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Your Reference: 43/1/2/5/1
Date: 20 December 2016

BY E-MAIL

Attention: Mr. Vukani Ndaba
Department:
NATIONAL TREASURY
Republic of South Africa
Private Bag X115
Pretoria
0001

Dear Mr. Ndaba,

PRIVILEGED AND CONFIDENTIAL

INVESTIGATION INTO 20 SELECTED CONTRACTS (AS PER ANNEXURE C TO THE AGREEMENT BETWEEN NATIONAL TREASURY AND BOWMAN GILFILLAN DATED 10 FEBRUARY 2016) ABOVE R10 MILLION AWARDED BY PRASA FROM 2012 TO DATE – STEFANUTTI STOCKS (PTY) LTD / 4PHASE RAILTECHNIK (PTY) LTD

1. Bowmans was mandated by National Treasury to investigate 20 PRASA contracts with a value exceeding R20m from 2012 to date.
2. This is our report pertaining to Stefanutti Stocks (Pty) Ltd / 4Phase Railtechnik (Pty) Ltd investigation.
3. Please do not hesitate to contact me should you require any further information.

Yours faithfully,

Bowman Gilfillan
per: Johan Kruger

Report
Department of National Treasury
PRASA – Stefanutti Stocks (PTY) Ltd/ 4Phase Railtechnik (PTY) Ltd
Account: 111642
Platform clearances: Turnkey at Cleveland

December 2016

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Report

Report
Department of National Treasury
PRASA – Stefanutti Stocks (PTY) Ltd/ 4Phase Railtechnik (PTY) Ltd
Account: 111642
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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 Stefanutti/4Phase contract for the rectification of the Cleveland platform.
3. National Treasury allocated the 20 PRASA contracts that Bowmans was mandated to investigate.

Summary of findings and opinion

Background

4. A Prohibition Notice was received by PRASA from the Railway Safety Regulator threatening to close down the Cleveland station as the horizontal and vertical gaps posed a safety risk for commuters when boarding and disembarking from the trains.
5. The platforms at the Cleveland train station did not conform to the required standards in terms of horizontal and vertical clearances as the gaps between the passenger platforms and entrances to commuter coaches did not cater for individuals with disabilities, children and elderly people.
6. PRASA is required to ensure that its station platforms are universally accessible to commuters. For this reason, PRASA embarked on a national programme to identify stations with similar risks and to address these risks.
7. The main objective of the project was to ensure the safety of people (both commuters and PRASA employees or other stakeholders) by eliminating the risk posed by gaps between platforms and trains, also mitigating risks of civil action against PRASA.
8. The secondary objective of the project was to address drainage problems and other unsatisfactory conditions at the stations that create risks to commuters, employees and stakeholders. [for instance uneven surfacing, water ponding and horizontal and vertical misalignment of coping blocks.] New SABS standards were also much firmer, requiring more intensive track maintenance.
9. A turnkey approach was adopted to the project in order to expedite implementation.
10. Stefanutti/4Phase was contracted to rectify the horizontal and vertical platform clearances in order to conform to the national policies, legislation and SABS standards.

Contract – 1 July 2015

11. An agreement was concluded between PRASA and Stefanutti Civils, a division of Stefanutti Stocks (Pty) Ltd /4Phase Railtechnik (Pty) Ltd ("Stefanutti/4Phase").
12. An undated contract was signed by Stefanutti/4Phase and PRASA.
13. The commencement date of the contract was 1 July 2015 irrespective of when the contract was signed.
14. The contract price was for a fixed price of R41,179,077.80 (including VAT) excluding a 10% contingency.

Payments made by PRASA to Stefanutti/4Phase

15. PRASA made a total of R41,179,077.83 payments to Stefanutti/4Phase for the Cleveland platform rectification turnkey project contract.
16. All the platforms at Cleveland station were successfully repaired and upgraded by Stefanutti/4Phase and the handover took place on 28 April 2016.

Delays in the tender process

17. The table below list the timeline of events:

Description	Date
Purchase requisition	28 May 2014
Advertisement of the tender	15 June 2014
Collection of tender documents	19 - 26 June 2014
Briefing of bidders	26 June 2014
Opening of bid documentation	13 August 2014
Appointment of the TEC members	3 November 2014
Meeting of the TEC members	5 November 2014
Evaluation score cards submitted by TEC members	6 and 7 November 2014
Recommendation report submitted to GCEO	19 February 2015
Approval by GCEO	23 February 2015

Description	Date
Security screening report	4 March 2015
Notice to proceed	4 March 2015
Commencement of agreement	1 July 2015

18. There were several delays during the tender process:
- a. Almost a three month delay between when the bid documentation was received and when the TEC members were appointed.
 - b. More than a three month delay between the evaluation of the bid documentation by the TEC members and when the recommendation report was submitted to the GCEO for approval.
 - c. More than four month delay between when the GCEO approved the bid and when the contract commenced.
19. The delays in the tender process could be an indication of lack of internal control within PRASA's SCM Department.

