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1. Background

- 1.1 Gobodo Forensic and Investigative Accounting (Pty) Ltd (“GFIA”) was mandated by the Office of the Chief Procurement Officer (“OCPO”) of National Treasury (“NT”), to conduct various investigations into supplier appointments at the Passenger Rail Agency of South Africa (“PRASA”).
- 1.2 The Public Protector conducted an investigation into allegations of tender irregularities and financial mismanagement at PRASA”). Based on the Public Protector’s report, the Office of the Chief Procurement Officer has been directed to conduct forensic investigations into all contracts in excess of R10 million from 2012 to date.
- 1.3 The OCPO requested a list of all contracts in excess of R10 million from 2012 to date from PRASA. The list received from PRASA indicates that over 200 contracts need to be investigated.
- 1.4 GFIA as one of the appointed Service Providers has been given 20 contracts to investigate.
- 1.5 The OCPO would thus like to institute an independent investigation into various contracts at PRASA.
- 1.6 In terms of the Public Finance Management of 1999 (“PFMA”), PRASA is a schedule 3B public entity and is subject to the PFMA. We however, note that Regulation 16A, which relates to Supply Chain Management is not applicable to schedule 3B entities. This was confirmed by Teddy Phoma, the PRASA compliance Officer.

1.

2. Approach and procedures performed

2.1 A preliminary investigation was conducted as follows:

- We obtained the procurement files and related documentation relevant to the tender;
- We requested all payments related to the said contract. At date of the preliminary investigation, we had not received such;
- We identified the method used to appoint the contractor, Enza Construction;
- We identified certain officials as part of our information gathering exercise. We have submitted the names to PRASA and requested interviews with the officials. To date we have not been able to interview the said officials; and
- We identified all missing documentation and submitted a list of such to PRASA.

2.2 We obtained copies of all procurement policies, procedures and other directives relevant to supply chain management for the period under investigation.

2.3 Further detailed investigation after our preliminary investigation was done as follows:

- Requested the following documents;
 - Need analysis;
 - Tender specification documents;
 - Advertisement;
 - Compulsory briefing session minutes and attendance register;
 - Receipt of tenders;

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- Register of all tenders submitted and received;
 - Tenders submitted and received;
 - Tender evaluation report;
 - Tender evaluation Committee minutes;
 - Tender adjudication report;
 - Tender adjudication Committee minutes;
 - Tender award documentation;
 - Service Level Agreement; and
 - A list of payments, payment certificates and all documents relating to the payments as deemed necessary.

2.4 Reviewed all the available documents requested and obtained in paragraph 3.2 *supra*.

2.5 Obtained and review all correspondence relevant to issues identified including electronic communication and other records if applicable.

2.6 Conducted interviews with all relevant officials, consulting engineers, contractors and other third parties, and obtained affidavits where required and necessary.

2.7 Scrutinised all tender documents and payment documents in order to identify any irregularities.

2.8 Determined the existence of any variation orders if applicable and whether this was done in terms of relevant policies and procedures.

2.9 Performed background checks on individuals and companies in order to identify the role p0layers and potential conflict of interest if applicable.

2.10 Conducted detailed analysis of all payments made to the bidders and identify any irregularities.

3. Appointment of Inyatsi Construction (Pty) Ltd

3.1 Summary findings

- 3.1.1 A tender was advertised for the drainage improvement, slope and embankment stabilization on the Pretoria – Koedoespoort railway in the CIDB and PRASA Websites and also in the Star and Sowetan Newspapers on 17 May 2011.
- 3.1.2 An initial BEC meeting was convened on 8 September 2011. The meeting was attended by the principal agent represented by Alistair Gledinning (“Gledinning”) of Glenro, who had an interest and relationship with Inyatsi Construction (Pty) Ltd (“Inyatsi”). This was disclosed in the BEC meeting. Gledinning was allowed to continue with the meeting and even requested to write an opinion for the BEC members. This is a conflict of interest and the BEC members should have taken the necessary action.
- 3.1.3 We find the BEC members acted negligently in allowing Glendenning of Glenro to advise on the tender process in breach of clause 11.7.3 of the PRASA SCM policy of February 2009.
- 3.1.4 A second BEC meeting was scheduled on 19 July 2012, which is almost 11 months later. The meeting comprised new members except for the chairperson, Ernest Gow.
- 3.1.5 We note a change in the criteria between the first evaluation held on 8 September 2011 and the second evaluation meeting held on 19 July 2012. The change in the criteria impacted on the weighting.
- 3.1.6 In the first evaluation, there were 6 criteria recognised compared to 5 in the second evaluation. Furthermore, the BEC member Sandra du Plessis had a different weighting for the “Construction Methodology and Organogram or CV’s” criterion compared to the other two BEC members. We found handwritten changes to the weighting criteria on the score sheets of Ernest Gow and Stephen Kondlo, the other two BEC members.
- 3.1.7 BEC members should be using the same bid specifications. Thus it is apparent that the evaluation process was seriously flawed.
- 3.1.8 It is of paramount importance that changes to the bid specifications be properly authorised as this could be a significant risk for PRASA. In this regard, we refer to the Constitutional Court ruling where a South African

Social Security Agency (“SASSA”) tender was set aside. In the said case, the losing bidder challenged the validity of the tender on the basis of such changes to the bid specifications. The contract between the successful bidder and SASSA was found to be unlawful and therefore, of no legal effect.

3.1.9 We also found that evaluation score sheet of Ernest Gow, the chairperson of the second BEC evaluation team and the only remaining member of the first BEC evaluation team were substantially different. We found a substantial difference in the scoring of Inyatsi Construction as follows:

- First BEC evaluation score – 68%; and
- Second BEC evaluation score – 80%.

3.1.10 A review of the score sheets of the first BEC evaluation meeting indicates that Inyatsi did not submit a valid BEE certificate. In the second BEC evaluation meeting there was no reference made to the submission of a valid BEE certificate. We however, note that Gow as the chairperson of the second BEC evaluation meeting circled the typed in word “BEE certificate”. However, Gow did not comment on this. Thus it is apparent that Inyatsi did not have a valid BEE certificate for the evaluation. The score sheets do not indicate if any points were allocated to the bidders for BEE. The lack of such scoring makes the scoring calculation suspicious.

3.1.11 It is apparent that the tender evaluation process was manipulated to favour Inyatsi Construction.

3.1.12 We found that the BEC and CTPC were not properly constituted in accordance with the applicable PRASA policy.

3.1.13 Inyatsi was paid a total of R43 793 747.18 between September 2013 and October 2014, the said amount is within the contract value of R47 801 832.69. A review of the payment supporting documents reveals that there were no variations to the contract price.

3.2 Recommendations

3.2.1 We recommend that the PRASA institute disciplinary action against the Maishe Bopape, Senior Manager SCM PRASA:

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- For irregularly signing a DTPC resolution as chairperson and recommending the appointment of Inyatsi Construction. There is no evidence that the DTPC was properly constituted;
 - For acting negligently in recommending Inyatsi Construction on a flawed procurement process; and
 - For exceeding his authority and irregularly signing and issuing a letter of intent to Inyatsi Construction. We could find no evidence that the appointment of Inyatsi Construction had been properly approved by the relevant authority.

3.2.2 We recommend that PRASA institute disciplinary action against the S Kondlo, the chairperson of the BEC:

- For acting negligently by changing the evaluation criteria without proper authorisation;

3.2.3 We recommend that the PRASA institute disciplinary action against the Ernest Gow, BEC member for the following:

- For acting negligently by changing the evaluation criteria without proper authorisation;
- For breaching clause 11.7.3 of the PRASA SCM policy of February 2009 by allowing Glendenning of Glenro to advise on the tender process even though there was a conflict of interest.

3.2.4 We recommend that the PRASA institute disciplinary action against the Richard Malope, BEC member for the following:

- For breaching clause 11.7.3 of the PRASA SCM policy of February 2009 by allowing Glendenning of Glenro to advise on the tender process even though there was a conflict of interest.

3.2.5 We recommend that the PRASA institute disciplinary action against the Sidney Khuzwayo, BEC member for the following:

- For breaching clause 11.7.3 of the PRASA SCM policy of February 2009 by allowing Glendenning of Glenro to advise on the tender process even though there was a conflict of interest.

3.2.6 We recommend that the PRASA institute disciplinary action against the Sidney Mlugisi Tenza, BEC member for the following:

- For breaching clause 11.7.3 of the PRASA SCM policy of February 2009 by allowing Glendenning of Glenro to advise on the tender process even though there was a conflict of interest.

3.2.7 Recommend that PRASA consider instituting a criminal investigation.

3.2.8 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA that will ensure that files and documents are in a secured, structured and easily accessible place.

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4. Appointment of Enza Construction (Pty) Ltd – Saulsville Station

4.1 Summary findings

4.1.1 The tender was for the appointment of a contractor to

“to restore and upgrade the current intermodal facility to accommodate taxis, busses, bicycle facilities and construction of new and conversion of the existing buildings to commercial and revenue generating space”.

4.1.2 The construction costs was estimated to be R70 000 000.00. Based on the on the estimated construction costs, a minimum CIDB grading 7 or 8 was required for the appointed contractor.

4.1.3 We note that the said tender amount was in excess of R30 000 000.00 and less than R100 000 000.00. In terms of the CIDB Regulations, a CIDB grading of GB8 is needed for contracts with a value between R30 000 001 and R100 000 000.00. Thus the request for a lower grading of GB7 is a contravention of the CIDB Act and Regulations. The employment of a contractor with a lower grading places the PRASA at risk of non-performance of work.

4.1.4 According to the tender Notice and invitation to tender, the tender was advertised in the newspapers on 22 and 24 November 2013. We were not provided the newspaper advertisement and there is no indication in which newspapers the advertisements appeared.

4.1.5 We found that the BEC was not properly constituted in accordance with the applicable PRASA policy. It appears that the SCM manager Rebecca Setino irregularly appointed the BEC members.

4.1.6 We found no evidence that a CTPC had constituted to adjudicate the tender.

4.1.7 We found that the CPO, Dr Josephat Phungula irregularly recommended the appointment of Enza Construction to the GCEO, Montana.

4.1.8 Enza was appointed for the said tender on 19 June 2014 for a contract value of R73 247 280.00 including VAT.

4.1.9 We found that Lucky Montana, the then GCEO, irregularly approved the appointment of Enza Construction as there was no proper procurement process followed.

4.1.10 A total amount of R26 749 481.04 has been paid to Enza Construction to May 2016.

4.2 Recommendations

4.2.1 We recommend that the PRASA institute disciplinary action against the Dr Josephat Phungula, CPO for the following:

- Exceeding his delegation of authority by recommending the approval of the appointment of Enza Construction to the GCEO without following the proper procurement process. There is no evidence that the CTPC adjudicated the tender.

4.2.2 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For irregularly appointing BEC members in breach of the PRASA SCM policy.

4.2.3 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

5. Appointment of Tswelokgotso Trading Enterprise cc

5.1 Summary findings

- 5.1.1 The tender was for supply, delivery, testing and commissioning of a standby diesel generators for Metrorail Gauteng Province.
- 5.1.2 The tender advertisement appeared in the Pretoria News on 19 September 2014. The compulsory briefing session was indicated as the 7 October 2014 and the closing date was as 29 October 2014 at 12h00.
- 5.1.3 There appears to be differences between the tender document specifications and the specifications and scope document. The tender document stipulated the incorrect CIDB grading of 3EP and not the CIDB grading of 6EP as depicted in the specifications and scope document. In terms of the CIDB Act and Regulations, if the tender amount is between R5 000 001.00 and R10 000 000.00 then a grading of 6EP is required. Tswelokgotso Business Enterprise was appointed for a tender amount of R10 791 401.88 including VAT. In accordance with the CIDB Act and Regulations, the CIDB grading should be 7EP and not 3EP or 6EP. Thus it is apparent that the specifications were flawed.
- 5.1.4 We could find no evidence that the BEC was properly constituted and the members were not properly appointed in accordance with the PRASA SCM policies.
- 5.1.5 It appears that the administrative compliance phase of the evaluation was done by a committee comprising two officials. The administrative compliance committee was different from the BEC that evaluated the bids based on the bid criteria. In terms of clause 11.5.1 of the PRASA SCM policy of February 2009
- “Bid evaluations must be done in two phases by the BEC”.*
- 5.1.6 We note that certain compliance requirements stipulated in the bid documents were omitted from the administrative compliance phase of the evaluation
- 5.1.7 The BEC members all commented on the non-performance of Tswelokgotso Business Enterprise on previous work done for PRASA. The BEC recommended that the tender be awarded to Schick Services cc.

