



National Treasury Forensic Investigation To Verify Prasa Contracts Above R10 Million Rand Awarded From 2012

Friday, 14 October 2016

Disclaimer

This presentation has been provided solely for purposes of giving a synopsis of our final draft report and therefore must not be relied upon solely. For a detailed account of the findings and recommendations, reference must be made to our final draft report.

Introduction

- The Public Protector in her report on **PRASA** dated 2015, directed the Office of the Chief Procurement Officer to conduct **forensic investigations** in respect of all contracts above **R10 million from 2012 to date**.
- Following our appointment by National Treasury on 17 February 2016, we were mandated to verify **20 PRASA contracts awarded from 2012**. The contracts have various termination dates whilst some are still ongoing.

Scope of work

- The scope of our appointment was, to:
 - investigate the **procurement processes** which were followed in the appointment of suppliers;
 - determine whether the appointments of identified service providers were made in line with the **relevant prescripts** and were **approved by relevant authorities**;
 - establish, where applicable, whether **variations** were in line with the relevant prescripts;
 - determine whether **payments** correspond to the prescriptive bid price and or contractual agreement;
 - identify all persons or entities who **unduly benefited** as a result of irregular conduct; and
 - advise on **remedial actions** which must be taken in instances of maladministration and/or where improper conduct has been detected.

Methodology

- Requested procurement files from **PRASA CORPORATE**, **PRASA CRES** and **PRASA TECH**
- Performed various background checks
- Conducted interviews
- Reviewed documents
- Conducted site visits
- Liaised with external service providers on data recovery

Suppliers under investigation

Supplier as per SAP report	Validity Start	Validity End	Status
Psaros Communication	11/21/2012	12/31/2012	
Dryden Projects	02/12/2013	12/30/2013	Completed
Barker Street Office Furniture	10/29/2012	03/31/2015	Completed
Mosala Investments	03/13/2013	09/30/2014	Completed
Shabangu Afritects	11/23/2012	06/30/2015	Ongoing
Dryden Projects	06/15/2015	03/31/2016	Ongoing
Mbita Consulting Services	11/28/2012	12/31/2012	Ongoing
Siyavuna Trading	03/04/2013	12/31/2013	Abandoned
Mbita Consulting Services	04/23/2013	09/30/2015	Ongoing
Mosala Investments	12/07/2012	03/31/2013	Completed
Katanga Property Care	03/13/2013	09/15/2014	
Rodpaul Construction	03/11/2013	12/31/2013	
Uhuru Trucking & Transport	08/21/2012	12/31/2012	
Chibwe Afritects SA	01/28/2013	12/31/2013	Completed
Mnjiya Consulting Engineers	02/13/2013	09/30/2015	Ongoing
Siyavuna Trading	02/19/2013	07/30/2015	Completed
Mahlatsi Tumelo Cost Consultants	02/27/2013	11/30/2014	Ongoing
Motheo Construction Group	03/20/2013	12/31/2013	Completed
Ampcor Khanyisa	10/16/2013	12/31/2014	Ongoing
Ampcor Khanyisa	06/19/2013	11/30/2014	Ongoing

PRASA CRES SCM



SCM policy 2009 and 2014

11.3.7 Single Source / Confinement

This occurs where the needs of the business preclude the use of the competitive bidding process and for practical reasons only one bidder is approached to quote for goods and/or services.

This method can only be used for –

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

If its an emergency as defined in Clause 11.3.6 above.

The decision to make use of a single source shall be motivated for approval and ratification by the GCEO.

9.2. Supply Chain Management (SCM) Department

SCM has the responsibility, authority and is accountable for:

Ensuring that the tender process compiles with policies, procedures and regulations;

Maintaining records to ensure the existence of an audit trail;

