



**REPORT: PASSENGER RAIL AGENCY OF SOUTH AFRICA // GOLDEX
ENGINEERING // HAILWAY TRADING (PTY) LTD [TRADING
AS GOLDEX ENGINEERING]**

1. INTRODUCTION

1.1. This report reflects on an investigation being conducted on behalf of the Board of the Passenger Rail Agency of South Africa (PRASA) into allegations emanating from findings of the Auditor General of South Africa (AGSA), the Public Protector (PP) and subsequent discoveries during these investigations.

1.2. The investigation focuses on the various projects and service providers of PRASA with respect to any instances of fraud, corruption, irregular, fruitless and wasteful expenditure incurred by PRASA employees (past or present) and/or implementing agents, contractors and/or subcontractors and/or associated persons and entities and any irregular and/or unlawful activity relating to the management, implementation and administration of such projects and services rendered.

1.3. An investigation has been commissioned to determine the veracity of these claims, the underlying contracts and any irregularities in the appointment of this supplier.

1.4. This report (in whole or in part) may not, without our prior written consent –

1.4.1. be transmitted or disclosed to or be used or be relied upon by any other person or entity whatsoever for any purposes whatsoever; or

1.4.2. be quoted or referenced to or made public or filed with any third party for any purposes whatsoever, except, in either case to the extent that



PRASA is required to disclose this report by reason of any law, regulation or order of court or in seeking to establish its cause of action/defence in any legal or regulatory proceedings or investigations.

- 1.5. The investigation is being conducted with the benefit of legal privilege, arising between the Board of PRASA and Werksmans.

2. **METHODOLOGY**

- 2.1. The process followed in compiling this report consisted of the collection of raw information from various open source databases and the Internet.¹
- 2.2. Where so required, underlying documents and data relied upon can be made available on request.
- 2.3. This process includes scrutiny of over one billion separate pieces of internally collected data in the form of documents, investigation-results and audit-results.
- 2.4. The raw information is then collated into a single format which depicts basic information relating to each entity under scrutiny.
- 2.5. The collated information is then analysed with a view to determine any obvious indicators of potential risk.
- 2.6. This report reflects the analysed conclusions of potential and actual risk between levels 1 to 5 thus far (out of 5 possible levels).

¹ TransUnion (credit bureau); XDS (credit bureau); SearchWorks (corporate registry); Windeed LexisNexis (corporate and deeds registry); Deeds (deeds registry); Internet open source material; Social media platforms (where applicable) – veracity of data is dependent on service provider



- 2.7. Level 1 risk factors reflect clinical indicators of any adverse financial records as registered on the databases. These would include:
 - 2.7.1. Judgments obtained with respect to outstanding debt obligations;
 - 2.7.2. Material default payments to third parties.

- 2.8. Level 2 risk factors reflect the result of an analysis of the integrated and collated data. This process entails the objective consideration of less obvious factors which may suggest risk. These would include:
 - 2.8.1. Potential risk reflected in registered fixed assets and credit facilities;
 - 2.8.2. Any potential lifestyle or financial risk factors.

- 2.9. Level 3 risk factors reflect on any additional risk factors concluded through the subjective analysis of the integrated data. These would include:
 - 2.9.1. Potential conflicts of interest and apparent no arms-length relationships;
 - 2.9.2. Any risk factor concerning conflicting registered information;
 - 2.9.3. Possible or existing allegations of criminality;
 - 2.9.4. Any other additional visible potential risk factors.

- 2.10. Level 4 risk factors are the results of more in-depth audits and investigations which require the integration of risk factors levels 1 to 3 to be combined with material internal documentation, interviews of



relevant persons, assessing existing allegations that may emanate from whistle-blowers/complainants/victims or state law enforcement or Chapter 9 institution-related investigations and results of internal/external audits and investigations². Level 4 risk factors consider level 1 to 3 assessments of associated persons, family members and business interests held by primary directors.

