



national treasury

Department:

National Treasury

REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001

Enquiries: Khanya Kheswa Tel: (012) 315 5184 Fax: (012) 315 5355 Email: Khanya.Kheswa@treasury.gov.za

Ms. Thandeka Mabija

Acting Group CEO

Passenger Rail Agency of South Africa(PRASA)

Private Bag X101

BRAAMFONTEIN

2001

Dear Ms Mabija

REPORT ON THE DEVIATION FROM NORMAL PROCUREMENT PROCEDURES: APPOINTMENT OF DESWARDT-MYAMBO ATTORNEYS

1. National Treasury acknowledges receipt of your letter dated 17 February 2020.
2. PRASA is reporting a deviation from the normal procurement process on the appointment of Deswardt-Myambo Attorneys for the legal services to represent the board on an urgent application on three Group Executives of PRASA pursuant to the termination of their contracts. The cost of the appointment was not stated.
3. The reason for the deviation is emergency procurement PRASA and Board was served with an urgent application on 04 February 2020. PRASA and the Board was required to serve and file the notice to oppose on or before 10h00 by Friday 05 February 2021, and to serve and file the answering affidavits by no later than 10H00 on Monday 08 February 2021. Currently PRASA is participating in the NECSA panel of attorneys, but opted to appoint a legal firm outside the panel due to the panel having being appointed before the Board was appointed, as such its constitution and relationship with the Group Executives is not known, and considering that one of the Applicants was the Group Executive for Legal, Risk & Compliance. The appointment of the panel was during her time, and she was in control of the allocation of PRASA legal work to the panel of attorneys. The Board did not have the requisite time to assess the effectiveness of some of the attorneys who are listed as labour law experts.

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4. National Treasury notes the deviation; however, the direct appointment of Deswardt-Myambo Attorneys may not be justifiable because the reason that the NECSA Panel is compromised due to it being appointed before the board was appointed and it being under the control of the Group Executive for Legal, Risk & Compliance is not verifiable.
5. The deviation was reported within the prescribed period of ten (10) working days.
6. PRASA has an obligation to ensure that any contract for goods and services is in accordance with the system that is fair, equitable, transparent, competitive and cost effective.
7. The award must be published on the e-tender portal.

Kind regards,



BASANI DUIKER

CHIEF DIRECTOR: SCM GOVERNANCE, MONITORING & COMPLIANCE

DATE: 31 March 2021