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- 5.1.8 The Provincial Tender Procurement Committee (“PTPC”) approved the appointment of Tswelokgotso Trading Enterprise. No explanation or reason was given for the rejection of the BEC recommendation.
- 5.1.9 We reviewed the PRASA policies of February 2009 and the policy approved by the Board on or about 29 May 2014. We could find no references to a PTPC in the said policies. It appears that the PTPC is a committee that was used prior to 2009 and but was not included in the approved policies of 26 February 2009 the new policy that was approved on 29 May 2014.
- 5.1.10 A review of the document used to record the PTPC resolution was initially created in 2008 and modified on 27 November 2014. The PTPC document thus appears to be questionable and dubious. We question why the chairperson of the PTPC did not sign the resolution. We further question the use of an outdated committee such as a PTPC in 2014. The PTPC resolution appears to be irregular and / or fraudulent.
- 5.1.11 It appears that the PTPC resolution was signed on behalf of the chairperson by N Shivambu of the Business Planning and Development: CAPEX. It is our view that the signature will have to be verified possibly by a handwriting expert.
- 5.1.12 The Supply Chain Manager: Metrorail Gauteng, Siyabonga Ncube exceeded her authority by signing the appointment letter for the services Tswelokgotso Trading Enterprise. The letter of appointment issued by Ncube was irregular as there was no properly appointed CTPC.
- 5.1.13 Tswelokgotso Trading Enterprise was appointed for supply, delivery, testing and commissioning of standby diesel generators for Metrorail Gauteng for an amount of R10 791 401.88 including VAT. We note that Tswelokgotso Trading Enterprise have been paid an amount of R10 612 054.80 from 15 May 2015 to 4 December 2015. This amount paid to Tswelokgotso Trading Enterprise constitutes irregular expenditure.

5.2 Recommendations

- 5.2.1 We recommend that the PRASA institute disciplinary action against Zonke Ntshangase – SCM for:

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- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Tswelokgotso Business Enterprise was not registered with CIDB but was allowed to proceed to the next stage of the evaluation process; and
 - For breaching clause 12.5.1 of the PRASA SCM policy of 2013. Compliance requires stipulated in the tender documents were omitted the administrative compliance stage.

5.2.2 We recommend that the PRASA institute disciplinary action against Sabelo Chiya – Electrical for:

- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Tswelokgotso Business Enterprise was not registered with CIDB but was allowed to proceed to the next stage of the evaluation process; and
- For breaching clause 12.5.1 of the PRASA SCM policy of 2013. Compliance requires stipulated in the tender documents were omitted the administrative compliance stage.

5.2.3 We recommend that the PRASA institute disciplinary action against Siyabonga Ncube, Supply Chain Manager: Metrorail Gauteng for:

- Exceeding her delegated authority by signing the appointment letter for the services Tswelokgotso Trading Enterprise.
- Irregularly issuing a letter of appointment to Tswelokgotso Trading Enterprise. There was no properly constituted DTPC.

5.2.4 We recommend that PRASA appoint a handwriting expert to verify the signature on the questionable and / or fraudulent PTPC resolution. The handwriting expert has to confirm whether the signature belongs to N Shivambu of the Business Planning and Development: CAPEX. If so than N Shivambu should be charged for fraud. If not, further enquiries should be made regarding the owner of the signature.

5.2.5 Recommend that PRASA consider instituting a criminal investigation.

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- 5.2.6 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA that will ensure that files and documents are in a secured, structured and easily accessible place.

6. Appointment of Enza Construction (Pty) Ltd – Upgrade of warehouse facilities at Durban Station

6.1 Summary findings

6.1.1 The tender for the upgrading of the Game warehouse and construction of the parking deck situated at the Durban Station was advertised on 24 November 2013.

6.1.2 We were not provided with a copy of the newspaper advertisements. Documents in our possession suggests that the tender to appoint a company to upgrade the warehouse was advertised in the following newspapers on or about 24 November 2013:

- City Press: and

- CIDB website.

6.1.3 The opening tender register indicates that 9 tender submissions were received.

6.1.4 It appears that no individual appointment letters were given to the BEC members and that a memorandum was simultaneously addressed to all the members. We found that the BEC was not properly constituted in accordance with the applicable PRASA policy.

6.1.5 The documents in our possession suggest that the Bid Evaluation Committee meeting was held on 28 January 2014. A review of the available documentation confirms that all 4 appointed members were present and evaluated all the 9 bids received. We were furnished with the following documentation relating to the BEC Meeting.

6.1.6 The tender price was more than R30 000 000.00 but less than R100 000 000.00, thus a grading of 8GB was required. We did a search on the CIDB contractor register and found that Enza Construction, the successful bidder had CIDB gradings of 9GB and 8CE.

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- 6.1.7 The documents indicate that a minimum technical functionality of 60% was a requirement. Six bidders were eliminated for failing to meet the minimum requirement of 60%.
- 6.1.8 We conclude that Enza construction obtained a score of 98.1 evaluation stage.
- 6.1.9 We found no evidence that a CTPC had constituted to adjudicate the tender. We were provided with a recommendation report issued by Dr Josephat Phungula (“Phungula”) (CPO) to Tshepo Lucky Montana (“Montana”) (GCEO) and signed on 8 May 2014 and 16 May 2014 respectively. It should be noted that Phungula was part of the CTPC. In terms of the PRASA SCM policy, the CTPC should make recommendations to the GCEO. There is no indication that the recommendation was based on the CTPC minutes as the recommendation was from Phungula and the SCM. The purpose of the report was to recommend the appointment of Enza Construction for the upgrade of the warehouse at Durban Station for a total amount of R97 841 346.33 inclusive of VAT. It appears that the CPO exceeded his authority by signing and issuing the recommendation report.
- 6.1.10 We found that the total amount invoiced by Enza Construction amounted to R95 739 070.39, which is within the contract price amount.

6.2 Recommendation

- 6.2.1 We recommend that the PRASA institute disciplinary action against Josephat Phungula, Chief Procurement Officer for PRASA for:
- Exceeding her delegated authority by signing the appointment letter for the Enza Construction.
 - Irregularly issuing a letter of appointment to Enza Construction. There was no properly constituted CTPC.
- 6.2.2 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

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- For exceeding her delegated authority by signing the letter appointing Enza Construction for the tender of the upgrading of warehouse facility at Durban Station; and
 - For the appointment of Enza Construction without following the proper procurement process.

6.2.3 We recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

7. Appointment of Reutech Solutions (Pty) Ltd

7.1 Summary findings

7.1.1 Contract for the Hardware and Software Support and Maintenance on the Ticket Issuing Machine System (TIMS) – 1 April 2008

7.1.1.1 It appears that Reutech Solutions was appointed on or about 1 April 2008 for a two year period ending 31 March 2010. The contract seemingly relates to the provision of hardware and software Support and Maintenance on the Ticket Issuing Machine System (TIMS). It further appears that the contract value was R25 431 004.56. No documentation relating this contract was available.

7.1.1.2 The said contract was irregularly extended on a month to month basis from the expiry date to October 2013. It appears that the month to month extension period was for a period of 43 months. The month to month contract extensions were confirmed by the Legal and Commercial Executive of Reutech Solutions. According Smith, Reutech Solutions were not provided any written contract extensions. The irregular month to month contract extensions amounted to R55 560 820.37. This far exceeds the initial contract amount of R25 431 004.56. We found no evidence that the month to month contracts were approved in accordance with the PRASA SCM policies and Treasury prescripts. The initial contract and extensions exceed the three year contract limit stipulated in the PRASA SCM policies.

7.1.1.3 The month to month contract extensions constitute contract variations. The contract variation is limited to 15%. The month to month contract variations are approximately 218% of the initial contract. There was no proper authorisation for the contract extension in excess of 15%. This is a breach of Treasury prescripts.

7.1.1.4 A review of the payments schedule indicates that that the payments for the month to month extensions relate to the maintenance and support of the of the TIM system and is thus linked to the initial contract.

7.1.1.5 It is apparent that the Chief Procurement Officer, Chris Mbatha and the GCEO, Lucky Montana were aware of the month to month extensions as they recommended and approved improvements to the ticketing system, whilst the contract extension had not been properly approved in accordance with Treasury prescripts and PRASA SCM policy respectively.

7.1.1.6 It appears that a letter of termination was sent to the supplier informing them about the termination the contract in two months effective from 1 May 2013 to June 2013.

7.1.2 Submission for increase in contract Hardware and Software Support and Maintenance on the Ticket Issuing Machine System (TIMS) - 6 February 2009

7.1.2.1 A request for an increase in the contract amount from R25 431 004.56 to R27 132 021.25 (inclusive of VAT) was made by Sollie Ferreira, the End-user and Tara Ngubane, CPO on 6 February 2009 respectively. The purpose of the submission was to request an increase of the existing TIMS maintenance contract. The submission refers to the implementation of the TIM system in the Eastern Cape and the implementation of the Reservation system on the Gauteng and Cape Town regions. The implementation of the TIM system in the Eastern Cape would result in increased maintenance and support work. An increase of R1 701 016.69 inclusive of VAT was requested.

7.1.2.2 The contract increase constitutes a contract variation and has to be adjudicated by the relevant adjudication committee in terms of the Treasury Prescripts.

7.1.2.3 We however, found that the contract variation was irregularly recommended to the Cross Functional Sourcing Committee (“CFSC”) by Sollie Ferreira and Tara Ngubane. The CFSC is the bid evaluation

committee and not an adjudication committee. There is no evidence that the contract increase was properly authorised in accordance with relevant procurement policies and Treasury prescripts.

7.1.3 Request for confinement for communications systems solution for the ticket issuing machines (TIM's) – 7 April 2009

7.1.3.1 A request for confinement was submitted to the CFSC by the CPO 7 April 2009. The said confinement request signed on behalf of the CPO by an unknown official and Sollie Ferreira, Assistant Manager, BIM.

7.1.3.2 The confinement request was for a Ticket Issuing Management System for the Metrorail Eastern Cape Region. The request was irregularly recommended by the CPO and Sollie Ferreira, Assistant Manager, BIM to the CFSC. The CFSC is the bid specification and bid evaluation committee and not an adjudication committee. The request was signed by an unknown official on behalf of the CPO, Tara Ngubane. The costs for the confinement request was for R1 518 258.84 inclusive of VAT.

7.1.3.3 We find it peculiar that the same person that signed the recommendation report on behalf of the CPO also signed the CSFC resolution on behalf of the chairperson of the CFSC. This is an irregularity and a conflict of interest. Thus the CFSC resolution appears to be questionable.

7.1.4 Request for confinement improvement of Ticketing Networks and Communications System Solution for Metrorail interim Ticketing Stabilisation (MITS) Project – 3 February 2011

7.1.4.1 A confinement request dated 3 February 2011 was submitted by Joshua, the General Manager of ICT Governance/Projects at PRASA to Chris Mbatha, the CPO and Chairperson of the CSFC.

