

National Treasury

Final report: Forensic Investigation into PRASA contracts above R10 million since 2012

NATIONAL TREASURY TENDER NUMBER: NT 029-2013

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FUNDUDZI

1. EXECUTIVE SUMMARY

This report provides our findings, including conclusions and recommendations relating to matters investigated by us at PRASA as mandated by National Treasury.

Below is an executive summary of our findings as well as conclusions and recommendations. We however encourage you to read the detailed findings as contained in our report.

2. BACKGROUND

National Treasury appointed Fundudzi Forensic Services to conduct investigations into 20 PRASA contracts dating back to 2012, entered into with various service providers. The investigation was commissioned on the backdrop of a report issued by the Office of the Public Protector into investigation conducted within PRASA. We were mandated to investigate and determine the following in respect of each contract:

- Independently investigate procurement processes which were followed in the appointment of the suppliers;
- Independently investigate whether the appointments of the identified service providers were made in line with the relevant prescripts and were approved by relevant authorities;
- Independently establish where applicable, whether deviations were in line with the relevant prescripts;
- Independently determine whether payments correspond to the respective bid price and /or contractual agreement;
- Independently identify all persons or entities that unduly benefitted as a result of irregular conduct;
- Independently advise, in respect of the 20 investigated contracts, any remedial actions which must be taken in instances of maladministration and/or where improper conduct has been detected; and
- Provide the National Treasury with a detailed report on our factual findings.

3. SUMMARY OF FINDINGS

3.1 In line with Fundudzi Forensic Services practice, due care was taken to confirm the factual accuracy of the findings in this report. This includes a review of all

available documentation as well as consultations with individuals who in our opinion had information relevant to our investigation.

3.2 The findings in this report should be addressed decisively by PRASA. We believe that corrective action limited to the specific individual findings alone would likely address symptoms but not the underlying causes, since this approach carries the risk of deficiencies recurring in future. It is therefore imperative that the underlying causes contributing to the deficiencies be properly understood and addressed as part of the corrective actions to be taken in response to our report.

3.3 The 20 PRASA contracts were divided into 9 categories as follows :

- The Bridge City Rail Link Projects (Crowie Projects/Loliwe Integrated Solutions) (4 contracts);
- Manufacturing and Refurbishment of Hopper Type Wagons contract for the period 19 September 2013 to 31 March 2015 (1 contract);
- The heavy/ light repair of wheels (3 contracts);
- The General Overhaul contracts entered into with Transnet Rail Engineering for the period 1 April 2014 to 31 March 2019 (6 contracts);
- The General Overhaul contract for the period 11 July 2012 to 31 March 2016 (1 contract);
- The General Overhaul Contract entered into with Hailway Trading (Pty) Ltd for the period 1 April 2014 to 31 March 2019 (1 contract);
- The General Overhaul contract for 1 April 2013 to 31 March 2014 (1 contract);
- Diko Van der Merwe (1 contract); and
- The Genlex Agencies contract (1 contract).

3.4 Below is a summary of our findings. The detailed findings are contained in our report below.

■ **The Bridge City Rail Link**

3.4.1. The Bridge City Rail Link Project commenced in 2007 and it involved the Construction of a destination train station from the Bridge City Mall in KwaMashu to join with the Duffs Road Station as well as related construction work;

- 3.4.2.** Crowie Projects/Loliwe were appointed as Project Managers or Turnkey Project Management on each stage of the Rail Link Project without following procurement processes but based on deviation/ motivation;
- 3.4.3.** The deviations were authorised and contracts signed by Montana;
- 3.4.4.** Enza Construction and Focus Group Management which were linked to Crowie Projects benefited from the projects in circumstances that created a conflict of interest;
- 3.4.5.** Gantsho motivated for payments to be made to Crowie Projects/Loliwe for work/services that were not yet rendered. The payments were authorised by Montana and Zamxaka;
- 3.4.6.** Services in respect of the following four contracts grouped under the Bridge City Rail Link were rendered by Crowie Projects/ Loliwe as well as the appointed contractors, except that in respect of line item 20 in the table below as Crowie Projects/ Loliwe awaits new signalling from PRASA:

NT List*	Purchasing	Vendor	Supplying plant	Validity period	Target value (Incl. VAT)
17.	46000063 20	108821	Loliwe Integrated Rail Solutions	31 May 2014- 28 Feb 2015	R24 855 273.10
18.	46000063 39	108821	Loliwe Integrated Rail Solutions	31 May 2014 -30 Mar 2015	R49 503 203.39
19.	46000069 65	108821	Loliwe Integrated Rail Solutions	2 Feb 2015 - 30 Aug 2016	R102 544 95 3.44
20.	46000066 76	108821	Loliwe Integrated Rail Solutions	4 Sep 2013 - 31 Mar 2015	R113 601 99 8.64

- 3.4.7.** The payments in respect of the four contracts were in accordance with the agreements entered into between PRASA and Crowie Projects/ Loliwe;
- 3.4.8.** The contract amounts referred to above excluded Project Implementation Agent/ Turnkey Development Managers fees; and
- 3.4.9.** The continuous appointment of Crowie Projects/ Loliwe as Project Implementation Agents/ Turnkey Development Managers for an extended

period since 2007 to 2015, as well as the appointment of its related entities cannot be said to be in accordance with Section 217 (1) of the Constitution.