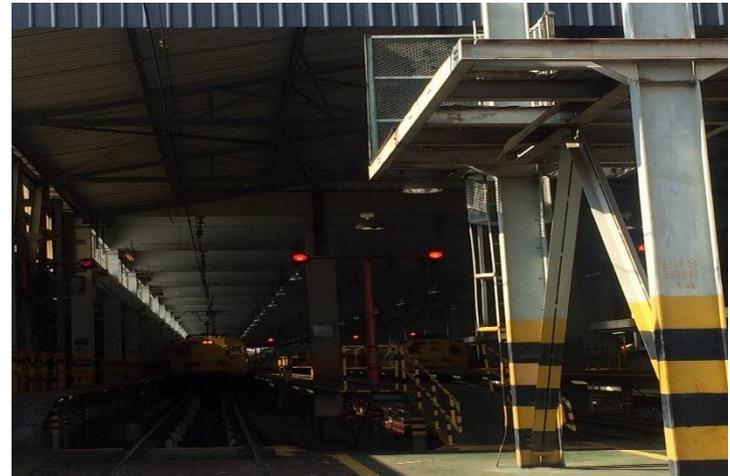
Background - Dryden Projects CC

- Dryden Projects was awarded two contracts, one 2012 relating to the Refurbishment of Braamfontein Depot and the other in 2015 relating to the Concourse Tiling at Park Station Johannesburg.
- It appears as per their website that Dryden Projects CC (“**Dryden**”) is a family owned and managed business that was founded by Paul Dryden in 1993 www.drydenprojects.co.za.

Refurbishment of Braamfontein Depot

- **RFP** was issued by **PRASA CRES** on 18 November 2011 in The Star and the Sowetan newspapers for the Refurbishment of Braamfontein Depot (“**the Project**”).

Refurbishment of Braamfontein Depot



Procurement process

- **DV Talani and its role**
 - Evaluation of tenders
 - Fruitless and wasteful expenditure
- **Bid evaluation committee and its role**
 - Evaluation of tenders
 - Errors in the scores
 - Submission for adjudication report
 - Discrepancies in governance issues between BEC and BAC
 - **Issue related to grading**
 - **Security screening reports**
- **Bid adjudication and its role**
 - Reviewing the work of BEC

Payments

According to the financial records provided to us, the following amounts are provided:

- in terms of the SAP Report, the target value loaded is **R19,396,652,68**
- in terms of the SAP Report the released value is **R17,630,315.23**
- the notice to proceed indicates an amount of **R19,396,652.68**
- the contract value as indicated in the Agreement is **R19,396,652.68**
- the Payment Summary indicates a total amount of **R33,853,042.90**
- The invoice provided by Dryden indicates a total amount of **R19,330,944.23**

Appointment of Dryden

Irregular award of the tender due to the grading stipulated in the RFP.

Recommendations

- **Record keeping and compliance with SCM policy**
- **Procurement checklist**
- **BAC and BEC roles must be clearly defined to avoid abuse of processes**
- **Accurate payment records as well as paper trail related to any variations**
- **Compliance with tender requirements**
- **Enhancement of governance proceedings e.g. scoring issues, accurate records, clarification of roles of BEC/BAC**

Background - Barker Street

- As per their website, Barker Street Office Furniture is a level 3 (three) B-BBEE rated specialist manufacturer of middle to top of the range office furniture. www.barkerstreet.co.za
- An RFP was issued by PRASA in The Star newspaper on 25 March 2011. The tender was for the **SUPPLY OF FURNITURE AND ACCESSORIES**. The tender stated that PRASA intends appointing a consultant to assist with the supply of furniture and accessories, couches and coffee tables for the common rooms at Umjantshi House (“**the Project**”).

RFP

LAUREL – 17x3

Request for Proposal


prasa
PASSENGER RAIL AGENCY OF SOUTH AFRICA

Request For Proposals

Passenger Rail Agency of South Africa

HO/PRASACRES/100/03/2011: SUPPLY OF FURNITURE AND ACCESSORIES

The Passenger Rail Agency of South Africa (PRASA) intends appointing a consultant to assist with the supply of furniture and accessories, couches and coffee tables for the common rooms at Umjantshi House.

You are hereby invited to indicate your willingness to participate in this project by submission of a priced proposal in support of your appointment.

PRASA prefers to award contracts for goods and/or services to suppliers that score high in terms of both B-BBEE Procurement Recognition Levels and Black Equity Shareholding. PRASA will only accept a BEE Rating Certificate issued by one of the SANAS accredited verification agencies.