7.1.4.2 The confinement request relates to the purchase of a communication solution proposed by Reutech to seemingly to improve the "*Ticketing Networks and Communications System Solution for the Metrorail Interim Ticketing Stabilisation (MITS) Project*". The cost of the said equipment was given as R4 942 940.60.

7.1.4.3 In terms of the procurement policies, confinement request should be submitted to an adjudication committee, which would then recommend the approval of the request to the GCEO. The Chairperson of the CSFC, irregularly recommended the “*once off purchase*” of the communication systems solution at a total cost of R4 942 940.60 to the GCEO. The CSFC is a bid specification and bid evaluation committee. The GCEO, Lucky Montana irregularly approved the “*once off purchase*” of the communication systems solution at a total cost of R4 942 940.60. The approval of the confinement is irregular as it was not adjudicated in accordance with Treasury prescripts and the PRASA SCM policy.

7.2 Recommendation

7.2.1 We recommend that the PRASA institute disciplinary action against Sollie Ferreira, Assistant Manager, BIM:

- For irregularly recommending to the CFSC, the approval of the confinement request for a Ticket Issuing Management System for the Metrorail Eastern Cape Region. The CFSC is bid evaluation committee and not an adjudication committee. The costs for the confine request was R R1 518 258.84 inclusive of VAT.
- For irregularly recommending an increase in the contract of R1 701 016.69 inclusive VAT to the CFSC. The CFSC is the bid evaluation committee and not an adjudication committee. There is no evidence that the contract increase was properly authorised.

7.2.2 We recommend that the PRASA institute disciplinary action against Tara Ngubane, the CPO:

- For irregularly recommending an increase in the contract of R1 701 016.69 inclusive VAT to the CFSC. The CFSC is the bid evaluation committee and not an adjudication committee. There is no evidence that the contract increase was properly authorised.

7.2.3 We recommend that the PRASA institute disciplinary action against Chris Mbatha, Chief Procurement Officer:

- Acting negligently by allowing the Reutech contract to be extended on a month to month basis for an additional 42 months.

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- For irregular expenditure of R55 560 820.37 in respect of the month to month extensions.

 - For irregularly recommending as Chairperson of the CFSC to the GCEO, the approval “once off purchase” of the communication systems solution at a total cost of R4 942 940.60. The approval of the confinement is irregular as it was not adjudicated in accordance with Treasury prescripts and the PRASA SCM policy.

7.4.1

8. Appointment of Supercare Service Group (Pty) Ltd

8.1 Summary findings

- 8.1.1 It appears from the recommendation report dated 17 July 2014 from the CPO, Dr Josephat Phungula (“Phungula”) to the GCEO, Lucky Montana (“Montana”) that the existing cleaning and hygiene contract at the Cape Town station was expiring at the end of 31 July 2014. This prompted PRASA to initiate procurement proceedings for a new tender.
- 8.1.2 The information in our possession suggests that the tender for the cleaning and hygiene service at the Cape Town Station was advertised before 3 September 2013. It appears that tender documents were available for collection from 3 September 2013 to 18 September 2013. A tender briefing session was scheduled for 20 September 2013 and the closing date for the tender was given as 4 October 2013.
- 8.1.3 We were not provided with any documentation regarding the responses to this tender advertisement. It appears that the tender was cancelled and re-advertised. We were not provided any documentation regarding the cancellation / withdrawal of the tender. In terms of clause 9.8.14 the PRASA SCM policy dated September 2013, the Corporate Tender and Procurement Committee’s (“CTPC”) has authority to approve the withdrawal of tenders after the closing date, make amendments to the tender and cancellation of tenders after the awarding, transfer and cession of contracts. We were not provided any supporting documentation as evidence that the CTPC approved the cancellation of the original tender.
- 8.1.4 It appears that immediately after the cancellation / withdrawal of the first tender advertisement, Supercare Services Group (Pty) Ltd (“Supercare”) were appointed on a six month contract whilst the tender was re-advertised and a new procurement process started. The appointment of Supercare for a six month period appears questionable as the tender was cancelled and a new procurement process started. We were not provided any documentation regarding the procurement process for Supercare.
- 8.1.5 It is apparent that there was no proper procurement process to appoint Supercare for the six month contract. Rebecca Setino, Senior Manager: Supply Chain, PRASA CRES irregularly sent a letter of appointment dated

31 January 2014 to Supercare Services Group (Pty) Ltd. The letter informed Supercare that they had been appointed for a six month period to provide hygiene and cleansing services at Cape Town Station. The said letter stipulated a monthly fee inclusive of VAT of R 837 999.18. Thus the total fee for the six months amounted to R5 027 995.08 including VAT.

- 8.1.6 It appears that after the initial six month contract, the contract was extended for a one month period a month starting from 1 August 2014 to 31 August 2014. The extension amount was given as R837 999.18 including VAT. We question the extension of the contract as Supercare was recommended for approval on 17 July 2014 and their appointment was approved by the GCEO on 30 August 2014. The said contract extension letter was signed by Rebecca Setino. There appears to have been no proper process followed to approve the contract extension.
- 8.1.7 The tender was re-advertised on 14 February 2014 in the Cape Times and the Diamond Field Advertiser on 14 February 2014. We were provided with a copy of the re-advertisement which indicates that the closing date for tender submissions was on the 14 March 2014. We note that the Diamond Field Advertiser is a Kimberley based newspaper. It thus appears that the advertisements were restricted to the Cape Town and Kimberley areas. We question the limited circulation of the advertisements.
- 8.1.8 We could find no evidence that the BEC was properly constituted in accordance with the relevant PRASA procurement policies. We could find no individual appointment letters and / or approved delegation of authority to Setino to appoint BEC members from the CPO. It appears that Setino acted irregularly in appointing the BEC members.
- 8.1.9 We were provided with a memorandum dated 17 July 2014 from Dr Josephat Phungula , the CPO to Lucky Montana, the GCEO, which was titled "*RECOMMENDATION REPORT*". The report indicates that of the 16 bids were submitted, 13 bids were disqualified for scoring less than 70% functionality threshold.
- 8.1.10 It is reasonable to assume, based on the signatures and dates reflected on the evaluation score sheets and confidentiality agreements of the BEC members, that BEC evaluation meeting was held on 11 April 2014. The available information suggests a minimum technical functionality of 70% and that 90/10 preference points system was applicable for the BEE and Pricing stage

8.1.11 It is apparent that the process followed in the evaluation of the tenders was flawed as tenders were first eliminated for failing to score over 70% functionality threshold. Tenders who scored over 70% functionality threshold were then evaluated for compliance requirements and BBBEE and pricing.

8.1.12 The following three bidders to proceed to the BBBEE / Pricing stage:

- Chippa Hygiene Services;
- Supercare Cleaning Services; and
- Rentokil Initial

8.1.13 We reviewed the core sheets and re-calculated the technical final score based on the submitted score sheets. Our calculation of the technical evaluation scores indicates that Supercare Services scored 68.67, which is below the 70% functionality threshold. The BEC recommendation report referred to in paragraph 8.1.9 *supra*, states that Supercare scored exceeded 70% threshold functionality level together with Chippa Hygiene and Rentokil Initial. It appears that the CPO misrepresented that Supercare Services had exceeded 70% threshold functionality level. Furthermore the said report indicated that Marble Arch and Meodo Trading 369 CC had scored less than the expected 70% threshold functionality level. Our re-calculation indicates that Marble Arch and Meodo Trading 369 CC had scored in excess of the 70% threshold functionality level and should have proceeded to BBBEE / Pricing stage together Chippa Hygiene and Rentokil Initial.

8.1.14 Subsequent to the appointment of Supercare, an agreement was reached between PRASA CRES and Supercare regarding exclusions to the tendered amount. It appears that the amount evaluated by PRASA was the wrong amount. PRASA has taken the tendered amount of R874 015 .00 as being inclusive of VAT. Supercare Cleaning Services indicated that the amount was exclusive of VAT. We reviewed the tender submission of Supercare Cleaning Services and found that they had included the amount of R874 015 as exclusive of VAT. Thus the price that should have been evaluated by the BEC should have been R996 377.10. This would have impacted on the scoring for both price and functionality as certain items were removed from the tender to ensure that the price remains at R874 015.00 inclusive of VAT. There is no evidence that the contract variation was properly approved. The changes to contractual services were

seemingly accepted and agreed to by Nomsa Kheswa (“Kheswa”), Facilities Manager: PRASA Western Cape.

8.1.15 The evaluation of the tender by the BEC was fatally flawed.

8.1.16 The report was recommending the approval of the appointment of Supercar for a 36 month period was signed by Phungula on 17 July 2014. The appointment of Supercar was approved and signed by Montana on 30 July 2014. As the tender amount exceeded the R25 000 000.00 threshold, it should have been adjudicated by the CTPC. Thus the recommendation by Phungula and the approval of Montana appears irregular as there was no adjudication of the BEC evaluation.

8.1.17 It appears that Supercare have been paid a total amount of R19 994 297.34 from 1 August 2014 to 31 May 2016.

8.1.18 There appears to have been no variations to the initial contract amount of R874 015.per month.

8.2 Recommendation

8.2.1 We recommend that the PRASA institute disciplinary action against the Nomsa Kheswa, Facilities Manager – Western Cape for the following:

- For irregularly agreeing with Supercare to exclude certain items from the contract in order to ensure that the contract price does not change. This resulted in a contract variation, which should be recommended by the CPO and approved by the GCEO in terms of clause 12.8.9 of the PRASA SCM policy.

8.2.2 We recommend that the PRASA institute disciplinary action against the Dr Josephat Phungula, the Group Chief Procurement Officer for the following:

- For misrepresenting in the Recommendation report that Supercare Cleaning Services had scored above the 70% functionality threshold level. Supercare had in fact scored less than the 70% functionality threshold level and should have been disqualified;

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- For acting negligently in recommending the appointment of Supercare based on a flawed evaluation report, which depicted the wrong Supercare tendered price, when in fact the correct price was not the lowest price;
 - For exceeding his delegation of authority by recommending the appointment of Supercare Cleaning Services to the GCEO. In terms of clauses 9.8.3 and 9.8.7 of the PRASA SCM policy, the CTPC adjudicates all tenders above R10 million and below R100 million and makes recommendations to the GCEO in respect of tenders as per delegation of Authority.

8.2.3 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For exceeding her delegated authority by signing the letter appointing Supercare Cleaning for a six month contract for the hygiene and cleaning services Cape Town Station;
- For appointing Supercare for six months without following proper procurement process;
- For exceeding her delegated authority by irregularly extending the six month contract period by one month, which resulted in a contract variation, which should be recommended by the CPO and approved by the GCEO in terms of clause 12.8.9; and
- For exceeding her delegated authority by irregularly appointing the BEC members.

8.2.4 We have not recommended disciplinary action against the then GCEO, L Montana as he has left the employ of PRASA.

8.2.5 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

9. The appointment of Nkambule and Associates CC

9.1 Summary findings

9.1.1 It appears that PRASA needed four programme managers for their “*corridor modernization programme which entails investment in tracks, fencing, electrical works, station improvement and upgrade, integrated ticketing, intermodal facilities, platform works, security equipment*”.

9.1.2 Based on the information in our possession, the bid for the procurement of programme managers was a closed tender. A Request for Proposals (“RFP”) was only issued to the professional service providers on the PRASA panel of professionals. We were not provided with any information indicating the number of companies contacted for the RFP.

9.1.3 It appears that a panel of emerging professionals in the construction industry was approved the Group Chief Executive Officer, Tshepo Lucky Montana on 15 May 2012. The said panel was established after a procurement process was initiated in or about December 2011.

9.1.4 An RFP was seemingly issued to the listed suppliers on the panel of professional service providers in the construction industry. The RFP also indicated the evaluation criteria to be used. Based on the requirements indicated in the RFP, the relevant qualifications, experience, expertise and knowledge were essential requirements.