Conflict of interest

20. It should be noted that one of the directors of 4Phase had been appointed as the Commissioner of the National Planning Commission on 16 October 2015.
21. Whilst onus is in the service provider to advise the public entity of changes in its shareholding and/or directorships during the tenure of its contract, PRASA should be proactive and have control mechanisms to track whether or not it is conducting business with persons in the employ of the state and implement necessary remedial action.
22. No significant irregularities were identified with this contract.

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Abbreviations

Descriptions and explanations of terms and abbreviations 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
Bowmans	Bowmans Inc., forensic accountants for National Treasury.
Cleveland	Cleveland is a suburb in the South of Johannesburg.
GCEO	Group Chief Executive Officer
Metrorail	Metrorail operates commuter rail services in urban areas
National Treasury	The 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
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 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>
Perway	Bridges and platforms
PRASA	Passenger Rail Agency of South Africa
R	Rand, the RSA currency.

Abbreviation / term	Description
RFT	Request for Tender
RSA	Republic of South Africa
SABS	South African Bureau of Standards. SABS is a leading global provider of standards, management systems, business improvement and regulatory approval information.
SANAS	South African National Accreditation System
Shosholoza	Shosholoza Meyl operates regional and inter-city rail services
Stefanutti	Stefanutti Stocks (Pty) Ltd, registration number 2003/022221/07. Stefanutti is a construction company that was founded in 2003. Stefanutti was appointed by PRASA to rectify the platform at the Cleveland station.
TEC	Technical Evaluation Committee

1. BACKGROUND

- 1.1 The Passenger Rail Agency of South Africa (PRASA) was created in 2008, consolidating all of the passenger rail entities to better manage and aggressively address the under-performance of rail passenger services and to become more modern, efficient and customer-focused.
- 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 PRASA intended to improve the safety of commuters in and around the railway stations nationally.
- 1.5 PRASA is required to ensure that its station platforms are universally accessible to commuters and for this reason station platforms had to conform to the required standards.
- 1.6 None of the platforms at the Cleveland station adhered to the required standards in terms of horizontal and vertical clearances.
- 1.7 The horizontal and vertical clearances did not adhere to the SABS standards as the horizontal and vertical gaps between the passenger platforms and entrances to commuter coaches did not cater for individuals with disabilities, children and elderly people.
- 1.8 The main objective of the project was to ensure the safety of people (both commuters and PRASA employees or other stakeholders) by eliminating the number of incidents, fatalities and injuries, which occur when people fall in the gap between the train and the platform at commuter stations. This would ultimately also mitigate the potential for civil litigation by injured individuals.
- 1.9 PRASA, therefore, ventured on a national programme to identify stations where these problems needed to be resolved, not only for safety reasons but also to create a user friendly environment for their passengers.
- 1.10 In terms of national policy, national legislation and company requirements, PRASA had to ensure that its station platforms were universally accessible to commuters irrespective of their ability/disability. This needed to be corrected over time, as it could only be achieved in the medium term. The aim was to complete the Cleveland platform rectification project within approximately 8 to 10 months.

- 1.11 The secondary objective of the project was to address drainage problems and other undesirable conditions on and around the platforms, which create unsafe conditions for commuters, employees and stakeholders, e.g. uneven surfacing, water ponding and horizontal and vertical misalignment of coping blocks.
- 1.12 These improvements “*fitted into the backdrop*” of the PRASA Railway Modernisation Project that included massive investment in new rolling stock, upgraded signalling, upgraded stations, etc.
- 1.13 A national standard for platform clearances was adopted. The tolerances for the new standard were much stricter, requiring more intensive track maintenance.
- 1.14 A turnkey approach was adopted in respect of the contract in order to fast track implementation due to a Prohibition Notice that was received from the Railway Safety Regulator, threatening to close down the Cleveland station as the horizontal and vertical gaps posed a safety risk for commuters.
- 1.15 PRASA sought a turnkey contractor to solve this problem.
- 1.16 As a result, PRASA contracted Stefanutti/4Phase to rectify the horizontal and vertical platform clearances in order to conform to the national policies and legislation, and SABS standards.