A compulsory briefing session will be conducted on **1 April 2011 at 10:00** at the **Auditorium, Ground Floor, Umjantshi House, 30 Wolmarans Street, Braamfontein, Johannesburg.**

RFP documents may be collected from Rosemary Moagi at Umjantshi House, PRASA Corporate Office, 12th Floor, Office Number 1206, 30 Wolmarans Street, Braamfontein, Johannesburg **as from 29 to 31 March 2011 between 09:00 and 16:00 ONLY**, on proof of payment of an amount of R300.00 (VAT included) per set which is not refundable. The amount must be deposited into the under-mentioned PRASA bank account. (No cash or cheques will be accepted at PRASA offices). Clearly indicate the Tender Number on the Deposit Slip as reference.

Banking Details:

Account Holder:	PRASA
Bank:	Standard Bank
Branch:	Braamfontein
Branch code:	004805
Account No:	20261 0241

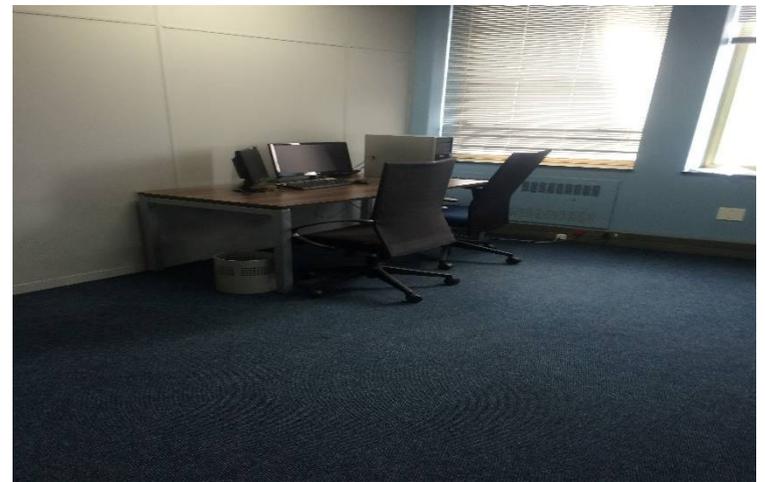
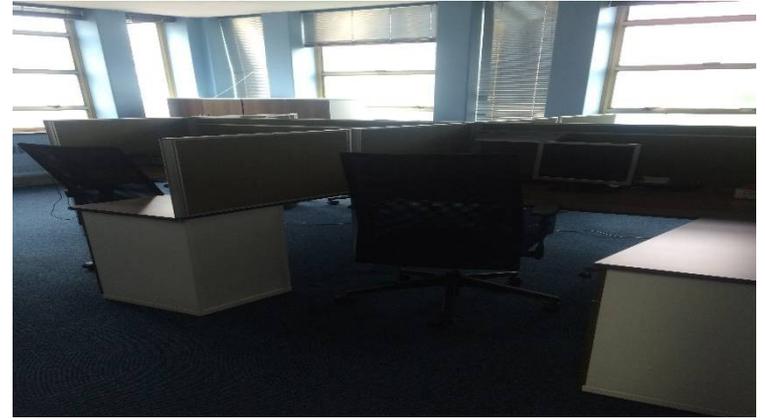
PRASA is not obliged to accept the lowest or any proposal.

Ssealed packages must be deposited during office hours between 08:00 and 16:00 in the Tender Depositing Box located in the Lift Foyer of PRASA Corporate Office, 12th Floor, Umjantshi House, 30 Wolmarans Street, Braamfontein, Johannesburg, Gauteng.

The closing date is Thursday, 21 April 2011 at 12:00.

For further information, please direct enquiries to Rosemary Moagi on (011) 773 1789 or e-mail: rmoaagi@prasa.com

Supplied office furniture and accessories



Procurement process

- According to their signed evaluations dated 13 May 2011, the highest 4 (four) bidders Modutech, Barker Street, CN Business Furniture and M&F Business Furniture. It appears from the documents that CN Business Furniture was not shortlisted as one of the top three suppliers and M&F Business Furniture replaced them. The rationale behind this is unclear from the perusal and consideration of the documents provided by PRASA.
- Barker Street was awarded the tender for a period of three years which was thereafter extended for further three months. No contract amount was provided. **The contract was on an as and when basis with no contract amount for the supply of furniture to UMJANTSHI.**

Payment

According to the financial records provided to us the total payment made to Barker Street is as follows:

- in terms of the SAP Report, the target value loaded is **R10,054,506.45**
- in terms of the SAP Report the released value was **R10,054,506.45**
- the Payment Summary indicates an amount of **R10,410,237.89**
- payment records provided by Ms Mmoledi and the approximate amount paid to Barker Street is around **R35 million**