9.1.5 In accordance with the Preferential Procurement Regulations, bids/ proposals for the appointment of consultants should be evaluated on the basis of functionality and price as well as the achievement of specified goals. It appears that when PRASA established a panel of professionals, all the companies in the panel were informed that their services will be remunerated using Government Gazette Rates. This suggests that the received bids were only to be evaluated for functionality and not price since the price of the service was predetermined.

9.1.6 We were provided with a summary of the technical evaluation score sheet. According to the said score sheet, four companies were evaluated, which included Nkambule, Focus PM, PMSA and Archway Projects.

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- 9.1.7 We were provided a recommendation report signed by Dr Josephat Phungula, the GCPO) on 23 January 2015. The recommendation was approved by Ms. Martha Ngoye (“Ngoye”), the acting group Chief Executive Officer (“AGCEO”) on 23 January 2015. The said report indicates that contract value for the contract between PRASA and Nkambule as R1 650 000.00 including VAT per annum. The contract value for the contract between PRASA and PMSA was stipulated as R4 950 000.00 including VAT per annum. Thus the total contract value for the two companies was given as R6 600 000.00 including VAT per annum. It appears an agreement was reached to compensate each programme manager at R1 650 000.00 per annum.
- 9.1.8 It appears that there was no Corporate Tender procurement Committee (“CTPC”) for this tender. We were not provided with any documentation from the CTPC relating to this tender. Thus the appointment of the service providers was ostensibly not adjudicated after the evaluation process. The adjudication report and recommendation should have been done by the CTPC in accordance with the PRASA SCM Policies. Thus it is apparent that both Phungula and Ngoye acted irregularly in recommending and approving the appointment of Nkambule and PMSA respectively.
- 9.1.9 According to tender advice dated 17 December 2013, a contract expired on or about 15 October 2013. A contract extension of one year was recommended by Phungula and approved by Montana on 17 December 2013. Thus the service providers continued to work without an approved contract extension. It appears that the contract was extended for 12 months at a rate of R1 650 000.00 per programme manager per annum.
- 9.1.10 We could find no evidence that the contract extension was submitted to the relevant adjudication committee. It is thus apparent that the recommendation by Phungula and the approval of the extension by Montana are irregular. The contract extension must be adjudicated by the relevant adjudication committee, which then recommends approval to the GCEO.
- 9.1.11 The contract extension recommended and approved by Phungula and Montana exceeded the stipulated National Treasury limit of 15%. Thus no proper approval was obtained for exceeding the limit of 15%.

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- 9.1.12 It appears that a second contract extension was given to both PMSA and Nkambule at the end of October 2014. It appears that the approval of the said extension was only effected in January 2015.
- 9.1.13 The second contract extension was recommended by Phungula and approved by Martha Ngoye, AGCEO on or about 23 January 2015.
- 9.1.14 We could find no evidence that the contract extension was submitted to the relevant adjudication committee. It is thus apparent that the recommendation by Phungula and the approval of the extension by Ngoye are irregular. The contract extension must be adjudicated by the relevant adjudication committee, which then recommends approval to the GCEO.
- 9.1.15 The second contract extension recommended and approved by Phungula and Ngoye exceeded the stipulated 10% PRASA limit. This variation also exceeds the 15% limit in terms of the Treasury instruction note. Thus no proper approval was obtained for exceeding the limit of 10%.
- 9.1.16 The two contract extensions amounted to R13 569 600.00 compared to the R6 600 000.00 paid for the initial contract. The contract extension amounts constitute irregular expenditure.

9.2 Recommendations

- 9.2.1 We recommend that PRASA institute disciplinary action against Dr Josephat Phungula, the Acting Chief Procurement Officer for the following:
- For exceeding his delegation of authority by recommending the appointment of the Programme Managers to the GCEO. In terms of clauses 9.8.3 and 9.8.7 of the PRASA SCM policy, the CTPC adjudicates all tenders above R10 million and below R100 million and makes recommendations to the GCEO in respect of tenders as per delegation of Authority;
 - For recommending a contract extensions in excess of the contract variation limit.
- 9.2.2 We recommend that PRASA institute disciplinary action against Martha Ngoye, the Acting Chief Executive Officer for the following:

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- For exceeding his delegation of authority by approving the appointment of the Programme Managers. In terms of clauses 9.8.3 and 9.8.7 of the PRASA SCM policy, the CTPC adjudicates all tenders above R10 million and below R100 million and makes recommendations to the GCEO in respect of tenders as per delegation of Authority. There appears to have been no adjudication process followed; and
 - For approving a contract extension in excess of the contract variation limit.

9.2.3 We recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

10. The tender for Procurement of Brake Blocks for the Metrorail and Shosholoza Meyl Fleet

10.1 Summary findings

- 10.1.1 The tender for the procurement composite brake blocks was done in collaboration with Transnet. The collaboration between the two state entities was done in order to leverage the bulk buying option and economies of scale that would reduce the price.
- 10.1.2 Transnet was the lead partner and were thus responsible the initial part of the procurement process. It is our view that PRASA as a partner in the procurement process was supposed to have participated in all the procurement stages and subsequently keep proper records of all the applicable supporting documentation.
- 10.1.3 It appears that the tender was advertised in the Transnet Approved Tender list. This suggest that Transnet was in essence responsible for the determining the medium of advertising as well as ensuring that the advertisement is issued to the public. We were not provided with any other information regarding the advertisement. The closing date of the tender was given as 28 June 2011.

10.1.4 All bids were submitted to the Transnet Pretoria offices. The opening register indicates that five bids were received.

10.1.5 The bid evaluation stage of the procurement process was conducted at the Transnet offices on 1 August 2011. The BEC was made up of 8 members, two of which were from Transnet. It appears that PRASA was represented by Nicolas Marais and Dudley Maddocks. We noted that the procurement of the required materials was conducted in accordance with the Transnet Procurement policies. We could find no evidence that the two PRASA representatives had been properly appointed to be part of the BEC.

10.1.6 It appears that the BEC decided to split ten tender between 3 companies as follow:

- FIP Brakes -15%
- Global Engineering Africa-25%
- DCD Dorbyl- 60%

10.1.7 It appears that PRASA representative on submitted a report to the PRASA Rail's Divisional Tender and Procurement Committee ("DTPC") for adjudication. It was recommended that the three companies mentioned in the aforesaid paragraph be appointed for a total maximum value of R30 166 544.00 over a period of 2 years. It appears that Transnet had concluded separate contracts with the bidders stating their own contract value.

10.1.8 We were provided with a DTPC resolution dated 2 December 2011 and which was ostensibly signed by the DTPC chairperson on 7 December 2011. The resolution recommended the approval of the following companies and the contract value of each company was also given:

Name of Company	Contract Value (R)
FIP Brakes SA	6 657 498
Global Railway Africa (Sideria)	5 549 380
DCD- Dorbyl (Metpro)	17 959 667

Total Value	30 166 544.00
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- 10.1.9 We were not provided with the adjudication report and recommendation other than the resolution. Furthermore we were not provided with the approval of the DTPC recommendation by the DCEO or GCEO.
- 10.1.10 On 26 January 2012, Maishe Bopape (Bopape’), SCM official signed 2 appointment letters and addressed same to DCD Dorbyl and FIP Brakes SA. Global Railway Africa (“GRA”) was issued an appointment letter dated 30 January 2012 by Bopape.
- 10.1.11 Global Railway Africa requested an adjustment on their previously stated unit price of R167.15 (High Friction) and 150.85(Low Friction). This appears to be as result of the Rand-Dollar exchange rates which changed from the date of the negotiations to the date when Global was issued with an appointment letter. Thabo Mashea Contracts Manager at PRASA, responded to GRA’s request and accepted the price changes.
- 10.1.12 The change in price constitutes a contract variation. A contract variation has to be adjudicated by the relevant adjudication committee and approved by the CEO / GCEO. We were not provided with any supporting documents that indicate that the contact variation was adjudicated and approved by the CEO / GCEO.
- 10.1.13 It appears that Thabo Mashea increased/adjusted GRA’s prices in his capacity as the Contracts Manager, which is a breach of PRASA policy and Treasury prescripts.
- 10.1.14 The contract between PRASA and the three suppliers expired on 31 July 2014 and it appears that Transnet and PRASA started the tendering process in or about August 2013.
- 10.1.15 We were provided with an undated and unsigned Submission Report. The report recommended that the DTPC approve a contract extension and an increase in the tender values by 10% for each of the contracts.
- 10.1.16 It appears that another recommendation report was compiled by Bobape The purpose of the said report was to request the approval of the CEO to approve the contract extension of DCD from 1 August 2014 to 31 December 2014. We find it peculiar that a contract extension was only requested for DCD.

10.1.17 According to the said report, the contract extension would increase the contract value from R17 959 667 to R22 521 422. We re-calculated the 10% increase and found that Bopape had made an error. The VAT amount was incorrectly added to the initial contract value, which already had VAT included. The error resulted in the wrong amount of R22 521 422.00. The incorrect price calculation resulted in an overcharge of R2 765 788.30 included in the contract.

10.1.18 The PRASA payment schedule reflects that DCD was paid a total amount of R25 122 927.30, which included amounts paid for the extended contract period to 31 December 2014. The payment for the 24 month contract amounted to R20 175 423.00. The extended contract period amount was R4 947 504.30. It should be noted that the contract amount was increased to R22 521 422. As indicated in paragraph 9.5.3 supra, the contract price including the extension was incorrectly calculated and should have been R19 755 634.00. Thus the amount paid to DCD is in excess of the agreed amount by R5 367 293.30 the excess amount also includes error of R2 765 788.00 referred to in paragraph 9.5.3 supra.

10.2 Recommendations

10.2.1 We recommend that the PRASA institute disciplinary action against the Maishe Bopape, Senior Manager SCM PRASA Rail for the following:

- For exceeding his authority and irregularly signing an appointment letter on 26 January 2012 for DCD Dorbyl and FIP Brakes. We could find no evidence that the appointments of DCD Dorbyl and FIP Brakes had been properly approved by the relevant authority.
- For exceeding his authority and irregularly signing an appointment letter on 31 January 2012 Global Railway Africa. We could find no evidence that the appointment of had been properly approved by the relevant authority.
- For being negligent by incorrectly calculating the contract extension amount resulting in an excess payment of R2 765 788.30, which constitutes fruitless and wasteful expenditure.
- For irregularly recommending a contract extension for DCD for the period 1 August 2014 to 31 December 2014, which resulted in additional amount of R5 367 293.30 being paid to DCD. We

could find no evidence that the contract extension had been properly approved by the relevant authority.

10.2.2 We recommend that the PRASA recover the overpayment to DCD of R2 765 788.30, which could constitute fruitless and wasteful expenditure.

10.2.3 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA that will ensure that files and documents are in a secured, structured and easily accessible place.

11. The appointment of Enza Construction for the re-development of the Mabopane

11.1 Summary findings

- 11.1.1 The project entailed the design and construction of mini shopping centre consisting of various shops and stalls in the vicinity of Mapobane Station, thus creating opportunities and space for some of the local community traders to sell their goods and products in a formal trading area.
- 11.1.2 We were not provided any evidence to show that the tender was advertised in accordance with the PRASA SCM policy and Treasury prescripts.
- 11.1.3 On 23 September 2016, we interviewed Sibusiso Mthethwa (“Mthethwa”), Project Manager of PRASA regarding the tender and the missing documentation, Mthethwa referred us to Albert Mdlului. Mdluli did not respond to our request for an interview and the missing documents. We were however, provided with a project file by Mthethwa. The said file did not have the tender documents such as the opening and closing registers, advertisement, the appointment of the BEC members, the BEC minutes and score sheets.
- 11.1.4 The available information suggests that three companies were appointed abut that Enza Construction was appointed as the main contractor. Pro-Serve Consulting and Mnjiya Consulting Engineers were the other two companies appointed.
- 11.1.5 At the time of writing of this report, PRASA had not provided us with submissions by either CFSC or BEC to the DCEO and/or to GCEO, subsequent to their evaluation of all bids received.
- 11.1.6 We have not been provided with documentation confirming that the DCEO and/ or the GCEO approved the appointment of the 3 service providers, mentioned in paragraph 11.1.4 *supra*.
- 11.1.7 We were provided with an appointment letter (“Notice to Proceed”) dated 6 August 2010 and issued by Matshidiso Mosholi (Mosholi), PRASA’s Procurement Manager, to Enza Construction. The appointment letter indicates that the contract value R142 665 828.49(VAT inclusive).

