15	Company search on Conogon obtained from Mr Neil Dundas
16	Sworn affidavit by Mr Neil Dundas dated 18 October 2016 on the BBBEE exemption of Conogon because it is classified as a micro enterprise obtained from Mr Neil Dundas
17	Conogon tax clearance certificate dated 21 June 2016 obtained from Mr Neil Dundas
18	Conogon business profile obtained from Mr Neil Dundas
19	PRASA ad hoc work service acceptance certificate issued to Conogon on 8 October 2012 obtained from Mr Neil Dundas
20	PRASA product/component/supplier acceptance certificate issued to Conogon on 3 September 2009 obtained from Mr Neil Dundas
21	PRASA Metrorail letter addressed to Conogon dated 6 August 2009 for the technical accreditation of Conogon obtained from Mr Neil Dundas
22	PRASA supplier technical accreditation documents obtained from Mr Neil Dundas
23	Termination letter issued by PRASA to Conogon dated 1 April 2016 obtained from Mr Neil Dundas
24	Conogon creditor account in the accounting records of PRASA
25	Conogon invoices and other supporting documentation for the payments made by PRASA to Conogon