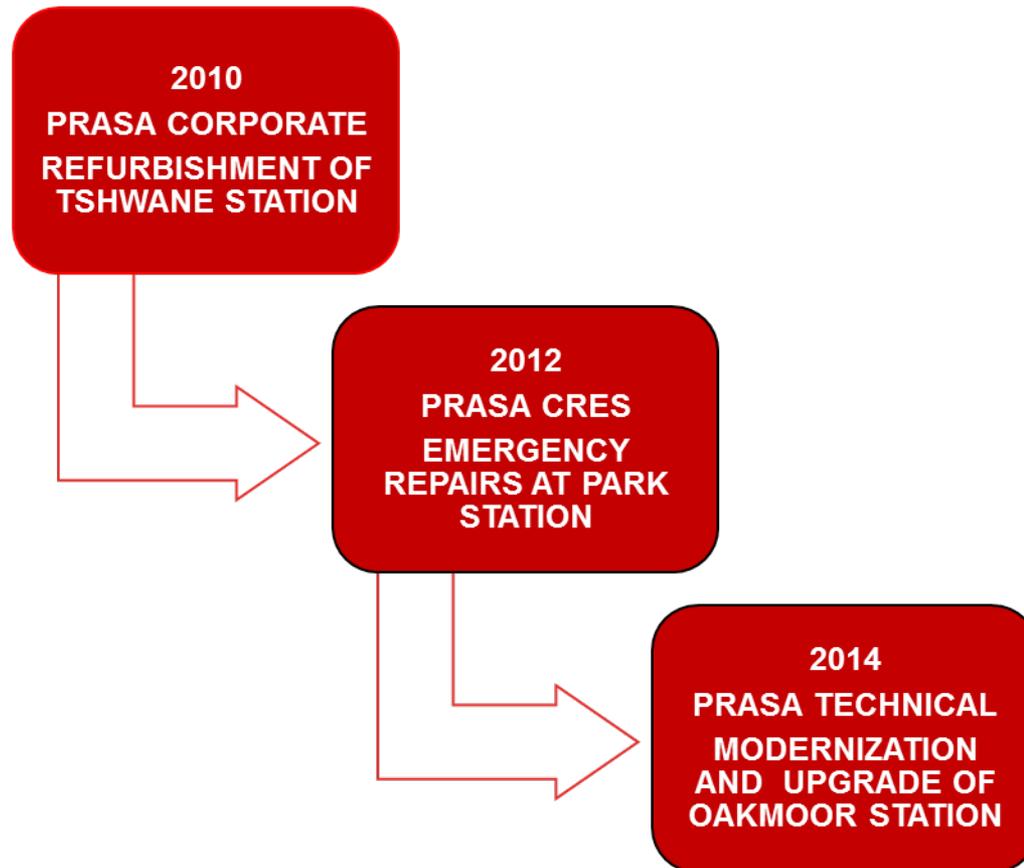
Appointment of Barker Street

Irregularity with RFP and actual contract awarded.

Recommendations

- No accurate account of records relating to the procurement of the supplier
- Bad administration as contract was signed approximately two years after appointment
- Financial records relating to the supplier do not correspond as SAP report, payments summary and records from the supplier indicate different amounts

Background - Mosala Investments T/A Mosala



Emergency repairs



Procurement process

- We requested documents related to this supplier from SCM **PRASA CRES**; no documents relating to the procurement of the supplier were available.
- The appointment was termed emergency services.

Meeting with Werksmans

- Unsigned motivation for confinement 19 March 2012 to PRASA GROUP CEO from PRASA CRES CEO.
- Motivation relied on clause 11.3.7 of the 2009 SCM Policy, which provides:

Single Source / Confinement

This occurs where the needs of the business preclude the use of the competitive bidding process and for practical reasons only one bidder is approached to quote for goods and/or services.

This method can only be used for –

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

If its an emergency as defined in Clause 11.3.6 above.

The decision to make use of a single source shall be motivated for approval and ratification by the GCEO.