11.1.8 The PRASA payment schedule shows that Enza Construction was paid R121 837 219.14 for the period ending September 2016.

11.2 Recommendation

11.2.1 We recommend that the PRASA institute disciplinary action against the Matshidiso Mosholi (Mosholi), PRASA's Procurement Manager at PRASA, for the following:

- Non-compliance with PRASA's SCM process was followed before the tender was issued;
- Non-compliance with PRASA's SCM process was followed before the appointment of Enza Construction:

11.2.2 We recommend that the PRASA institute disciplinary action against the Albert Mdluli, the Senior SCM Manager at PRASA, for not providing the missing procurement documents.

12. The appointment of Sondolo IT (Pty) Ltd

12.1 Summary findings

- 12.1.1 The tender supply, installation, testing, commissioning and hand over of a completed solar/pva plant.
- 12.1.2 The tender was seemingly advertised in the City Press on 7 September 2014 and The Star newspapers on 9 September 2014.
- 12.1.3 The advertisement indicated the closing date as 8 October 2014 and the compulsory briefing session date was given as 17 September 2014. The advertisement further indicated that a CIDB grading of 7EP/7EB or higher grading was required.
- 12.1.4 We were provided with a copy of the tender opening register which was completed on the revised closing date of 17 October 2014. We noted that the said tender opening register was signed by the secretary of the CFSC/CTPC. According to the opening register 17 prospective tenderers submitted their respective bids on or before the closing date.
- 12.1.5 It appears that no individual appointment letters were given to BEC members. A memorandum addressing all BEC members simultaneously was issued by Setino. It appears that a BEC evaluation meeting was held on 10 November 2014.
- 12.1.6 It appears that there were 17 bid submissions. Of the 17 bidders, 14 were bidders were disqualified for non-compliance of administrative requirements or for not achieving the threshold level of 70% for functionality. Sondolo It scored the highest points and were recommended for appointment as service providers for the supply, installation, testing, commissioning and hand over of a completed solar/pva plant a contract amount of R22 893 972.37 (including VAT).
- 12.1.7 We were provided with a report dated 18 June 2015 and titled "*SUBMISSION FOR ADJUDICATION*" from the Chairperson of Bid Evaluation Committee ("BEC"), Tshepo Marumo. The review of the said report records, inter alia, the following:

12.1.8 We were not provided any evidence that the BEC recommendation was adjudicated at the relevant adjudication committee.

12.1.9 A letter of appointment dated 25 March 2015 from Albert Mdluli (“Mdluli”) was issued to Sondolo IT. It appears that Mdluli exceeded his delegation of authority by signing the appointment letter to Sondolo IT.

12.1.10 Sondolo It was paid the full contract amount of R22 893 972.37.

12.2 Recommendations

12.2.1 We recommend that the PRASA institute disciplinary action against the Tshepo Marumo (“Marumo”), SCM Manager at PRASA for the following:

- For exceeding his delegation of authority by recommending the appointment of Sondolo to the Chief Executive Officer: PRASA CRES In terms of clauses 9.8.3 and 9.8.7 of the PRASA SCM policy, the CTPC adjudicates all tenders above R10 million and below R100 million and makes recommendations to the GCEO in respect of tenders as per delegation of Authority.

12.2.2 We recommend that the PRASA institute disciplinary action against the Chief Executive Officer: PRASA CRES, who signed but did not write his / her name on the contract, for the following:

- For exceeding her delegation of authority by approving the appointment of Sondolo. The said appointment should be done by the GCEO. We found no delegation of authority from the GCEO for Ngubane to approve the appointment.

12.2.3 We recommend that the PRASA institute disciplinary action against the following BEC members for irregularly extending the tender closing date without obtaining the necessary approval:

- Tshepo Marumo (Chairperson):
- Richard Malope;
- Wonder Mukwata; and

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- Tshifularo Nematatani.

12.2.4 We recommend that the PRASA institute disciplinary action against the Albert Mdluli, SCM Manager at PRASA for the following:

- For exceeding his delegation of authority by signing the appointment letter to Sondolo IT.

12.2.5 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For irregularly appointing BEC members in breach of the PRASA SCM policy.

12.2.6 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

13. The appointment of Stevrob Investments (Pty) Ltd

13.1 Summary findings

- 13.1.1 The tender was for the construction of mess rooms, ablutions, workshop and offices for the facilities department at the Pretoria North Depot
- 13.1.2 The tender was advertised in the City Press, Sowetan and The Star 8 June 2014 and 9 June 2014, respectively. The advertisement indicated the closing date as 21 July 2014 and the compulsory briefing session as 17 July 2014.
- 13.1.3 It appears that 19 companies submitted tenders.
- 13.1.4 A minimum of 70% threshold was indicated for the technical evaluation functionality. In terms of paragraph 12.4.4 of the PRASA policy of May 2014, the minimum threshold is set at 80%. Thus the 70% minimum threshold is a breach of the policy and constitutes a risk of non-performance by the service provider.
- 13.1.5 We note that a CIDB grading of 6GB or higher was required. We searched the CIDB contractor register and found that the company was registered but had a 5GB grading. Thus Stevrob should have been disqualified for non-compliance the requirement of CIDB grading of 6GB or higher. The appointment of a service provider with a lower CIDB grading is a contravention of the CIDB Act and Regulations and also the PRASA SCM policies.
- 13.1.6 It appears that no individual appointment letters were given to BEC members. A memorandum addressing all BEC members simultaneously was issued by Setino. Thus it appears that Setino irregularly appointed the BEC members.
- 13.1.7 The review of the confidentiality agreement and declaration of interest forms signed on 8 August 2014, 11 August 2014 and 12 August 2014 by all 4 members of the BEC, in our possession, suggests that the Bid Evaluation Committee meeting could have been held either on 8 August 2014, 11 August 2014 or 12 August 2014.

13.1.8 It appears the 16 bidders were disqualified for non-compliance with administrative requirements and for scoring less than the 70% threshold for technical functionality. The following three companies proceeded to the BEE / Pricing evaluation stage:

- Nap Designs;
- Stevrob Investment; and
- Unique Holdings.

13.1.9 Stevrob should have been disqualified for non-compliance to CIDB grading of 6GB but was allowed to proceed by the BEC to the BEE / Pricing evaluation stage. We re-calculated the scoring of the various bidders and found that Unique Holdings had actually scored 67.25%. We question why Unique Holdings was allowed to proceed to the BEE / Pricing evaluation stage. Considering that the threshold was 70%, we question the circumstances which led to Unique Holding

13.1.10 We were provided a recommendation report that had missing pages and which did not provide the name of the successful bidder. We were thus not provided any evidence to suggest that the BEC recommendation was subjected an adjudication process.

13.1.11 We were provided a letter of appointment dated 8 October 2014 from Albert Mdluli to Stevrob Investments. The said letter indicated that Stevrob Investments had been appointed for six months at a cost of R11 063 844.10 including VAT. It is apparent that Mdluli acted irregularly by signing an issuing a letter of appointment without a proper procurement being followed.

13.1.12 The PRASA payment schedules indicate that Stevrob Investments had been paid R6 891 132.73 to March 2016.

13.2 Recommendations

13.2.1 We recommend that the PRASA institute disciplinary action against be taken against the BEC members, Sibusiso Mthethwa:

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- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Stevrob did not have the required CIDB grading of 6GB but was allowed to proceed to the next stage of the evaluation process; and
 - For breaching clause 12.4.4 of the PRASA SCM policy of 2013. The wrong minimum threshold level of 70% was used. The policy stipulates a minimum threshold level of 80%.

13.2.2 We recommend that the PRASA institute disciplinary action against be taken against the BEC members, Sibuh Mahlatse Sekhu:

- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Stevrob did not have the required CIDB grading of 6GB but was allowed to proceed to the next stage of the evaluation process; and
- For breaching clause 12.4.4 of the PRASA SCM policy of 2013. The wrong minimum threshold level of 70% was used. The policy stipulates a minimum threshold level of 80%.

13.2.3 We recommend that the PRASA institute disciplinary action against be taken against the BEC members, Zukisani Myeko:

- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Stevrob did not have the required CIDB grading of 6GB but was allowed to proceed to the next stage of the evaluation process; and
- For breaching clause 12.4.4 of the PRASA SCM policy of 2013. The wrong minimum threshold level of 70% was used. The policy stipulates a minimum threshold level of 80%.

13.2.4 We recommend that the PRASA institute disciplinary action against be taken against the BEC members, Albert Mdluli.

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- For non-compliance with clause 12.5.2.2 of the PRASA SCM policy of 2013. The bidder Stevrob did not have the required CIDB grading of 6GB but was allowed to proceed to the next stage of the evaluation process;
 - For breaching clause 12.4.4 of the PRASA SCM policy of 2013. The wrong minimum threshold level of 70% was used. The policy stipulates a minimum threshold level of 80%; and
 - For exceeding his delegation of authority and signing and issuing a letter of appointment to Stevrob.

13.2.5 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For exceeding her delegated authority by appointing the BEC members.

13.2.6 Recommend that PRASA consider instituting a criminal investigation.

13.2.7 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA that will ensure that files and documents are in a secured, structured and easily accessible place.

14. The appointment of Katanga Property Care (Pty) Ltd

14.1 Summary findings

- 14.1.1** The documents in our possession suggest that the appointed seven contractors had neglected their contractual responsibilities at the Johannesburg Park Station. It appears that on or about 14 March 2012, the GEOC and the Executive management of PRASA conducted an unscheduled site visit at Johannesburg Park Station. It was found that the station had not been properly cleaned and constituted a “*serious health risk*”. As a consequence, PRASA decided to terminate the contracts of the seven contractors on 14 March 2012, which was the same day as the unscheduled site inspection. We were not provided copies of the termination letters. We have however requested such.
- 14.1.2** There is no mention of the contract terms and whether the contracts of the seven contractors were still valid. The immediate termination of the contractors appears questionable. Non performing contractors are initially warned and put on terms in accordance with the contract conditions. As we have not been provided the said contracts and the termination letters, it is difficult to establish the validity of the termination.
- 14.1.3** Goodman Matampi, the Regional Gauteng Manager recommended on 29 March 2012, that approval be granted for the appointment of Katanga Cleaning Services and Reakgona Commercial & Industrial Hygiene on an emergency basis. The suggested contract period was for six months
- 14.1.4** The recommendation was supported by Tara Philiswa Ngubane (“Ngubane”), Executive – Facilities, Tumisang Reginald Kgaboesele (“Kgaboesele”), Chief Executive Officer on 29 March 2012, Ntombeziningi Shezi (“Shezi”), Senior Manager SCM and Chris Mbatha (“Mbatha”), Group Chief Procurement Officer signed in support of the said recommendation on 1 April 2012 and 2 April 2012.
- 14.1.5** The appointment of the two cleaning contractors was approved by Montana on 2 April 2012. The contract value was given as R4 9811 061.04. The contract was for the period 15 March 2012 to 15 October 2012.