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

Mandate

- 2.1 The Public Protector in her report on the Passenger Railway 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.
- 2.2 Bowmans was mandated by National Treasury to investigate 20 PRASA contracts above R10 million that were awarded by PRASA from 2012 to date, which included *inter alia* the Stefanutti/4Phase contract for the rectification of the Cleveland platform.
- 2.3 The 20 PRASA contracts Bowmans had to investigate were selected by the National Treasury.
- 2.4 Bowmans was mandated by the National Treasury to provide forensic accounting services in respect of PRASA. The principal objectives of our investigation were to:
- 2.4.1 Investigate the procurement processes which were followed in the appointment of the suppliers.
- 2.4.2 Determine whether the appointments of identified service providers were made in line with relevant prescripts and were approved by relevant authorities.
- 2.4.3 Establish where applicable, whether deviations were in-line with relevant prescripts.
- 2.4.4 Determine whether payments correspond to the respective bid price and/or contractual agreement.
- 2.4.5 Identify all persons or entities that unduly benefitted as a result of irregular conduct.

- 2.4.6 Advise on the remedial actions which must be taken in instances of maladministration and/or where improper conduct has been detected.
- 2.4.7 Provide a report on our findings.
- 2.5 We were not mandated to and did not conduct an audit in compliance with generally accepted auditing standards.

Period under investigation

- 2.6 Our investigation covered the period from 2012 to 16 May 2016.

Report format

- 2.7 Section 3 of the report sets out the work which we have performed. Sections 4 onwards deal with our detailed findings.
- 2.8 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

- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 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 searches of Stefanutti and 4Phase.
- 3.2 PRASA Supply Chain Management Policy dated February 2009.
- 3.3 PRASA Supply Chain Management Policy dated September 2013.
- 3.4 Tender documentation relating to the Cleveland platform rectification contract and appointment of Stefanutti/4Phase as the contractor.
- 3.5 Agreement between PRASA and Stefanutti/4Phase undated for the rectification of the Cleveland platform.

- 3.6 Stefanutti/4Phase creditor account in the accounting records of PRASA.
- 3.7 Stefanutti/4Phase invoices and other supporting documentation for the payments made by PRASA to Stefanutti/4Phase in terms of the rectification of the Cleveland platform.

Interviews Conducted

- 3.8 We conducted interviews with the following individuals:

Name	Position
PRASA	
Asif Rehman	Supply Chain Management
Joseph Molosi	Project Manager

Other Procedures Performed

- 3.9 Performed company searches on Stefanutti and 4Phase.
- 3.10 Obtained and perused the supply chain management policy of February 2009 and September 2013.
- 3.11 Obtained copies of all procurement files and related documentation relevant to this Stefanutti/4Phase Cleveland platform rectification contract.
- 3.12 Read and reviewed appointment of Stefanutti/4Phase as supplier of PRASA for the Cleveland platform rectification.
- 3.13 Obtained and reviewed the agreement between PRASA and Stefanutti/4Phase undated.
- 3.14 Obtained the Stefanutti/4Phase creditors account in the accounting records of PRASA in electronic format.
- 3.15 Obtained all supporting documentation for the payments made by PRASA to Stefanutti/4Phase.
- 3.16 Compared Stefanutti/4Phase creditor accounts in the accounting records of PRASA to the physical Stefanutti invoices.
- 3.17 Conducted various preliminary interviews with PRASA officials.
- 3.18 Physically inspected the PRASA Cleveland platform rectified by Stefanutti/4Phase.
- 3.19 Compiled a report on our findings.

4. COMPANY INFORMATION

4.1 The Cleveland platform rectification was awarded by PRASA to the Stefanutti/4Phase joint venture:

- 70% - Stefanutti Stocks Civils (a division of Stefanutti Stocks (Pty) Ltd)
- 30% - 4Phase Railtechnik (Pty) Ltd

Stefanutti Stocks Civils – a division of Stefanutti Stocks (Pty) Ltd

4.2 Stefanutti, company registration number 2003/022221/07, is a construction company that was founded in 2003 (Exhibit 1).

4.3 Stefanutti is one of South Africa's leading multidisciplinary construction groups with over 12,000 employees. Stefanutti delivers a range of infrastructure development projects to its clients across diverse sectors.

4.4 Their operations offer a broad spectrum of capabilities to the following sectors:

4.4.1 Building

4.4.2 Bulk Earthworks and Geotechnical

4.4.3 Energy Generation

4.4.4 Industrial Plants, Oil and Gas

4.4.5 Mining and Mining Infrastructure

4.4.6 Transport Infrastructure (road, rail, marine and air)

4.4.7 Water, Sanitation and Pipelines

4.5 Stefanutti are active in South Africa and across sub-Saharan Africa including in countries such as Botswana, Mozambique, Namibia, Nigeria, Sierra Leone, Swaziland, Tanzania and Zambia. In the United Arab Emirates (UAE) they have established businesses in Dubai, Abu-Dhabi and Qatar.