- It indicated that the reasons for confinement are that the maintenance backlog at Park Station left the station in a dilapidated state. According to the motivation, most of the service infrastructure at Park Station is in poor, and in some cases unsafe condition.
- PRASA identified drainage and sewer blockages, as well as damaged floor tiles and roof leaks. Mosala was appointed to repair suspended ceilings, replace floor tiles, re-route rain water and storm water drainage, repair ablution facilities, service blocked downpipes, redo waterproofing and asphalt on roof slabs, paint, and **upgrade City to City waiting area.**

Payments

- In terms of the financial records provided to us, the supplier appears to have been paid as follows:
 - the target value loaded on the SAP Report is **R30,185,760.34**
 - the released value as per the SAP Report indicates that the amount paid to date is **R9,302,878.36**
 - the Payment Summary indicates that Mosala has been paid a total amount of **R21,460,490.86**
 - the Remittance Advice indicates that they have been paid and amount of **R5,364,274.94**

Appointment of Mosala

- **Section 76 of the Public Finance Management Act (“PFMA”)** provides that **organs of state must have and implement a SCM policy which is fair, equitable, transparent, competitive and cost-effectiveness.**
- Provision is made for avoiding the usual tender process in **emergency situations.**
- No real guidance is given on situations that may amount to emergencies, the Green Paper on Public Sector Procurement Reform may be used as a guideline when interpreting procurement legislation that deals with emergencies. It provides that emergency situations may include, for example –

*“...[t]he possibility of human injury or death; [t]he prevalence of human suffering or deprivation of rights; [t]he possibility of damage to property, or suffering and death of livestock and animals; **[t]he interruption of essential services, including transportation and communication facilities;** [t]he possibility that the security of the State could be compromised; [t]he possibility of serious damage occurring to the natural environment; [and/or] [t]he possibility that failure to take necessary action may result in the State not being able to render an essential community service.”*

Appointment of Mosala

- **The imminent danger should not have been one that could be alleviated by interim measures** that would have allowed PRASA time to follow the proper tender process.
- In the event that an **emergency situation does warrant the non-use of tender procedures**, PRASA may not do away with a competitive procurement process altogether.
- **Where emergency procurement procedures are used, careful consideration should be given to limit the value and length of contracts concluded in order to address only the immediate emergency.**

Recommendations

- **Avoidance of tender processes in emergency situations**
 - This should only be utilised in accordance with SCM Policy and Treasury guidelines.
 - **Record keeping**
 - **Regular maintenance**

Background - Shabangu Architects

- Website indicates that Shabangu Architects is a firm of architects based in Rosebank shabanguarchitects.co.za.
- RFP was issued in The Star and the Sowetan Newspapers, calling for tenders for the provision of a consortium for the revamping of Platform 19 at Park Station in order to accommodate selected cross busses and commercial opportunities, on the 24 November 2011.

Procurement process

- Shabangu offered the most competitive professional fees (12.77% price (**R3,191,300.40**) which was below the approved budget of R4 million) and delivery period (8.5 months).
- **Arbitration proceedings**
 - Material variation of the scope of work occurred and thus the professional fees increased.
- **BEC role**
 - Certain members of BEC advised that they never had sight of the BEC submission for adjudication report and that no finality was made relating to the successful bidder. The final report was compiled and submitted by Mr Sindane.

Payments

- According to the financial records provided to us it appears that to date Shabangu has been paid the following:
 - in terms of the SAP report the target value provided is **R11,401,911,35**
 - in terms of the SAP Report the released value was **R10,325,798.99**
 - the notice to proceed provided for an amount of **R3,191,300.04**
 - the Payment Summary indicates a total amount of **R18,220,494.68**

Recommendations

- **Variations in accordance with SCM Policy.**
- **Capped amount communicated to professional team.**
- **It is also imperative that the procurement of suppliers is open and transparent.**
- **From the interviews conducted, it appeared that certain members participating in BEC did not have input with respect to the preparation of the recommendation reports nor had sight of the final report submitted to BAC.**
- **In this regard, this could mean that proper procurement processes were not followed.**

Background - Dryden Projects CC

RFP issued by PRASA in the Sowetan inviting contractors with a 7 GB or higher CIDB rating for the appointment of a contractor for the tiling of Johannesburg Park Station.