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- 14.1.6** In terms of paragraph 9.5.5 of the applicable SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the recommendation by Matampi is not in accordance with the SCM policy.
- 14.1.7** The approval for the appointment of the two contractors happened after the contractors started working at the Johannesburg Park Station;
- 14.1.8** There is no indication that the officials supporting the recommendation of Matampi constitute the CTPC. It would thus appear that the emergency appointment was not submitted to the Corporate Tender and Procurement Committee for adjudication. Irregularly approved the appointment of Katanga Cleaning Services.
- 14.1.9** It appears that the emergency contract was extended for a further 12 months. We have requested the relevant procurement documents from PRASA. All payments relating to this extension constitute irregular expenditure.
- 14.1.10** We were provided a resolution dated November 2013 pertaining to a “*REQUEST FOR CONDONEMENT FOR EXTENSION OF CONTRACT*” for Park Station. According to the resolution the contract was extended for two months without prior approval. Thus the condonation request. The resolution does not indicate who was responsible for the irregular extension of the contract. The resolution further recommends that the contract be extended for a further 3 months.
- 14.1.11** The resolution was supported by the DTPC and signed by Chris Mbatha as the Chairperson of the DTPC. The extension of the contract is a contract variation, which must be recommended by the CTPC for condonation. The extension of the contract has increased the contract amount and thus it exceeds the R5 000 000.00 threshold. The condonation should have been submitted to the CTPC and the CTPC should have recommended approval to the GCEO in accordance with Treasury Regulations. Thus Mbatha acted irregularly by recommending that the PRASA CRES facilities CEO approve the extension.
- 14.1.12** The condonation for two months only refers to two months of the 12 month extended period. We were not provided any documentation relating to the extension of the contract between the period 16 October 2012 to

31 August 2013. The initial contract ended on 15 October 2012. Thus there appears to be an extended period of ten and a half months. Thus there appears to have been no proper procurement followed to extend the contract between the period from 16 October 2012 to 31 August 2013.

- 14.1.13** We were not provided with the approval of the resolution by the PRASA CEO for the three months extension but not for the condonation of the two month period.
- 14.1.14** We were provided with a memorandum dated 21 November 2013 titled “*REQUEST FOR EXTENSION OF CONTRACT*” from Ms. Rebecca Setino, Senior Manager: SCM to Tara Ngubane the CEO of PRASA CRES.
- 14.1.15** The extension was requested on the basis that a new “tender evaluation process to take place” to appoint a new contractor. The cost of the three month extended contract was given as R3.9 million. We question the high monthly charge of R1 300 000.00 per month. This is an increase of approximately 56% of the initial emergency contract awarded. The memorandum further indicates that the R1 300 000.00 a month was the budgeted amount for the Johannesburg Park Station. We question the purported budgeted amount of R1 300 000.00. The contract stipulates a monthly fee of R830 176.84. We note that an amount of R1 280 739.87 was paid to Katanga from July 2013. We have not been provided with any documentation relating to the increase amount. There is no evidence that increased amount was properly approved. The extension was irregularly approved by the CEO of PRASA CRES on 22 November 2013.
- 14.1.16** It is apparent that the subsequent extensions are contract variations and thus the Divisional CEO; Ngubane did not have the delegated authority to approve the extension. The extension of the contract is a contract variation, which must be recommended by the relevant adjudication committee and approved by the GCEO in terms of Treasury Regulations. Thus Ngubane acted irregularly by approving the extension.
- 14.1.17** We were provided with an undated memorandum from Albert Mdluli to the Corporate Tender and Procurement Committee. The purpose of the tender was to request an extension of the contract for 4 months to 31 July 2014.

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- 14.1.18** Mdluli requested that the CTPC extend the initial 24 month contract by a further 4 months at a total cost of R5 270 000.00. The total cost for the cleaning contract to 31 March 2014 was reflected on the memorandum as R37 700 000.00. The total costs including the extension to 31 July 2014, which was given as RR42 970 000.00.
- 14.1.19** We note with concern that the memorandum indicates that the original Cleaning contract was stated as being 24 months and expiring on 31 October 2013. The initial emergency contract was effective from 15 April 2012 to 14 October 2012. This is a six month contract and not 24 months. Secondly the period from the initial contract date to 31 October 2013 is 18 months and not 24 months. We were not provided any contract for the period 15 October 2012 to 31 October 2013. Thus Mdluli misrepresented the initial contract period as 24 months and also the monthly contract amount as R1 300 000.00.
- 14.1.20** We were provided with a memorandum titled “*EXTENSION OF CONTRACT*” from the Chief Procurement Officer (“CPO”), Dr Joseph Phungula to the GCEO, which was signed by both officials on 1 April 2014 and 9 April 2014 respectively.
- 14.1.21** We were not provided the minutes of the CTPC indicating the recommendation for approval. There is no indication on the said memorandum that the request for extension was discussed at the CTPC and that the request had been recommended for approval.
- 14.1.22** The extension should have been submitted to the CTPC for a recommendation and approval to the Group Chief Financial Officer (“GCFO”) or the GCEO.
- 14.1.23** Our review of the payments schedule and invoices revealed that the monthly charges far exceeded the monthly contract amount of R830 176.84. In fact from July 2013, the contracted amount increased to R1 280739.87 per month. This is an increase of R450 563.03, which constitutes an increase of 54.27%. A change in the price of the contract constitutes a contract variation which must be approved in accordance with the PRASA SCM. We could find no evidence that that increase was approved.

14.1.24 Based on the identified irregular increase, we calculated that there could be irregular payments and possibly fruitless and wasteful expenditure relating to the increases and additional items charged of approximately R11 271 391.52.

14.1.25 The payments related to the unauthorised extensions could be considered to be irregular and could possibly amount to R18 263 890.48.

14.2 Recommendations

14.2.1 We recommend that the PRASA institute disciplinary action against Goodman Matampi, Regional Manager at PRASA CRES Gauteng for the following:

- Recommending the appointment of Katanga without following the proper procurement process. In terms of paragraph 9.5.5 of the applicable PRASA SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the recommendation by Matampi was not in accordance with the SCM policy; and
- Failure to comply with Section 45 of the PFMA.

14.2.2 We recommend that the PRASA institute disciplinary action against Ntombeziningi Shezi, Senior Manager - SCM for the following:

- Supporting the recommendation for the appointment of Katanga without following the proper procurement process. In terms of paragraph 9.5.5 of the applicable PRASA SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the support for the recommendation by Shezi was not in accordance with the SCM policy.

14.2.3 We recommend that the PRASA institute disciplinary action against Tara Philiswa Ngubane (“Ngubane”), Executive – Facilities for the following:

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- Supporting the recommendation for the appointment of Katanga without following the proper procurement process. In terms of paragraph 9.5.5 of the applicable PRASA SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the support for the recommendation by Ngubane was not in accordance with the SCM policy;
 - For exceeding her delegation of authority by signing the performance based contract between PRASA CRES and Katanga Property Care (Pty) Ltd. The contract should be signed by the PRASA CRES CEO; and
 - For signing a contract that included a clause, which allowed for a further 6 months. This appears to allow a contract variation, which should be recommended by the relevant adjudication body and approved by the GCEO in terms of Treasury prescripts; and
 - As CEO of PRASA CRES facilities management, she irregularly approved a three month extension of the cleaning contract, for the period 1 November 2013 to 31 January 2014. The extension of the contract is a contract variation, which must be recommended by the CTPC and approved by the GCEO in terms of Treasury prescripts. The irregular extension resulted in an additional R3 900 000.00.
 - For irregularly increasing the monthly payment during the extended period to R1 300 000.00 per month, which constitutes an increase of approximately 56% of the initial emergency contract awarded. The memorandum further indicates that the R1 300 000.00 a month was the budgeted amount for the Johannesburg Park Station. The increase in the price in this manner constitutes a contract variation, which must be recommended by the CTPC and approved by the GCEO in terms of Treasury prescripts;
 - For fruitless and wasteful and irregular expenditure relating the monthly increase of R469 823.16; and
 - Failure to comply with Section 45 of the PFMA.

14.2.4 We recommend that the PRASA institute disciplinary action against Tumisang Reginald Kgaboesele (“Kgaboesele”), for the following:

- Supporting the recommendation for the appointment of Katanga without following the proper procurement process. In terms of paragraph 9.5.5 of the applicable PRASA SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the support for the recommendation by Kgaboesele was not in accordance with the SCM policy; and
- Failure to comply with Section 45 of the PFMA.

14.2.5 We recommend that the PRASA institute disciplinary action against Chris Mbatha (“Mbatha”), Group Chief Procurement Officer for the following:

- Supporting the recommendation for the appointment of Katanga without following the proper procurement process. In terms of paragraph 9.5.5 of the applicable PRASA SCM policy, the DTPC should have recommended to the CTPC the approval “*for request for confinement*” as this amount is lower than the threshold amount of R5 million. Thus the support for the recommendation by Mbatha was not in accordance with the SCM policy.
- As Chairperson of the DTPC, he irregularly recommended a condonation of a two month extension of the cleaning contract, which had been extended without prior approval. This extension was for the period 1 September 2013 to 30 September 2013. The extension of the contract is a contract variation, which must be recommended by the relevant adjudication committee and approved by the GCEO in terms of Treasury prescripts. Thus Mbatha acted irregularly by recommending that the PRASA CRES facilities CEO approve the extension;
- As Chairperson of the DTPC, he irregularly recommended a three month extension of the cleaning contract, for the period 1 November 2013 to 31 January 2014. The extension of the contract is a contract variation, which must be recommended by the relevant adjudication committee and

approved by the GCEO in terms of relevant adjudication committee. Thus Mbatha acted irregularly by recommending that the PRASA CRES facilities CEO approve the extension; and

- Failure to comply with Section 45 of the PFMA.

14.2.6 We recommend that the PRASA institute disciplinary action against Albert Mdluli:

- For misrepresenting the contract amount as R1 300 000.00 to the CTPC and not R830 176.84, which resulted in the monthly payment of R469 823.16 which constitutes an irregular and fruitless and wasteful expenditure;
- For misrepresenting to the CTPC that the initial contract was for 24 months and not for six months; and
- Failure to comply with Section 45 of the PFMA.

14.2.7 We recommend that the PRASA institute disciplinary action against the Dr Josephat Phungula, the Group Chief Procurement Officer for the following:

- For misrepresenting the contract amount as R1 300 000.00 to the GCEO and not R830 176.84, which resulted in an in the monthly payment of R469 823.16 which constitutes an irregular and fruitless and wasteful expenditure;
- For misrepresenting to the GCEO that the initial contract was for 24 months and not for six months.; and
- Failure to comply with Section 45 of the PFMA.

14.2.8 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

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- For exceeding her delegated authority by irregularly extending the cleaning contract for one month to 28 February 2014, which resulted in a contract variation, which should be recommended by the CPO and approved by the GCEO in terms of clause 12.8.9;
 - For exceeding her delegated authority by irregularly extending the cleaning contract for one month to 31 March 2014, which resulted in a contract variation, which should be recommended by the CPO and approved by the GCEO in terms of clause 12.8.9;
 - For misrepresenting the contract amount as R1 300 000.00 and not R830 176.84, which resulted in an in the monthly payment of R469 823.16 which constitutes an irregular and fruitless and wasteful expenditure; and
 - Failure to comply with Section 45 of the PFMA.