4.6 All South African operations are divisions of Stefanutti, and are a Level Three BBBEE contributor.

4.7 Stefanutti's registered address is Protec Park, corner of Zuurfontein Avenue and Oranjerivier Drive, Chloorkop, Johannesburg.

4.8 Stefanutti currently has eight active directors as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date	Status
1	Antonio Vito Cocciantè	691123 5243 088	01/06/2015	Active
2	Werner Jerling	660306 5102 084	18/11/2015	Active

3	Howard Douglas Kingsley Jones	481016 5075 084	09/06/2014	Active
4	Willem Meyburgh	540605 5081 081	01/03/2010	Active
5	Vincent Earl Olley	620812 5148 083	31/07/2012	Active
6	Michael Siyelelesa Mbusi Sikhakhane	651026 5671 083	01/01/2014	Active
7	Frederick Theron Venter	530109 5024 086	01/12/2010	Active
8	Stefanutti Stocks Holdings Secretary		01/03/2010	Active

4Phase Railtechnik

4.9 4Phase Railtechnik ("4Phase"), company registration number 2008/011585/07, is a railway engineering company that was founded in 2008 (Exhibit 1).

4.10 4Phase's registered address is Plot 401, Van Der Hoff Road, Rietfontein, Hartebeespoort, 0216.

4.11 4Phase currently has two active directors as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date	Status
1	Thanyani Ramatsea	741215 6063 083	14/12/2010	Active
2	Motshabi Martha Senna	840820 0649 082	03/01/20143	Active

4.12 One of the directors of 4Phase has been appointed as the Commissioner of the National Planning Commission on 16 October 2015. It appears that he may have benefitted from this contract, whilst in the position of Commissioner.

4.13 It is not known whether the director had declared this interest to the National Planning Commission.

4.14 PRASA had neither identified the conflict of interest nor reported it as a risk and/or reported the benefit derived by the person in the employ of the state whilst doing business with the state.

5. PRASA SUPPLY CHAIN MANAGEMENT POLICY

5.1 The PRASA Supply Chain Management ("SCM") Policy stipulates that for (Exhibits 2 and 3):

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

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

5.2 Exceptions for competitive tendering will only be considered in the following circumstances:

- 5.2.1 In the case of emergency;
- 5.2.2 In the case of a sole source; and
- 5.2.3 In the case of confinements.

6. **APPOINTMENT OF STEFANUTTI/4PHASE**

Purchase requisition

- 6.1 On 28 May 2014, Mr Sonwabile Kondlo ("Mr Kondlo") of the PRASA Infrastructure Department issued a purchase requisition for the *"Rectification of platform clearances by means of realignment of track & platform clearances at Cleveland station"* (Exhibit 5).
- 6.2 The estimated cost for the project was approximately R20 million.
- 6.3 The requisition was signed by Mr Kondlo, and signed for approval by the Line Manager, Mr Earnest Gow ("Mr Gow") and the Procurement Official, Mr Bongiwe Shiba ("Mr Shiba") on 28 May 2014.

Tender forms for issuing (PO for tender advert/drafft/quote)

- 6.4 A request for tender was advertised by PRASA on 15 June 2014 on the Construction Industry Development Board ("CIDB") website and the following newspapers (Exhibits 6, 7 ad 8):
 - 6.4.1 The New Age
 - 6.4.2 Sunday Times
 - 6.4.3 Sowetan
 - 6.4.4 City Press
 - 6.4.5 The Star
 - 6.4.6 Pretoria News
- 6.5 According to the advertisement, the tender participants could:
 - 6.5.1 Collect the tender documentation from PRASA from 19 to 26 June 2014.
 - 6.5.2 They were required by PRASA to attend a compulsory site inspection/briefing session on 26 June 2014.
 - 6.5.3 All tenders had to be submitted before the closing date of 13 August 2014, 12h00.

Collection register and proof of payment

- 6.6 Approximately 33 construction companies collected the tender documentation from 19 to 26 June 2014 (Exhibits 9 and 10).

Tender briefing register

6.7 The tender briefing attendance register reflects that numerous construction companies attended the compulsory site inspection/briefing session held by PRASA on 26 June 2014 from 9h00 to 16h00 (Exhibit 11).