INVITATION TO TENDER



prasa cres
CORPORATE REAL ESTATE SOLUTIONS

The Passenger Rail Agency of South Africa (PRASA) intends appointing a suitable service provider for the project listed below:

Bid No	Tender Description	CIDB Grading	Non-Refundable Document Fee	Evaluation Criteria
HC/CRES/ 490/12/2014	Appointment of a Contractor for the Tilting of Park Station	7GB or Higher	R1000	90/10 (Price = 90 and B-BBEE Status = 10)

In terms of the Preferential Procurement Regulations of 2011, the 90/10 Preference Points System is applicable. Broad-Based Black Economic Empowerment (B-BBEE) requires that bidders submit valid B-BBEE Status Level Verification Certificates or certified copies thereof to substantiate their B-BBEE rating claims. Failure to submit such a certificate will result in the bidder not qualifying for preference points for B-BBEE. Bidders must submit verification certificates that are accredited by: SANAS (South African National Accredited System) or IRBA (Independent Regulatory Board of Auditors).

A trust, consortium or joint venture must obtain and submit a consolidated B-BBEE Status Level Verification Certificate with their tenders. Failure to submit a consolidated B-BBEE Status Level Verifications Certificate with the tender will result in the bidders forfeiting points allocated for B-BBEE.

Bidders should note the following: Bidders who are listed in the National Treasury Register of Defaulters will automatically be disqualified, it is compulsory to complete all the applicable SBD forms, which are attached as returnable documents.

Only bidders who achieve the minimum qualification score of functionality-which is 70% may be evaluated on price and B-BBEE.

NB: The compulsory site briefing for the above mentioned project will be held at 30 Wolmarans Street, Umjantshi House, Braamfontein, 2107 at 10H00 on the 14th of January 2015.

NB: The closing date and time for the above mentioned project will be on the 02nd of February 2015 at 12H00.

Bid documents containing the Conditions of the bid will be available for collection as from 17 December 2014 at PRASA CRES, 30 Wolmarans Street, Braamfontein, Umjantshi House - Supply Chain Management

Concourse Tiling



Procurement process

- BEC unanimously recommended Project be awarded to Soaring Summits Developers JV Real Thoughts Trading 42 CC at an amount of R16,209,995.05
- Upon perusal of the DTPC minutes of 27 March 2015, it appears that the BAC recommended that the tender be re-evaluated because the recommended company, Soaring Summits Developers JV Real Thoughts Trading 42 CC, **did not submit a B-BBEE certificate which was SANAS approved.**
- Dryden was thereafter appointed for the project by BAC.
- Changes to the BEE scores for Soaring Summits had not been amended in recommendation report to reflect the correct status of affairs. This however would not have changed the supplier that was awarded.

Payments

- It appears from the documents provided that the following payments have been made to date:
 - in terms of the SAP Report, the target value loaded is **R16,241,651.71**
 - in terms of the SAP Report the released value is **R13,292,366.12**
 - the notice to proceed indicates an amount of **R16,241,651.36**
 - the contract value as indicated in the Agreement is **R16,241,651.36**
 - the Payment Summary indicates a total amount of **R33,853,042.90**

Recommendations

- Given that on two occasions Dryden awarded projects by PRASA CRES under default circumstances, going forward all projects where this supplier is involved, tendering and procurement process must be monitored to ensure strict adherence to procurement prescripts.
- Record keeping mechanisms should be enhanced as a lot of information is missing form SCM procurement files.
- Internal Capacity

Background - Mbita Consulting Services CC

- We were advised by Mr Russel Mbiza (“**Mr Mbiza**”) that Mbita Consulting Services CC (“**Mbita**”) is a consulting firm specialising in human resources, recruitment, placements, labour broking and general trading.

Procurement process

- Documents regarding the procurement are missing
- Written questions presented and responses
- Award of tender was in 2012 under the management of Ms Shezi. Certain omitted stations (42) were given to existing suppliers including Mbita without any of them retendering for the work
- Three quote system used for the additional work
- Legal proceedings instituted by Mbita relating to the additional work

Payments

- In terms of the payment records provided to us, it appears the supplier has been paid as follows:
 - in terms of the SAP Report, the target value loaded is **R10,878,029.40**
 - in terms of the SAP Report the released value is **R0.00**
 - the notice to proceed indicates an amount of **R906,552.45**
 - the Payment Summary indicates a total amount of **R72,276,003.68**

Appointment of Mbita

- Irregular award of additional stations