14.2.9 We have not recommended disciplinary action against the then GCEO, L Montana he has left the employ of PRASA.

14.2.10 Recommend that PRASA consider instituting a criminal investigation.

14.2.11 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

15. The appointment of Gabade Building and Projects Close Corporation

15.1 Summary findings

- 15.1.1 The purpose of the project, as indicated in the submission, was to improve the work place and make alterations and renovations to the offices at the Durban Station. Furthermore the project included the design and construction of new car rental space within the first floor at Park Station, as well as make improvements to the ground and fire escape staircase.
- 15.1.2 The request to tender records the project cost as R115 523 723.74. We contacted the service provider Gabade. Gabade informed that they were only appointed to renovate / upgrade the REAM/SPPM Offices and old facilities. Thus it appears that the tender was split and more than one service provider was appointed for the various services mentioned in tender request.
- 15.1.3 It appears that the tender was advertised in three newspapers and on the CIDB website. The date for the compulsory briefing session was given as 2 February 2015 and the date for the tender closing date was given as 24 February 2015 in the advertisements.
- 15.1.4 The tender advertisement indicated that a CIDB grading of 6GB was required. The said tender amount was in excess of R10 000 000.00 and less than R30 000 000.00. In terms of the CIDB Regulations, a CIDB grading of GB7 is needed for contracts with a value between R10 000 001 and R30 000 000.00. Thus the request for a lower grading is a contravention of the CIDB Act and Regulations. The employment of a contractor with a lower grading places the PRASA at risk for non-performance of work.
- 15.1.5 It appears that the Cross Functional team was constituted to evaluate the WPIP Alterations and Renovations to the SPPM and REAM Office Durban Station tender. A letter was written and signed by Rebecca Setino informing officials that they had been appointed as BEC members
- 15.1.6 In terms of the PRASA SCM policy, the BEC members must be appointed by the CPO. We were not provided any appointment letters for the BEC members. Thus it appears that the BEC was not properly constituted.

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- 15.1.7 During the course of the investigation we also noted handwritten annotations on the score sheets of ostensibly the 5 BEC members. The handwriting appears to be from the same person. Our investigation also revealed that the points allocated to Gabade, ostensibly by the 5 BEC members, are similar in all evaluation criteria. We also noted that the maximum points in respect of relevant staff experience have been incorrectly reflected as 20 instead of 25.
- 15.1.8 This makes the bid evaluation process questionable and raises concerns regarding the fairness and / or existence of a properly constituted BEC.
- 15.1.9 We requested certain documents from PRASA, which forms a substantial part of the evaluation criteria indicated in tender documents. This is a breach of clause 9.6.2 of the PRASA SCM policy dated 2013. Thus we question the 86% allocated to Gabade. Based on the outstanding documentation, we have recalculated Gabade technical evaluation points and found that they have been given 38% for the technical evaluation. Thus they should have been disqualified at the technical evaluation stage.
- 15.1.10 It appears that the BEC manipulated the evaluation process by excluding certain compliance requirements in order to favour Gabade. The excluded items were not part of the Gabade tender submission. The tender evaluation process thus appears fatally flawed and irregular.
- 15.1.11 During the course of the investigation, we were provided with the recommendation report dated 19 June 2015 from Albert Mdluli, the Acting Senior Manager: SCM to Tara Ngubane (“Ngubane”), the Chief Executive Officer. We reviewed the recommendation report and record as follows:
- The Chief Executive Officers approval is hereby sought to appoint Gabade Building and Projects for the WPIP-Alterations and Renovation to SPPM and REAM Offices at the Durban station, at the cost of R13 802 583.78, inclusive of VAT, for the period of 6 months; and
 - Mdluli recommended the approval of the report and this appears irregular as the recommendation should have been signed by the chairperson of the DTPC. We have requested but were not provided with the DTPC supporting documentation. Consequently, we are unable to verify who the chairperson

of the DTPC was. It is apparent that Mdluli exceeded his delegation of authority by recommending the approval of the appointment of Gabade.

- The recommendation report was approved and signed by the Ngubane on the 19 June 2015. The approval of the appointment of Gabade based on the recommendation of Mdluli is irregular and a breach of the PRASA SCM policy. We further note that the approval of the said appointment should be done by the GCEO. Thus Ngubane exceeded her delegation of authority.

15.1.12 An appointment letter dated 14 July 2015 from Dlamini was sent to Gabade Building and Projects (Attention: Nthuthuko Msani). The letter informed Gabade that they had been appointed as the service provider for the work place improvement programme-alterations and renovation to SPPM and REAM Office (Durban Station) for an amount of R13 802 582.78, inclusive of VAT;

15.1.13 We physically inspected the construction site. We were informed by the service Provider that the work had been 80% completed. Gabade has been paid a total amount of R9 625 111.70 for work done to July 2016.

15.2 Recommendations

15.2.1 We recommend that the PRASA institute disciplinary action against the Albert Mdluli, SCM Manager at PRASA for the following:

- For exceeding his delegation of authority by recommending the appointment of Gabade to the Chief Executive Officer: PRASA CRES In terms of clauses 9.8.3 and 9.8.7 of the PRASA SCM policy, the CTPC adjudicates all tenders above R10 million and below R100 million and makes recommendations to the GCEO in respect of tenders as per delegation of Authority.

- For acting negligently in recommending the appointment of Gabade based on a flawed evaluation report, which was seemingly manipulated to favour Gabade. It appears that Mdluli contravened Section 45 of the PFMA by not exercising his duties in a diligent and responsible manner.

15.2.2 We recommend that the PRASA institute disciplinary action against the Tara Ngubane, Chief Executive Officer: PRASA CRES for the following:

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- For exceeding her delegation of authority by approving the appointment of Gabade. The said appointment should be done by the GCEO. We found no delegation of authority from the GCEO for Ngubane to approve the appointment.
 - For acting negligently in approving the appointment of Gabade based on a flawed evaluation report, which was seemingly manipulated to favour Gabade. It appears that Ngubane contravened Section 45 of the PFMA by not exercising her duties in a diligent and responsible manner.

15.2.3 We recommend that the PRASA institute disciplinary action against the following BEC members for irregularly changing the evaluation criteria to suit and favour:

- Luyuyo Mdekazi (Chairperson) - SPPM: Manager
- Sbongile Shezi – OHTE, Project Manager;
- Kholisa Dingezweni – SPPM, Project Manager;
- Anthony Stainbank – Finance, Assistant Manager.

15.2.4 We recommend that the PRASA institute disciplinary action against L. Mdekazi, Line Manager:

- For acting negligently by recommending a tender advertisement, which included the wrong CIDB grading of 6GB. The wrong CIDB grading placed PRASA at risk as the tender value was beyond the capability of the contractor.

15.2.5 We recommend that the PRASA institute disciplinary action against LNgcobo, HOD:

- For acting negligently by approving a tender advertisement, which included the wrong CIDB grading of 6GB. The wrong CIDB grading placed PRASA at risk as the tender value was beyond the capability of the contractor.

15.2.6 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For irregularly appointing BEC members in breach of the PRASA SCM policy.

15.2.7 Recommend that PRASA consider instituting a criminal investigation.

15.2.8 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

16. Appointment of Ntabelo Services CC

16.1 Summary findings

- 16.1.1 The tender relates the appointment of a service provider for the cleaning of the Berea Road Station in Durban was advertised in August 2014 KwaZulu Natal area.
- 16.1.2 We were provided with a copy of the tender advertisement which appears to have been retrieved from the PRASA website/notice board. The said advertisement appears to have been incorrectly typed. We note handwritten changes / corrections to the invitation to bidders. As we have noticed various corrections that were made with a black ink.
- 16.1.3 The information in our possession suggests that the tender was advertised on 6 February 2011 in the Isolezwe and Mercury newspapers. According to the advertisement, the compulsory briefing session and tender closing dates were given as 17 February 2014 and 7 March 2014 respectively.
- 16.1.4 It appears that 13 companies submitted bids in response to the February 2014 advertisement. A BEC evaluation meeting was seemingly held on 14 March 2014. It appears that 7 companies were eliminated for scoring below the 50% functionality threshold.
- 16.1.5 We noted that that score sheet criteria used by the BEC evaluation team differed from the tender document. Furthermore the weighting used also differed. We note with concern that the score for financial stability had been omitted in the scores sheet. The financial stability was a criterion stipulated in the tender document. In terms of PRASA SCM policy, the criteria stipulated in the tender documents must be used for the bid evaluations.
- 16.1.6 The submission/report issued by the Regional Tender Evaluation Committee (“RTEC”) to the Divisional Tender Evaluation Committee indicates that of the 13 submitted bids, 7 bids were disqualified for scoring less than 50% for the functionality criterion

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- 16.1.7 We note that of the 6 companies that proceeded to the BBBEE and Pricing, Meondo and Ikhayelihle had the lowest prices and scored 90.0 and 89.62 respectively. The said companies quoted the following prices:
- Meondo R14 125 512.60; and
 - Ikhayelihle R14 185 369.44.
- 16.1.8 We noted from the said submission that Meondo and Ikhayelihle were evaluated on BEE and scored 0 and 9 respectively and as a result Ikhayelihle was the recommended for appointment as the service provider. It appears that the appointment of Ikhayelihle was never effected.
- 16.1.9 During our review of SCM documents sourced from PRASA, we discovered that a tender for the cleaning of the Berea Road Station in Durban was again advertised in August 2014. We noted that the tender reference number for the tender which was advertised in August 2014 is different from the tender reference number for the tender which was advertised in February 2014. It appears that there was no appointment after the first advertisement. We were not provided any reason for the second advertisement.
- 16.1.10 We found that the minimum qualification score for functionality was given as 50% in the advertisements t issued in February 2014. The advertisement in August 2014 reflects the minimum qualification score for functionality as 60%.
- 16.1.11 It appears that Rebecca Setino issued a memorandum dated 4 September 2014 informing officials that they had been appointed as BEC members. We could find no evidence that the BEC was properly constituted.
- 16.1.12 The tender closing register provided to us indicates that 36 companies submitted bids. The recommendation report, however, records that 42 companies responded to the tender and they were all evaluated. It would thus appear that the said closing tender register was incomplete.
- 16.1.13 The minimum threshold in the tender document is wrong and in breach of the PRASA applicable policy. In terms of Clause 12.4.4 of the PRASA SCM policy May 2014, the minimum threshold for technical evaluation should be 80%. The lowering of the minimum evaluation threshold could also constitute a serious risk for PRASA as the work delivered could be of a poor quality and standard.

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- 16.1.14 We were provided with the completed score sheets for each BEC member. The evaluation score sheets show that the evaluation criteria used was the same as indicated in the tender documents.
- 16.1.15 We were provided with a recommendation report compiled by Rebecca Setino in her capacity as the Senior Manager of SCM and addressed to the CEO. This is a breach of the PRASA SCM policy.
- 16.1.16 The recommendation report should have been issued to the DTTC. Thus it is apparent that Setino acted irregularly by issuing the said report in breach of the PRASA policy.
- 16.1.17 According to the said recommendation report, 23 Companies were recommended for evaluation on Price and Preference. Based on the said report, the following 5 companies had the lowest prices and proceeded to the BBB-EE and Pricing evaluation stage.
- 16.1.18 Of the 5 companies that proceeded to the BEE / Pricing stage, it appears that the BEC rejected the bids of Shayimpi and Sizimiselengomsebenzi. The said bids had the lowest prices of the 5 remaining bids. According to the recommendation report, the said service providers were going to pay their employees less than the gazzetted rates. Payment of rates lower than the gazzetted rates should not necessarily lead to a disqualification. The BEC should have raised the issue as a risk, which could lead to non-performance or poor quality of service. This would have been considered when awarding the tender.
- 16.1.19 Of the remaining three bidders, Meondo had the lowest price at R10 077 536.57. However Meondo were allocated no points for a valid BEE certificate. The nil points given to Meondo suggest that they did not submit a valid BEE certificate.
- 16.1.20 We contacted Meondo regarding their non-submission of a valid BEE certificate. We were informed by Meondo that a valid BEE certificate was part of their submission in February 2014 and in September 2014. We then requested the relevant and applicable BEE certificate from Meondo for the 2014 period.
- 16.1.21 Meondo provided us with the valid BEE certificate issued by the verification agency, DRG – Siyaya Verification Agency (Pty) Ltd. The said certificate records that Meondo is a level 1 BBBEE contributor. Furthermore the certificate was valid for the period 15 October 2013 to 14 October 2014.