2.11. Level 5 risk assessments lead to the formulation of specific allegations of misconduct, criminality or unlawful actions. Hypotheses are developed at this level of risk assessment with a view to give direction, guidance and a determinable scope for specific investigations. Such investigations will set out to determine the veracity of such allegations and collect the relevant evidence in support thereof in the lawfully required manner. The results of such investigations may be any or a combination of:

2.11.1. Civil procedural legal action taken to address and remedy issues;

2.11.2. Criminal investigations with a view to seek prosecution;

2.11.3. Internal disciplinary actions.'

2.12. In addition to the levels of risk assessments and investigations, legal analysis, opinions and findings (where relevant) regarding certain identified transactions are also set out herein.

3. **BACKGROUND**

3.1. Goldex Engineering and Maintenance (Pty) Ltd ("Goldex") is a private company with registration number 2007/005407/07 and is recorded by

² This report does not include this level of risk assessment



CIPC as in 'Deregistration Process'. The company was incorporated on 20 February 2007 and appears to carry on business as coach refurbishers and general maintenance suppliers.

- 3.2. The GO Program is a project for the overhaul of PRASA coaches involving the repair and refurbishment of coach features, fittings and equipment. For the PROCAT period only (i.e. 2010 to October 2016) PRASA has incurred a total of procurement spending of R 9.5 Billion by invoice value and R 9.3 Billion by payment value with the suppliers on the GO Program.
- 3.3. Goldex Engineering is part of the GO Program, but was not part of the panel appointed in 2006. Their appointment therefore appears to be irregular because their appointment was not a legacy contract from the South African Rail Commuter Corporation ("SARCC").
- 3.4. A contract is nevertheless in place for Goldex Engineering with PRASA. The contract is a 5-year contract from 1 April 2014 to 31 March 2019, signed on 28 March 2014 by L. Montana (PRASA) and on 22 April 2014 by H Singh (Goldex Engineering).
- 3.5. Saki Zamxaka from PRASA could not provide documentation to the investigation team in support of their appointment to the panel despite having personally signed off on the work allocation to Goldex Engineering together with Montana. Zamxaka has since left the employ of PRASA.
- 3.6. Furthermore, the PRASA Technical engineers raised concerns regarding the abovementioned allocations to Goldex Engineering however Zamxaka recommended and Montana approved the allocation of coaches to Goldex for refurbishment.



4. **Level 2 Risk Factors**

- 4.1. No VAT registration number is reflected in CIPC records, but the Tax number is recorded as 9651084155. This suggests risk of tax evasion or tax fraud.

5. **Level 4 Risk Factors**

- 5.1. On the contract concluded between PRASA (represented by Lucky Montana) and Goldex Engineering and Maintenance (Pty) Ltd (represented by Hetesh Singh), the Company registration number that was used is 2011/101755/07. The company registered with company registration number 2011/101755/07 however bears the trading name of "ABDI-N General Trading and Projects (Pty) Ltd" with its address as 1599 Bopape Street, Winterveld, Gauteng, 0200. The active Director for this company is Mohamed Abdi Nasir Diriye with Identity number 7005066439268 and appointment date is 8 August 2011. The status of this company changed to "unknown" on 25 November 2013. The use of different registration number is indicative of risk of fraud.

- 5.2. A letter by Goldex to PRASA dated 21 November 2013 and PRASA's reply to Goldex dated 17 January 2014 indicated that (the business of) Goldex was purchased and restructured by Hailway Trading (Pty) Ltd and is now referred to as Hail Way Trading trading as Goldex Engineering & Maintenance. Goldex has multiple addresses linked to it in the Western Cape, namely:

- 5.2.1. 19 Voortrekker Rd, Salt River;

- 5.2.2. 197 Flanders Drive, Mount Edgecombe;