■ **The Manufacturing and supply of 72 Hopper AY Wagons**

3.4.10. The procurement of 72 Hopper Type Wagons followed a tender process in terms of PRASA Supply Chain Management Policy and Treasury Regulations;

3.4.11. The tender was awarded to Transnet Rail Engineering for an amount of R81 751 680 (including VAT);

3.4.12. Transnet Rail Engineering delivered to PRASA 67 new Hopper Type Wagons and a further 5 used Hopper Type Wagons which were sold to PRASA at reduced price;

3.4.13. PRASA had to date paid an amount of R73 486 680 in respect of the 72 Hopper Type Wagons purchased from Transnet Rail Engineering; and

3.4.14. The amount paid to Transnet Rail Engineering was in accordance with the sale agreement entered into between PRASA and Transnet Rail Engineering.

■ **Heavy repair of wheels - Transnet Rail Engineering**

3.4.15. PRASA awarded a tender for the repair of heavy and light wheels to Transnet Rail Engineering for a period of three years for R336 800 317 (including VAT);

3.4.16. The tender was for the period 1 August 2012 to 31 July 2016 (including the extension of the contract period);

3.4.17. The award to Transnet Rail Engineering was in accordance with PRASA supply chain management policy and was approved by Montana;

3.4.18. The award of work to Transnet Rail Engineering for the repair of heavy wheels was therefore in accordance with the tender awarded to Transnet Rail Engineering; and

3.4.19. PRASA had paid Transnet Rail Engineering a total of R127 639 432 in respect of the repair of heavy wheels, which amount is within the awarded amount of R336 800 317 (including VAT).

■ **Diko van Der Merwe CC**

3.4.20. Diko Van Der Merwe was appointed to the consortium of consultants following a tender process;

3.4.21. Diko Van Der Merwe was appointed as professional consultants for the upgrade services to Queenstown Railway Station's Old Platform for an amount of R10 191 737.61 (including VAT); and

3.4.22. Diko Van Der Merwe has been paid a total of R4 112 923.24 which amount was within the contract amount of R10 191 737.61 (including VAT).

■ **General overhaul and upgrade contracts- Transnet Rail Engineering**

3.4.23. PRASA had a General Overhaul Contract with various suppliers, including Transnet Rail Engineering, which contract expired in 2013;

3.4.24. PRASA renewed its General Overhaul Contract with various suppliers, including Transnet Rail Engineering following a submission to the PRASA Board of Control;

3.4.25. The PRASA Board of Control approved the renewal of General Overhaul Contract with Transnet Rail Engineering and other suppliers;

3.4.26. The new Overhaul Contract with Transnet Rail Engineering was extended for five years commencing 1 April 2014 to 31 March 2019;

3.4.27. The contract was duly signed by Montana on behalf of PRASA;

3.4.28. Under the Transnet Rail Engineering's General Overhaul Contract, at least six purchasing orders were issued to Transnet Rail Engineering;

3.4.29. Three purchasing orders were not utilised;

3.4.30. Transnet Rail Engineering delivered accordingly in terms of the three purchasing orders that were utilised;

3.4.31. PRASA paid Transnet Rail Engineering a total of R525 495 246 in respect of the three purchasing orders, which amount were within the approved purchasing orders;

■ **General overhaul and upgrade contracts - Goldex/Hailway**

3.4.32. Goldex Engineering and Maintenance had a General Overhaul Contract with PRASA that lapsed in 2014;

- 3.4.33.** Similarly to Transnet Rail Engineering, Goldex Engineering and Maintenance was included in the submission to PRASA Board of Control for the renewal of its General Overhaul Contract;
- 3.4.34.** Goldex Engineering and Maintenance was appointed for General Overhaul for a contract amount of R66 805 823 for the period 1 April 2014 to 31 March 2019, following a submission to the Board;
- 3.4.35.** Goldex Engineering and Maintenance sold its contract to Railway Trading, including its rights and obligations in terms of the General Overhaul contract entered into with PRASA;
- 3.4.36.** Goldex was allocated Ad-hoc work in terms of the General Overhaul contract to the value of R916 336.94 until March 2015;
- 3.4.37.** Goldex has been paid R916 336.94 for Ad-hoc work allocated; and
- 3.4.38.** PRASA had stopped allocating work to Goldex as the latter no longer had capacity to deliver on the General Overhaul contract.

■ **Appointment of Genlex Agencies**

- 3.4.39.** Genlex Agencies was awarded a five year contract for Adhoc Work Repairs, Call out and Technical Support;
- 3.4.40.** The contract was valid for the period 1 April 2014 to 31 March 2019;
- 3.4.41.** The contract price was R22 million (including VAT); and
- 3.4.42.** We were not provided with tender documents in respect of Adhoc Work Repairs, Call out and Technical Support tender (including evaluation reports) and were therefore not able to review the tender process followed in the appointment of Genlex Agencies.

4. RECOMMENDATIONS

Based on the investigations conducted and the detailed findings thereof, we recommend as follows:

- 4.1** Based on the approval of work that has not been done, register an enquiry with SAPS to determine whether there were any corrupt payments made between Crowie Projects and PRASA officials;
- 4.2** Stop the practice of suppliers identifying work for themselves and subsequently being allocated such work without procurement processes being followed;

- 4.3** Improve on record keeping as per the provisions of Section 40(1)(a) of the PFMA and Section 55(1)(a) of the PFMA;
- 4.4** Ensure that contracts entered into with suppliers are in the best interest of PRASA and protect PRASA in that no payments shall be made for services not rendered;
- 4.5** Terminate the General Overhaul Contract between PRASA and Goldex for breach of contract in that Goldex/Hailway Trading failed to deliver in accordance with the General Overhaul contract and/or abandoned the contract; and
- 4.6** Reporting Goldex/Hailway Trading to the National Treasury to be placed on the Database of Restricted Suppliers.