Tender opening register

6.8 PRASA compiled a tender opening register that recorded the bid documentation received from the construction companies before the closing date of the tender, i.e. 13 August 2014 (Exhibit 12).

6.9 A total of 11 construction companies submitted bid documentation, namely:

- 6.9.1 CV Shopfitters & Joiners CC
- 6.9.2 Mopicon Construction (Pty) Ltd
- 6.9.3 Kingsway Civil (Pty) Ltd
- 6.9.4 Build Again Projects
- 6.9.5 Akani Corporate Solution
- 6.9.6 Ineelo Trading Enterprise
- 6.9.7 Mpfumelelo Business Enterprise
- 6.9.8 China Rail Construction (Pty) Ltd
- 6.9.9 King Civil/Are Shomeng (joint venture)
- 6.9.10 Phumi/Glenro/Tubular Track Consortium
- 6.9.11 Stefanutti Stocks (Pty) Ltd/4Phase (joint venture)

6.10 The bid documentation was received and opened by Ms Rosemary Moagi, Tender Administrator, in the presence of two witnesses.

6.11 The tender opening register was submitted to Mr Kondlo.

Appointment letter of evaluation

6.12 On 3 November 2014, letters of appointment were sent to the following individuals to serve on the Tender Evaluation Committee ("TEC"), to evaluate the bid documentation received from the construction companies for the Cleveland platform turnkey rectification project (Exhibit 14):

- 6.12.1 Godfrey Sonny (Chairperson)
- 6.12.2 Samantha Zungu
- 6.12.3 Sonwabile Kondlo
- 6.12.4 Motsei Molope

Evaluation register, declaration and confidentiality forms

- 6.13 On 5 November 2014, the TEC met in order to evaluate the bid documentation received from the construction companies for the Cleveland platform turnkey rectification project.
- 6.14 All the member of the TEC were present, namely (Exhibit 15):
- 6.14.1 Godfrey Sonny
- 6.14.2 Samantha Zungu
- 6.14.3 Sonwabile Kondlo
- 6.14.4 Motsei Molope
- 6.15 During the TEC meeting, all the TEC members declared that they had no interest or relationship with the construction companies that submitted bid documentation for the Cleveland platform turnkey rectification project (Exhibit 16).
- 6.16 Furthermore, all TEC members signed confidentiality agreements in which they undertook to keep the information about the tender confidential and not to disclose the tender information to anyone (Exhibit 16).

Evaluation score sheet

- 6.17 On 6 and 7 November 2014, all TEC members submitted their scores for the bid documentation submitted by the contractors (Exhibit 17).
- 6.18 The technical evaluation criteria for the tender bid documentation was the following:

Technical evaluation criteria	Weight
Technical proposal, design and construction methodology	15%
Project management competency	10%
Experience of key staff curriculum vitae (personnel assigned to the project)	15%
Project implementation period	10%
WBS/milestone schedule	10%
Railway electrical engineering design competencies (curriculum vitae and projects)	5%
Specific civil engineering perway (i.e. bridges and platforms) structure design competencies (curriculum vitae and projects)	10%
Railway electrical construction competencies (curriculum vitae and	5%

Technical evaluation criteria	Weight
projects)	
Specific civil engineering perway structure construction	10%
Health and safety plan (plan included and site specification)	10%

6.19 The overall evaluation criteria used were the following:

Evaluation criteria	Weighting
Security screening	Compliance
Bank rating	Compliance
CIDB grading	7CE/6CE PE
Technical	Threshold of 70%
BBBEE	10
Price	90
Total	100

6.20 Only bidders who have achieved the 70% threshold for the technical evaluation will be evaluated for the price component which is 90% of the evaluation criteria.

6.21 The BBBEE component of evaluation is weighted at 10% of the evaluation criteria. Bidders will be awarded points based on the level of their BBBEE as per their BBBEE certificate issued by an agency approved by SANAS.

6.22 The BBBEE evaluation was done in accordance with the BBBEE table of the scores as issued with the Request for Tender ("RFT"). The following is the table of the scores for BBBEE:

BBBEE status level of contributor	Number of points
1	10
2	9
3	8

BBBEE status level of contributor	Number of points
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

6.23 Only four out of the 11 companies achieved technical requirements:

Tenderer	Technical threshold
Phumi/Glenro/Tubular	74.50%
Stefanutti/4Phase	74.13%
China Rail Construction/Future Rail Consortium	72.50%
Mpfumelelo Business Enterprise	84.63%