- 5.2.3. 1 Old Marine Way, Culembourg, Cape Town;
- 5.2.4. 48 Neptune Road, Paarden Island, Cape Town;
- 5.2.5. 34769 Williamsway Racing Park, Table View, Cape Town.
- 5.3. Roy Moodley has several business interests of which the following companies are current suppliers to PRASA including:
 - 5.3.1. Hail Way Trading;³
 - 5.3.2. Royal Security;
 - 5.3.3. Prodigy Business Services;
 - 5.3.4. Izinyoni Trading; and
 - 5.3.5. Goldex Ltd.
- 5.4. Roy Moodley (representing Hail Way Trading) was also invited to attend The Africa Rail, Signaling & Train Control Conference from 24 June 2013 until 27 June 2013 held at the Sandton Convention Centre. He also attended the awards dinner on 25 June 2013.
- 5.5. Daniel Mtimkulu soon thereafter drafted a PRASA Memorandum dated 20 August 2013 to Lucky Montana in which he recommended Hail Way Trading as a modernization specialist to rebuild the technology hub (together with the University of Stellenbosch and their international partners) to support PRASA's Rolling Stock and Infrastructure Renewal

³ A news article dated 14 August 2016 alleges that R500 million was paid by Siyangena to Hail Way Trading.



Program. This was supported by Mosenngwa Mofi and approved by GCEO Montana.

- 5.6. Hailway Trading (Pty) Ltd (“Hailway”) is a private for profit company with registration number 2011/107755/07 and is recorded by CIPC as ‘In Business’. The company was incorporated on 26/08/2011. The tax number 9761579151 is recorded by CIPC and no VAT number is reflected in CIPC records, but the VAT registration number of Hailway is reflected as 4670261728.
- 5.7. Hail Way Trading was registered on 26 August 2011 with Chockalingham (Roy) Moodley (Id No 5402095117084) being recorded as the only Director. Hail Way Trading is also a current supplier to PRASA with an invoiced amount of R7 706 205.00 to date. The PRASA supplier code 102976 has reference.
- 5.8. The registered address for the company is recorded as 197 Flanders Drive, Mount Edgecombe. The same address is recorded and utilised by the Principal Director Chockalingham Moodley as his residential address. The following companies also utilise the same address as it appears on their records:
 - 5.8.1. Imonix with company registration number: K2012\080638\07 and the inception date of 29 January 2014⁴.
 - 5.8.2. Royal Security Guards with company registration number:M2004\028145\07 and the inception date of 2 November 2004⁵.

⁴ Mr. Moodley is still an active Director.

⁵ Mr. Moodley is still an active Director.



5.8.3. Izinyoni with company registration number:M2002\014319\07 and the inception date of 14 October 2002⁶.

5.8.4. Royal Security with company registration number: B1987\017009\23 and inception date of 28 July 1987⁷.

6. DEALINGS WITH PRASA: GOLDEX

6.1. The following supplier numbers for Goldex are linked to funds received from PRASA to date:

Supplier No	Supplier Name	Invoiced	Paid	Difference
101582	Goldex Engineering	1 992 443,19	939 996,69	1 052 446,50
100804	Goldex Engineering	237 784,26	237 784,26	-
		2 230 227,45	1 177 780,95	1 052 446,50

6.2. The following establishments were approved by PRASA for possible partnership with PRASA Rail on a project-by-project basis:

6.2.1. Society for Black Engineers – For shared projects and the provision of internship programmes.

6.2.2. Hail-way Trading (Pty) Ltd – Modernization specialists to assist rebuild the technology hub with their international partners to support PRASA’s modernization program.

6.2.3. Mani Consulting (Pty) Ltd – As partner for the maintenance systems practitioners and program managers.

6.2.4. Africapacity (Pty) Ltd – As partners for technology sourcing and implementation.

⁶ Mr. Moodley is still an active Director.

⁷ Mr. Moodley resigned.



6.2.5. The following supplier numbers for Hailway Trading are linked to funds received from PRASA to date:

1.	Duplicate Invoices: Same invoice No, Date and Diff Supplier and Amount > 1000
2.	Invoices in Sequence on Same Day. amount > R10k
3.	Invoices in sequence. amount > R10k
4.	Suppliers > 1 payment same day, diff payment no & diff transaction no
5.	Suppliers > 1 Invoice same day (excl. suppl with more than 30 instances)
6.	Round amount transactions
7.	Duplicate Invoices: Same Supplier, Amount and Amount > 3000
8.	Suppliers with monthly invoice spikes
9.	Suppliers > 1 Invoice same day. amount > R10k (Summary)