16.1.22 Based on the evidence provided by Meondo and in accordance with the Preferential Procurement Regulations, the BEC should have awarded Meondo the 10 points for BEE preference. The BEC should have recommended that Meondo be appointed at a price of R10 077 536.57, which is less than the price of the successful bidder, Ntabelo Services by R122 464.46.

16.1.23 It is thus apparent that the procurement process was manipulated to favour Ntabelo.

16.2 Recommendation

16.2.1 We recommend that the PRASA institute disciplinary action against Ms. Tara Ngubane, Chief Executive Officer: PRASA CRES:

- For acting negligently by approving the appointment of Ntabelo Services without following a proper procurement process. It appears that there was no properly constituted adjudication committee.

16.2.2 We recommend that the PRASA institute disciplinary action against the BEC members that evaluated the tender for August 2014:

- For acting negligently in the appointment of Ntabelo Services. A valid BEE certificate for the bidder Meondo was omitted from the BBBEE and Pricing evaluation stage, which resulted in a nil score for the bidder. If the bidder had been allocated a score in accordance with their level one contributor status, they would have had the highest score.

16.2.3 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For exceeding her delegation of authority by recommending the appointment of Ntabelo Services to the PRASA CRES CEO in breach of the PRASA SCM policy. Setino was not part of the BEC.

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- 16.2.4 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

17. Appointment JHI Properties (Pty) Ltd

17.1 Summary findings

- 17.1.1 It appears that that PRASA acquired a number of commercial and retail properties by December 2013 and with a view to acquire a further 12 properties as part of the Phase 1 Development Lease Acquisition Programme. Based on this a decision was taken to appoint a service provider that will manage all PRASA building in a “*professional manner*” and achieve the “*expected yields*”.
- 17.1.2 According to the information provided to us, the tender to appoint a property management company was advertised in the various newspapers nationwide between the 25 August 2013 and 29 August 2013.
- 17.1.3 The closing date for the submission of bids was given as 13 September 2013. We were provided with a copy of the tender opening register which was completed on the closing date. We note that the said tender opening register was signed by SCM and the end-user. Based on the register, the following 3 companies submitted bids:
- Motseng Property Services;
 - JHI Properties (Pty) Ltd; and
 - Hermans & Roman Property Solutions.
- 17.1.4 We could find no evidence that the BEC was properly constituted.
- 17.1.5 The documents in our possession suggest that the Bid Evaluation Committee meetings were ostensibly held on 30 September, 7 October, 21 October and 14 November 2013 respectively.
- 17.1.6 According to the submission for adjudication by the BEC, all 3 bidding companies achieved the functionality threshold score of 70% and subsequently proceeded to Price and BEE evaluation stage.

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- 17.1.7 The BEC submission issued on 1 November 2013 indicates that the price evaluation was divided into three categories, namely Management Fee, Commission on new leases and Commission on lease renewals.
- 17.1.8 In the documentation provided, we noted that both companies (JHI and Herman & Roman) passed the technical evaluation stage and were further evaluated on Price and BEE. During the price evaluation stage, it shows that Herman & Roman quoted the lowest amount and were awarded 90 points for price. According to the BEC submission, both JHI and Herman & Roman are level 3 BEE compliant and were scored 8 points. Thus Herman & Roman scored the highest points.
- 17.1.9 The reference checks conducted by PRASA revealed that the bidder, Hermans & Roman was facing serious financial difficulties. As a consequence the SCM contacted CIPC and were informed that Hermans & Roman were under business rescue. We were also provided with an extract from the Government Gazette dated 22 March 2013, which indicates that the directors of Herman & Roman had voluntarily applied for business rescue proceedings. Based on this information JHI properties were recommended for appointment.
- 17.1.10 A memorandum dated 31 January 2014 from Setino to the CEO (PRASA CRES) and titled "*RECOMMENDATION REPORT*" recommended the approval of the appointment of JHI for the management of 12 selected properties in Gauteng, Western Cape and KZN for a period of 36 months. The recommendation further indicated that contract value should not exceed R15 000 000.00 inclusive of VAT. The recommendation was signed by Setino on 31 January 2014 and approved by the PRASA CRES CEO Tara Ngubane ("Ngubane") on 31 January 2014.
- 17.1.11 We were provided with an appointment letter dated 31 January 2014 from Setino to JHI (Attention: Sannet Uys). The letter informed JHI that they had been appointed as service provider for the management of 12 selected properties in Gauteng Province, Western Cape and Kwazulu Natal.
- 17.1.12 It appears that Setino exceeded her authority by issuing a recommendation report to Ngubane and by also issuing an appointment letter to JHI Properties. The approval by Ngubane is irregular as it appears that the BEC recommendation was not subjected to an adjudication process.

17.1.13 The PRASA payment schedules reflect that paid a total amount of total amount of R6 676 590.33 to date. The payment is within the maximum contract amount of R15 000 000.00 over a 3 year period.

17.2 Recommendations

17.2.1 We recommend that the PRASA institute disciplinary action against Tara Ngubane, PRASA CRES CEO for:

- Irregularly appointing JHI as the service provider for an amount of R15 000 000.00. The appointment was done on the recommendation of Setino. There appears to have been no adjudication by the relevant adjudication committee.

17.2.2 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- For exceeding her authority and by I recommending JHI as the service provider for an amount of R15 000 000.00. The recommendation must be done by the relevant adjudication committee.

17.2.3 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

18. The appointment of Kingsway Civil (Pty) Ltd

18.1 Summary findings

18.1.1 The tender was for the upgrading of the car rental space at the Johannesburg Park station.

18.1.2 The information in our possession indicates that tender was advertised in the City Press, The Star and Sowetan on 6 July 2014. The closing date was given as 6 August 2014. We note that 6 July 2014 was on a Sunday and that The Star and Sowetan newspapers do not get published on Sundays. We contacted the Sowetan Newspaper regarding the said advertisement. We were provided with a copy of the advertisement, which appeared in the Sowetan on Monday, 7 July 2015. We were also provided with a copy of the advertisement in City press newspaper dated 6 July 2014 by the City Press.

18.1.3 According to the tender opening register, 11 companies submitted bids by the closing date. We confirm that the tender opening register was signed by Tshifularo Nematatani (“Nematatani”) from SCM.

18.1.4 PRASA’s internal SCM Policy states that the members of the BEC shall be appointed by the CPO and be made up of a least 4 members. It further states that two of the appointed members shall be from the SCM department, one official from finance and one end-user when deemed necessary. In the absence of the relevant supporting documentation, it is uncertain if Setino received the authority from the CPO to make the appointments. We could find no evidence regarding the proper appointment of the BEC members. It would thus appear that the BEC members were not properly appointed and that Setino acted irregularly in informing the officials regarding their appointment as BEC members for the tender regarding “*The upgrading of car rental space at Johannesburg Park station*”.

18.1.5 The documents in our possession suggest that the BEC meeting was held on 13 August 2014.

18.1.6 The available information indicates that a CIDB grading “7GB or Higher” was a requirement. According to the CIDB website a grading of 7GB is needed for a contract with a maximum value of R13 000 000.00. The contract awarded to Kingsway was less than R10 500 000.00 and thus a 6GB would have sufficed. Thus we question why there was a compulsory requirement for a 7GB as a 6GB was sufficient.

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- 18.1.7** It appears from the available documentation that 8 bidders were disqualified from proceeding to the next stage of compliance, price and BBBEE evaluation. The said 8 bidders scored less than the threshold percentage of 70%. We also note that the three companies which did not attend the briefing session were also eliminated during the technical evaluation stage.
- 18.1.8** We that the administrative compliance was done subsequent to the evaluation stage. We question why the evaluation for the administrative compliance requirements was only done subsequent to the technical evaluation. A bidder is immediately disqualified for the non-submission of a valid tax clearance certificate and other compulsory requirements. In accordance with PRASA “*Evaluation and scoring methodology*” the administrative compliance requirements stage is the first stage of the evaluation process.
- 18.1.9** The said BEC submission indicated that three submitted bids had complied with all the administrative compliance requirements. We searched the CIDB website and found that the CIDB grading for Kingsway Civils (Pty) Ltd and Nebavest 46 agreed to the grading listed in the BEC submission. We however found that the CIDB grading for Bitupquip Construction as at 13 September 2016 was listed as 4GB. This grading is lower than the required CIDB grading and also lower than the grading of 7GB given in the said submission. We contacted the CIDB and they confirmed that Bitupquip Construction had a 7GB grading in 2014 but the grading had subsequently been lowered.
- 18.1.10** Based on the documents in our possession, in terms of the application of the Preferential Procurement Points system ,Kingsway Civil scored 90 points for price and 8 points for BEE (level 2 BEE Co). The bid price submitted by Kingsway Civil was R10 053 654.07. Kingsway Civil scored 98 points and was recommended for the tender.
- 18.1.11** We were not provided with the minutes of the DTPC meeting regarding the adjudication of the BEC recommendation. Thus we are unable to comment on the proper constitution of the DTPC or whether a DTPC was constituted to adjudicate the BEC recommendation. In terms of paragraph 9.9 of PRASA’s SCM Policy DTPC members must be appointed by the GCEO and upon recommendation by the DCEO. We confirm that we have made a request for the said supporting documents from the relevant officials and are still waiting for same.

18.1.12 It is indicated in the recommendation report that “*the members of the DTPC unanimously recommends*” the appointment. The members of the DTPC have not been identified as we were not provided with any documentation and minutes of the DTPC meeting and the appointment of the DTPC members.

18.1.13 A letter of appointment dated 17 October 2014 was issued by Setino to Kingsway Civil. The issuing of the appointment letter by Setino appears irregular.

18.1.14 We note that the total payments to Kingsway was R8 513 763.95, which is less than the agreed price of R10 053 654.07.

18.2 Recommendation

18.2.1 We recommend that the PRASA institute disciplinary action against the Xolile Lomborg, Manager at PRASA CRES for the following:

- For signing the BEC recommendation to appointment Kingsway Civils as chairperson. It appears that Daniel Shingange was the appointed Chairperson.

18.2.2 We were informed that Rebecca Setino has left the employ of PRASA and is now employed with Transnet. We thus recommend that PRASA request that Transnet institute disciplinary action against Rebecca Setino in accordance with Section 64B (4) of the Public Service Act, 1994 for the following:

- Irregularly informing Daniel Shingange, Muhali Mukwevho, Xolile Lomborg and Tshifularo Nematatani that they had been appointed BEC members for the tender of the upgrading of car rental space at Johannesburg Park Station;
- For exceeding her delegated authority by signing the letter appointing Kingsway Civils for the tender of the upgrading of car rental space at Johannesburg Park Station; and
- For the appointment of Kingsway Civils without following the proper procurement process.

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- 18.2.3 Recommend that PRASA implement a proper document management system in the Supply Chain Management unit at PRASA CRES that will ensure that files and documents are in a secured, structured and easily accessible place.

19. The appointment of Tyre Corporation

- 19.1 The file and documents were given to another consultant as it was linked to their investigation.

20. The appointments of Enza Construction for the Security Systems and John and Thomas

- 20.1 No files were available for the said appointments. We contacted and visited the offices of various officials regarding the missing files. We were eventually referred to Albert Mdluli, the SCM Manager. We phoned and sent messages to Mdluli for the files. We even visited his office but could not find him. Other officials such as Teddy Phoma also tried to arrange an interview with Mdluli for us.
- 20.2 It is our view that PRASA should institute disciplinary hearing against Albert Mdluli for not cooperating and providing us with the relevant files and supporting documents.