6.24 The financial and BBBEE evaluation scores are reflected in the table below:

Tenderer	Price (including VAT)	Pricing score	BBBEE score	Total score (price and BBBEE)
Stefanutti/4Phase	R45,296,986	90.00	8	98.00
Mpfumelelo	R47,968,165	84.69	8	92.69
Phumi/Glenro/Tubular	R52,346,509	75.99	8	83.99
China Rail Construction/Future Rail	R62,739,066	55.34	8	63.34

Technical report

6.25 There was no external technical report for this tender process.

Security screening report

- 6.26 On 4 March 2015, the Head, Group Corporate Security, Mr Kabelo Mantsane, submitted a security screening report to Asif Rehman, the Supply Chain Management Manager (Exhibit 18).
- 6.27 The report confirmed that security screening was conducted on Stefanutti Stocks (Pty) Ltd and that no security risk was found, associated with the entity.

Submission and recommendation report

- 6.28 On 19 February 2015, the Chief Procurement Officer, Dr Josephat Phungula, submitted a recommendation report to the former Group Chief Executive Officer, Mr Tshepo Lucky Montana (Exhibit 19).
- 6.29 The scope of the project was described as:
- 6.29.1 Preparation of a complete preliminary investigation report, detailing the extent of the problem, highlighting the different problem areas as well as recommending a specific solution to the problem.
- 6.29.2 Following the acceptance and approval of the report by PRASA, the preparation of complete detail designs per discipline in accordance with the latest technical specifications.
- 6.29.3 Submission of the prepared detail designs for construction to PRASA for approval.
- 6.29.4 Submission to PRASA of project technical information for Rail Safety Regulator approval purposes (submission to the Rail Safety Regulator would have been done by the relevant PRASA department).
- 6.29.5 Construction of the works in accordance with the approved designs.
- 6.29.6 Preparation of close out reports and submission of as-built drawings.
- 6.30 The contract period was projected as twelve months. This entailed preliminary and detailed design to be followed immediately by construction. This was a fixed price contract for the duration of the construction period.
- 6.31 The Group Chief Procurement Officer, based on the TEC's scoring of the bid documentation, recommended to the GCEO, that the bid of Stefanutti/4Phase be approved for the turnkey solution for the horizontal and vertical platform clearance at Cleveland station at a total cost of R45,296,985.58.
- 6.32 The GCEO, Mr Tshepo Lucky Montana, approved Stefanutti/4Phase's tender submission and the recommendation report on 23 February 2015.

Notice to proceed

- 6.33 On 4 March 2015, PRASA submitted a Notice to Proceed to Stefanutti/4Phase confirming the approval by PRASA of the Stefanutti/4Phase bid documentation for the Cleveland turnkey project (Exhibit 20).

Letter of acceptance

6.34 Stefanutti/4Phase accepted the appointment on 20 April 2015 (Exhibit 21).

Rejection letters

6.35 On 22 June 2015, PRASA sent letters of regret to the unsuccessful bidders (Exhibit 22).

7. AGREEMENT BETWEEN PRASA AND STEFANUTTI/4 PHASE UNDATED

7.1 An agreement ("the Agreement") was concluded between PRASA and Stefanutti/4Phase ("the Contractor) (Exhibit 23).

7.2 The contract was signed by Stefanutti/4Phase and PRASA but not dated.

7.3 The commencement date of the contract was 1 July 2015 irrespective of when the contract was signed.

7.4 The contract price was for a fixed price of R41,179,077.80 (including VAT) excluding a 10% contingency [This is R45,296,985.58 including the contingency as per Stefanutti bid].

7.5 5% retention would be deducted from each milestone payment and paid by PRASA only 12 months after completion of the project and at the end of the maintenance period.

7.6 The agreement was for the:

"design, execution, completion and commissioning of major upgrades and improvements for the horizontal and vertical platform clearances at Cleveland Station on a turnkey solution"

7.7 The time to complete the work was stipulated as 15 months.

7.8 According to the agreement, PRASA would pay Stefanutti/4Phase in accordance with the following milestones:

7.8.1 Project mobilization (12.5%) - Submission of contract surety and core project documentation including:

- a. Design and engineering plan
- b. Quality plan
- c. Environmental plan
- d. Safety plan
- e. Baseline project schedule and occupation plan

7.8.2 Design complete and submitted for approval to PRASA (12.5%)

7.8.3 Site establishment complete (15%)

7.8.4 Removal of existing ballast, sleepers, tracks and completion of earthworks on slow down track (2.5%)

7.8.5 Casting of in-rail concrete slab on slow down track (5%)

- 7.8.6 Installation of track on slow down track (2.5%)
- 7.8.7 Removal of existing ballast, sleepers, tracks and completion of earthworks on slow up track (5%)
- 7.8.8 Casting of in-rail concrete slab on slow up track (5%)
- 7.8.9 Installation of track on slow up track (2.5%)
- 7.8.10 Removal of existing ballast, sleepers, tracks and completion of earthworks on tracks between platforms (5%)
- 7.8.11 Casting of in-rail concrete slab on tracks between two platforms (10%)
- 7.8.12 Installation of track on tracks between the two platforms (5%)
- 7.8.13 Completion of platforms works (10%)
- 7.8.14 De-establishment and completion of works (5%)
- 7.9 PRASA had the right to enforce a delay penalty of R10,000 per day for any damages suffered as a result of the delay of the work by Stefanutti/4Phase.