6.2.6. Rail Space (Pty) Ltd – As partners systems designers and reengineering improvement partners.

6.2.7. The table below highlights the invoicing and payment anomalies:

1.	Invoices with same date, supplier greater than R10k (Summary)
2.	Duplicate invoices: same invoice number, date and different supplier and amount greater than 1000.00
3.	Invoice date on Saturday
4.	Suppliers with the same address – different names
5.	Suppliers with the same or similar names
6.	Suppliers with more than one invoice same day (excluding supplement with more than 30 instances)
7.	Suppliers with the same bank account number – same names
8.	Invoices and payments

6.2.8. The hosting of High School learners to stimulate engineering interest.



- 6.3. The investigation team investigated the appointment of Hail Way Trading (Pty) Ltd. They became a supplier to PRASA after buying Goldex Engineering and Maintenance CC.
- 6.4. An unsigned contract for conclusion between PRASA represented by GCEO Montana and Hail Way Trading dated 1 April 2011 to 31 March 2014.
- 6.5. A letter by Goldex to PRASA dated 21 November 2013 and PRASA's reply to Goldex dated 17 January 2014 indicate that (the business of) Goldex was purchased and restructured by Hailway Trading (Pty) Ltd and is now referred to as Hail Way Trading trading as Goldex Engineering & Maintenance.
- 6.6. Andile Nomlala (BMF Provincial Chairperson of Western Cape), was apparently the Project Manager of a multimillion rand contract from PRASA during 2008. The contract was awarded to Goldex Engineering and Maintenance (GEM) for the refurbishment of Metro Rail Coaches in the Cape Town Area (where Andile served as Financial Manager and later as Group Procurement Head)⁸.
- 6.7. According to a Blogspot posting dated 7 April 2011, Goldex Engineering and Maintenance & Sakhisizwe Personnel were awarded a tender to train Engineering Apprentices, Electrical Engineering and Welding apprentices.
- 6.8. The commonality of directors between Goldex and Sakhisizwe is a clear indication of the collective nature of their respective appointments by PRASA.



- 6.9. Details of Goldex’s appointment, seemingly long after the other GO suppliers, requires additional scrutiny.
- 6.10. Goldex and Hailway have a high volume of system generated alerts which would need to be analysed, checked and investigated if further legal action is taken against them.
- 7. The relationship between Goldex and Sakhisizwe is readily apparent. Sakhisizwe Personnel is a current supplier to PRASA. Sakhisizwe Personnel invoiced PRASA R905 504,00 thus far. Sakhisizwe used Supplier code 101917 to claim from PRASA.

8. Transactions with PRASA

Supplier No	Supplier Name	Date Created	1st Invoiced Date	Last Invoiced Date	1st Date Paid	Last Date Paid
101582	Goldex Engineering	2010-04-14	2010-04-15	2010-05-07	2010-06-11	2010-06-11
100804	Goldex Engineering	2010-04-07	2011-05-24	2011-08-23	2011-07-06	2011-09-30

- 8.1. The invoice value Goldex Engineering has invoiced on Procat is R 2.2 million.
- 8.2. It emerged that Zamxaka did not explain how Goldex Engineering came to form part of the panel. The Recommendation report for 2006 reflects that Goldex and Naledi were appointed as additional suppliers through a tender process in 2006, but were not part of the initial supplier panel.
- 8.3. PRASA Engineering raised concerns regarding Goldex Engineering but Zamxaka and Lucky Montana (Montana, erstwhile GCEO of PRASA) continued to allocate work to Goldex Engineering. The concerns raised can be summarised as follows:



- 8.3.1. There was no allocation for Goldex Engineering as per the submission to FCP in 2012.
- 8.3.2. The Goldex Engineering operation was centred around Gavin Nicol who was now employed by CTE.
- 8.3.3. There were uncertainties regarding plant location and equipment, production processes and billing arrangements.
- 8.4. Goldex Engineering has a contract of five (5) years starting from 1 April 2014 until 31 March 2019 signed by Lucky Montana on 28 March 2014 for PRASA and H Singh on the same date for Goldex Engineering.
- 8.5. Hail Way Trading with company registration no 2011/107755/07 was registered on 26 August 2011 with Chockalingham (Roy) Moodley (Id No 5402095117084) being recorded as the only director. Hail Way Trading is also a current supplier to PRASA with an invoiced amount of R7 706 205 to date. Supplier code 102976 has reference.
- 8.6. Royal Security with company registration no. 1987/017009/23 and supplier codes 105563, 111573, 102117 & 110122 as reference, invoiced PRASA R319 990 151 thus far.
- 8.7. Prodigy Business Services with company registration no. M2006/018844/07 and supplier codes 104364 & 110193 as reference, invoiced PRASA R171 286 940 thus far.
- 8.8. Sakhisizwe Personnel invoiced PRASA R905 504,00 thus far.
- 8.9. Eris Property Group invoiced PRASA R3 705 956,00 thus far.
- 8.10. Tower Group invoiced PRASA R8 198 742,00 thus far.



- 8.11. Glasfit Western Cape invoiced PRASA R6 636 868,00 thus far.
- 8.12. Thinus Barnard, Senior Manager, PricewaterhouseCoopers - Forensic Services with Mobile phone: +27 (0) 82 372 5362, Telephone: +27 (0) 21 529 2188, Fax number: +27 (0) 21 529 3331, Email: *"thinus.barnard@za.pwc.com recommended that an investigation be launched against Goldex as they did not have the means and facility to carry out the work they were supposed to do."*
9. The appointment of Goldex Engineering and Maintenance (Pty) Ltd appears to be irregular although there is a signed contract in place. The signed contract arises from a deviation, which was of itself irregular. Civil action for recovery is recommended against Goldex Engineering and Maintenance (Pty) Ltd, Sakhisizwe Personnel and the contract needs to be cancelled as irregularities were detected.
10. **RECOMMENDATIONS WITH RESPECT TO CONTINUED CRIMINAL INVESTIGATIONS GOING FORWARD**
- 10.1. Having regard to the content of this report, read in conjunction with the other investigative reports holistically, it is recommended that the offences of racketeering in terms of the *Prevention of Organised Crime Act 121 of 1998 (POCA)* as amended be considered. The reasons underpinning this recommendation are set out herewith:
- 10.1.1. It must be noted that the recommendations require a collective perusal and consideration of all relevant investigative reports and link analysis charts in this regard.
- 10.1.2. By way of background: The intentions of the legislature in introducing POCA (and relevant to this recommendation) were; to introduce



measures including combating organised crime, money laundering and criminal gang activities; to prohibit certain activities relating to racketeering activities; to provide for the prohibition of money laundering and for an obligation to report certain information; to provide for the recovery of the proceeds of unlawful activity; to provide for the establishment of a Criminal Assets Recovery Account; to amend the International Co-operation in Criminal Matters Act, 1996; to repeal the Proceeds of Crime Act, 1996; to incorporate the provisions contained in the Proceeds of Crime Act, 1996; and to provide for matters connected therewith.

10.1.3. The sections of POCA relevant to this recommendation are Sections 2 (1), 4 and 6:

"2. *Offences - (1) Any person who:*

- (a) (i) *receives or retains any property derived, directly or indirectly, from a pattern of racketeering activity; and*
- (ii) *knows or ought reasonably to have known that such property is so derived; and*
- (iii) *uses or invests, directly or indirectly, any part of such property in acquisition of any interest in, or the establishment or operation or activities of, any enterprise;*
- (b) (i) *receives or retains any property, directly or indirectly, on behalf of any enterprise; and*



- (ii) *knows or ought reasonably to have known that such property derived or is derived from or through a pattern of racketeering activity,*
- (c)
 - (i) *uses or invests any property, directly or indirectly, on behalf of any enterprise or in acquisition of any interest in, or the establishment or operation or activities of any enterprise; and*
 - (ii) *knows or ought reasonably to have known that such a property derived or is derived from or through a pattern of racketeering activity;*
- (d) *acquires or maintains, directly or indirectly, any interest in or control of any enterprise through a pattern of racketeering activity;*
- (e) *whilst managing or employed by or associated with any enterprise, conducts or participates in the conduct, directly or indirectly, of such enterprise's affairs through a pattern of racketeering activity;*
- (f) *manages the operation or activities of an enterprise and who knows or ought reasonably to have known that any person, whilst employed by or associated with that enterprise, conducts or participates in the conduct, directly or indirectly, of such enterprise's affairs through a pattern of racketeering activity; or*



- (g) *conspires or attempts to violate any of the provisions of paragraphs (a), (b), (c), (d), (e) or (f), within the Republic or elsewhere, shall be guilty of an offence.*

4. *Money Laundering:*

Any person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and –

1. *enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether such agreement, arrangement or transaction is legally enforceable or not; or*
2. *performs any other act in connection with such property, whether it is performed independently or in concert with any other person,*

which has or is likely to have the effect –

- (i) *of concealing or disguising the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof; or*
- (ii) *of enabling or assisting any person who has committed or commits an offence, whether in the Republic or elsewhere-*
 - (aa) *to avoid prosecution; or*



(bb) to remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence,

shall be guilty of an offence”.

6. *Acquisition, possession or use of proceeds of unlawful activities. – Any person who –*

(a) acquires;

(b) uses; or

(c) has possession of,

property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities of another person, shall be guilty of an offence”.

10.2. In reading the three sections of POCA above, the following definitions as contained in Section 1 thereof are also relevant:

10.2.1. **“Enterprise”** includes any individual, partnership, corporation, association, or other juristic person or legal entity, and any union or group of individuals associated in fact, although not a juristic person or legal entity;

10.2.2. **“Pattern of racketeering activity”** means the planned, ongoing, continuous or repeated participation or involvement in any offence referred to in Schedule 1 and includes at least two offences referred to in Schedule 1, of which one of the offences occurred after the commencement of this Act (POCA) and the last offence occurred



within 10 years (excluding any period of imprisonment) after the commission of such prior offence referred to in Schedule 1;

10.2.3. **"Proceeds of unlawful activities"** means any property or any service, advantage, benefit or reward which was derived, received or retained, directly or indirectly, in the Republic or elsewhere, at any time before or after the commencement of this Act, in connection with or as a result of any unlawful activity carried on by any person, and includes any property representing property so derived;

10.2.4. **"Unlawful activity"** means any conduct which constitutes a crime or which contravenes any law whether such conduct occurred before or after the commencement of this Act and whether such conduct occurred in the Republic or elsewhere.

10.3. In light of the above, it is clear that POCA intends to deal with organised racketeering of entities irrespective of the various parts played by persons associated with such enterprise in achieving the object of their collective conspiracy to commit a particular crime or a series of crimes.

10.4. The starting point in considering the recommendation to institute charges of racketeering as defined and provided for in POCA would be the fact that the requirements described in Section 2 (1) of POCA (as set out above) would have to be met in evidence.

10.5. These require the ability to demonstrate that the various suspect individuals and entities were all active in different capacities, in one manner or another, and involved in an illegal enterprise.

10.6. The respective reports have to be read in conjunction in order to comprehend the scale and range of criminal activities that are alleged



to have been committed. In addition, the relevant link analysis charts need to be taken into account simultaneously.

10.7. Read collectively as recommended, the reports and link analysis make a *prima facie* case which identifies the persons and entities, underlying criminal offences and show all to have had the intended purpose to facilitate the multiple instances of fraud, corruption, money laundering and other unlawful activities or a combination thereof and as described in schedule 1 of POCA, for the benefit of the criminal enterprise.