8. INTERVIEW – JOSEPH MOLOSI (PROJECT MANAGER)

- 8.1 Bowmans interviewed Mr Joseph Molosi (Annexure A):
 - 8.1.1 Mr Molosi commenced his employment at PRASA during 2014 in the PRASA Technical Department.
 - 8.1.2 His duties include *inter alia* to support the Chief Engineer in Planning and Execution of Projects.
- 8.2 Mr Molosi provided Bowmans with the following background to the Cleveland turnkey project:
- 8.3 Cleveland Turnkey Project (Annexure A)
 - 8.3.1 The upgrade of all the platforms at Cleveland Station was initially planned to form part of the overall National Platform Rectification Program, but with the possibility that the Railway Safety Regulator might close the Cleveland Station for safety reasons it was decided that these platforms will have to be rectified immediately.
 - 8.3.2 The project went out on open tender after June 2014 and several bidders submitted tenders for the project. The evaluation process was completed and the tender for the rectification of the Cleveland Station platforms was awarded to Stefanutti Stocks/4Phase JV in June 2015.
 - 8.3.3 The contractor commenced on 1 August 2015 with the rectification of platforms at the Cleveland Station. The main purpose of the rectification was to align the floor level of the train with the platform level to bring it to the required specification.
 - 8.3.4 As the Project Manager, Mr Molosi conducted site visits frequently and also held monthly progress meetings with the contractor.

- 8.3.5 The Gauteng South Perway and Electrical team also visited the project to assist and monitor quality and progress on the project.
- 8.3.6 The tender was awarded to Stefanutti/4Phase under tender number HO/PT/INFR(P) 0064/06/2014.
- 8.3.7 The total contract amount for the projects was R41,179,077.80 as reflected in the Notice to Proceed that was provided to the contractor.
- 8.3.8 All the platforms at Cleveland station were completed and the handover process for Cleveland took place on 28 April 2016.
- 8.3.9 Mr Molosi is of the opinion that the contractor provided good work on the project and he is satisfied that PRASA received a quality product from the contractor.

9. PAYMENTS MADE BY PRASA TO STEFANUTTI/4PHASE

- 9.1 PRASA made a total of R41,179,077.80 payments to Stefanutti/4Phase for the Cleveland platform rectification turnkey project contract (Annexures B and C) (Exhibits 24 and 25).

#	Invoice #	Document Date	Supporting document	Amount (Rand)
1	IN000000013	2015/08/01	Interim certificate 1.3	6,176,861.67
2	IN000000011	2015/07/31	Interim certificate 1.1	5,147,384.73
3	IN000000012	2015/08/01	Interim certificate 1.2	5,147,384.73
4	IN000000017	2015/10/15	Payment certificate 3	3,088,430.84
5	IN000000015	2015/09/01	Interim certificate 2	2,058,953.89
6	IN000000021	2015/11/15	Payment certificate 4	2,058,953.89
7	IN000000020	2015/12/01	Payment certificate 5	5,147,384.73
8	IN000000024	2016/01/20	Interim certificate 6	2,058,953.90
9	IN000000029	2016/03/01	Payment certificate 8	3,088,430.84
10	IN000000027	2016/02/20	Interim certificate 7	2,058,953.90
11		2016/05/31		3,088,430.83
12		2016/07/15		1,029,476.94

#	Invoice #	Document Date	Supporting document	Amount (Rand)
13		2016/10/31		1,029,476.94
			Total	41,179,077.80

- 9.2 Bowmans compared all the invoices paid by PRASA to the physical Stefanutti/4Phase invoices.
- 9.3 All the invoice information per the Stefanutti/4Phase creditors account in the accounting records of PRASA agreed with the physical Stefanutti/4Phase invoices (Annexure B).
- 9.4 The contract value was for R R41,179,077.80 and the total payments made by PRASA to Stefanutti/4Phase was for R41,179,077.80. Therefore, the payments were made within the fixed price as stipulated per the contract.