10.8. The reports which display the progress made on the multiple cases depict the various stages of investigation and collection of evidence (even when having regard for the limitations ensued as a result of the lack of the Directorate of Priority Crimes Investigations and/or the National Prosecuting Authority in exercising their persuasive powers, such as subpoenaing and analysing bank account statements of the relevant periods and other third parties, obtaining witness statements and warning statements from suspects and/or conducting search and seizure warrants) collectively comprise *prima facie* evidence which the state can rely upon to institute several charges of racketeering against the identified entities and individuals. Common categories of activities which are demonstrated throughout all the reports and which must be read in conjunction with each other in order to consider such charges include:

10.8.1. Instances where invoices for payment were submitted for the same delivery of services and/or goods on more than one occasion – alleged fraud and corruption;

10.8.2. Instances where suppliers of services and/or goods were registered as suppliers on multiple occasions and within multiple parts of PRASA – alleged fraud and corruption;



- 10.8.3. Instances where payments were given effect to for services not rendered – alleged fraud and corruption;
- 10.8.4. Instances where contracts were entered into *contra* the legal requirements of PRASA – alleged fraud and corruption;
- 10.8.5. Instances where suppliers to PRASA were registered as suppliers under one name or legal status interchangeably e.g as CC or Pty(Ltd) – alleged fraud and corruption;
- 10.8.6. Instances where payments from PRASA to suppliers were diverted from one entity or person to another in a concealed fashion – alleged money laundering;
- 10.8.7. Instances where suppliers to PRASA presented themselves to be based at particular addresses as functioning entities, when in fact they could not be traced to those addresses – alleged fraud;
- 10.8.8. Instances where individuals and entities received the benefits of proceeds of organised crime;
- 10.8.9. Instances where the financial proceeds of unlawful activities were utilised by persons to acquire moveable and immovable property;
- 10.8.10. Instances where the proceeds of organised crime or unlawful activities were diverted from one entity or person to another;
- 10.8.11. Instances where persons with conflicts of interests or potential conflicts of interest participated in activities and/or decisions and/or giving effect to payments, which resulted in unlawful direct or indirect



benefits to third parties associated to them – alleged fraud, corruption and money laundering.

- 10.9. Insofar the recommendations as set out above, PRASA has written to both the Head: Directorate of Priority Crimes Investigations and the National Director of Public Prosecutions of the National Prosecuting Authority, requesting for the declaration of the investigations as priority crimes and to consider the issuance of a certificate for an investigation of racketeering.
- 10.10. Unfortunately, any further attempts to see this process through to its logical conclusion have not borne any fruit from the side of PRASA and its legal representatives.
- 10.11. Having said this, there is no reason why the National Director of Public Prosecutions of the National Prosecuting Authority may not still consider these requests at any given point in time going forward.
- 10.12. It is strongly recommended that the requests referred to be pursued until the National Director of Public Prosecutions of the National Prosecuting Authority takes a stance either way. Such a decision would dramatically impact on the continued paths for the investigations, as it would result in each instance having to be treated as separate and unconnected offences, and presented by way of criminal complaints and prosecutions accordingly. Should such a scenario occur, various legal ramifications may ensue which would hamper successful prosecutions significantly, simply because of the overlapping nature of the reported activities, alleged crimes, and common suspects and methodologies as set out in the respective investigative reports.



11. CONCLUSIONS

11.1. Should PRASA wish to investigate this matter further, the investigation in this regard will comprise, *inter alia*:

11.1.1. Unpacking the agreements entered into with these various entities to determine whether the work contracted and paid for was in fact completed by each such entity and to the satisfaction of PRASA;

11.1.2. The PRASA employees involved in the compilation, motivation, recommendation and approval of the Memos and their relationships, if any, with the entities must be investigated;

11.1.3. Should the investigation reveal any impropriety on the part of any employee, the appropriate disciplinary action would be recommended as well as any other proceedings which may be appropriate in the circumstances;

11.1.4. Should the investigation reveal that no value was in fact received by PRASA, the appropriate legal steps would need to be considered relating to the possible setting aside of contracts with the concomitant actions to recover monies and lodging of criminal complaints.

12. It must be noted that the levels of complexity and sheer volumes of evidence that is required to be considered, reviewed and concluded to bring these matters to conclusion, will prove a challenge to even the state's law enforcement agencies today. Notwithstanding this challenge, it is incumbent upon PRASA to properly and fully investigate these matters so that from an operational perspective, all identified irregularities are



addressed and appropriate legal procedures are followed to both protect and enforce PRASA's rights.