10. PHYSICAL VERIFICATION OF THE CLEVELAND PLATFORM

- 10.1 On 30 September 2016, we visited the Cleveland Railway Station and performed a physical verification of the work performed by Stefanutti/4Phase (Exhibit 26).
- 10.2 The station is operational and the rectification project was by Stefanutti/4Phase completed. We took several photos of the the work performed.
- 10.3 A recording of the project was loaded by Stefanutti/4Phase on the internet, i.e. You Tube and can be viewed on the following link:

<https://www.youtube.com/watch?v=Jc9u31nufz0>

11. CONCLUSION

Delays in the tender process

- 11.1 The table below list the timeline of the tender process events:

Description	Date
Purchase requisition	28 May 2014
Advertisement of the tender	15 June 2014
Collection of tender documents	19 - 26 June 2014
Briefing of bidders	26 June 2014
Opening of bid documentation	13 August 2014

Description	Date
Appointment of the TEC members	3 November 2014
Meeting of the TEC members	5 November 2014
Evaluation score cards submitted by TEC members	6 and 7 November 2014
Recommendation report submitted to GCEO	19 February 2015
Approval by GCEO	23 February 2015
Security screening report	4 March 2015
Notice to proceed	4 March 2015
Commencement of agreement	1 July 2015

11.2 There were several delays during the tender process:

11.2.1 Almost a three months delay between when the bid documentation was received and when the TEC members were appointed

11.2.2 More than three months delay between the evaluation of the bid documentation by the TEC members and when the recommendation report was submitted to the GCEO for approval.

11.2.3 More than four months delay between when the GCEO approved the bid and when the contract commenced.

11.2.4 Overall more than 13 months delay between when the purchase requisition was first submitted for approval and when the contract commenced.

11.3 The delays in the tender process could be an indication of lack of internal control within PRASA's SCM Department.

Conflict of interest

11.4 It should be noted that one of the directors of 4Phase was appointed as the Commissioner of the National Planning Commission on 16 October 2015.

11.5 Since the Stefanutti/4Phase 's contract with PRASA commenced on 1 July 2015, this 4Phase director may have been benefitting from this contract, whilst in the position of Commissioner.

12. No other significant irregularities were identified during our investigation.

Annexures

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

Annexure #	Description
A	Notes of interview conducted with Mr Joseph Molosi
B	Summary of the Stefanutti/4Phase creditors account in the accounting records of PRASA
C	Stefanutti/4Phase invoices paid by PRASA as per the Stefanutti/4Phase creditors account in accounting records of PRASA compared and agreed to the physical Stefanutti/4Phase invoices

Exhibits

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

Exhibit #	Description
1	Company searches of Stefanutti and 4Phase
2	PRASA Supply Chain Management Policy dated February 2009
3	PRASA Supply Chain Management Policy dated September 2013
4	Tender file check list
5	Purchase requisition dated 28 May 2014
6	Purchase order dated 13 June 2014
7	Tender notice and invitation to tender
8	Tender advertisement
9	CD collection register dated 31 June 2014
10	Tender collection register for the period 19 to 26 June 2014 and proof of payment by tenderers for the documents collected
11	Tender briefing register dated 26 June 2014
12	Supply Chain Management – tender opening register dated 4 September 2014
13	Meeting notes on appointment of companies/consortium to provide a turnkey (design and construction) service for the horizontal and vertical platform clearance at Cleveland, Denver, Toroonga Station and Doornfontein drainage
14	Appointment to serve in the tender evaluation committee to evaluate the tender for the Cleveland platform rectification turnkey contract dated 3 November 2014
15	Tender evaluation register dated 5 November 2014
16	Declaration of interest by TEC members and confidentiality agreements signed by the TEC members
17	TEC members' scorecards for the tenders

Exhibit #	Description
18	Security screening report dated 4 March 2015 from Mr Kabelo Mantsane (Head of Group Corporate Security) to Mr Asif Rehman (SCM Manager-PRASA Technical)
19	Supply Chain Management recommendation report dated 19 February 2015
20	Notice to proceed dated 4 March 2015
21	Stefanutti/4Phase letter addressed to PRASA accepting the appointment for the Cleveland platform rectification contract
22	PRASA rejection letters send to the unsuccessful tenderers
23	Agreement between PRASA and Stefanutti/4Phase undated for the Cleveland platform rectification
24	Stefanutti/4Phase creditor account in the accounting records of PRASA
25	Stefanutti/4Phase invoices and other supporting documentation for the payments made by PRASA to Naledi in terms of the general overhaul of the coaches.
26	Photographs of the Cleveland platform after rectification