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Date: 20 December 2016

BY E-MAIL

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

Dear Mr. Ndaba,

PRIVILEGED AND CONFIDENTIAL

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

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

Yours faithfully,

Bowman Gilfillan

per: Johan Kruger

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EXECUTIVE SUMMARY OF FINDINGS AND OPINION

This executive summary must be read together with the full report, annexures and the exhibits in this matter

Mandate

1. The Public Protector in her report on the Passenger Rail Agency of South Africa ("PRASA") investigation, directed the Office of the Chief Procurement Officer ("OCPO") to conduct forensic investigations in respect of all PRASA contracts above R10 million from 2012 to date.
2. Bowmans was mandated by National Treasury to investigate 20 PRASA contracts above R10 million awarded by PRASA from 2012 to date, which included *inter alia* the Stefanutti/4Phase contract for the rectification of the Durban and Pietermaritzburg platforms.
3. National Treasury selected the 20 PRASA contracts that Bowmans was mandated to investigate.

Summary of findings and opinion

Background

4. As part of PRASA's plans to expand its service offering to its customers in the Durban region, a decision was made to introduce a new Business Express Service.
5. In line with this plan, PRASA urgently required the upgrade of two platforms in the Durban region that would assist with the delivery of this Business Express Service.
6. The affected platforms were:
 - a. Durban Station - Platform 15
 - b. Pietermaritzburg Station - Land Side Platform
7. The main purpose of the rectification was to align the floor level of the train with the platform level to bring it to the required specification.
8. Due to the urgency of the project, the PRASA Technical Strategic Infrastructure Department started the procurement process with the intention of appointing a contractor to provide a turnkey (design and construction) solution for the rectification of the two affected platforms.

2014 tender

9. During 2014, PRASA invited contractors to tender for the project and several bidders submitted bids for the project.

10. The evaluation process was completed and the tender for the rectification of the Durban and Pietermaritzburg platforms was awarded to the Stefanutti Stocks/4Phase joint venture.

Contract – 9 February 2015

11. The contract was for a period of eight months and was to commence on 9 February 2015 irrespective of when the contract was signed.
12. The contract price was for a fixed amount of R26,377,023.16 million (including VAT) excluding a 10% contingency.

Implementation of the contract

13. During February 2015, Stefanutti/4Phase commenced with the rectification of platform 15 at Durban Station.
14. Both the platforms at Durban and Pietermaritzburg were completed and the handover process for Durban took place on 13 August 2015. The handover of Pietermaritzburg platform took place on 24 May 2016.
15. According to the agreement, the contract period was 8 months. It commenced on 9 February 2015 but Pietermaritzburg was only handed-over in May 2016, i.e. 15 months later.
16. Construction at both Durban and Pietermaritzburg stations were intended to run in parallel but official approval of detailed designs by the Railway Safety Regulator and PRASA Engineering Services to go ahead with Pietermaritzburg station due to its complex geometry, took longer than expected.
17. Approval of designs for Pietermaritzburg station was granted around the end of May 2015. Stefanutti had already commenced with construction at Durban station and handed it over at the end of the validity period.
18. An internal approval process to re-instate the contract to complete the works for Pietermaritzburg station then commenced and approval was granted with a new start date of 29 January 2016 and end date of 30 April 2016, almost 7 months after application.
19. The handover of Pietermaritzburg platform took place on 24 May 2016. However, no delay penalties were charged by PRASA to Stefanutti/4Phase for the late completion of the Pietermaritzburg station.

Payments made by PRASA to Stefanutti/4Phase

20. The total amount paid by PRASA to Stefanutti/4Phase of R32,237,723.03 exceeded the Notice to Proceed value of R29,307,803.52. However, the contract provided for a 10% contingency, i.e. R2,930,780.35.

Description	Amount (Rand)
Notice to proceed	29,307,803.52
10% contingency	2,930,780.35
Total	32,238,583.87
Actual amount paid by PRASA	(32,237,723.03)
Remaining amount	860.84

Delays in the tender process

21. The table below list the timeline of the tender process events:

Description	Date
Purchase requisition	6 December 2013
Advertisement of the tender	8 December 2013
Collection of tender documents	9-12 December 2013
Briefing of bidders	13 December 2013
Opening of bid documentation	15 January 2014
Appointment of the TEC members	21 January 2013
Meeting of the TEC members	31 January 2014
Evaluation score cards submitted by TEC members	10 February 2014
Security screening report	12 May 2014
Recommendation report submitted to GCEO	13 May 2014
Approval by GCEO	30 May 2014
Notice to proceed	17 September 2014
Commencement of agreement	9 February 2015

22. There were several delays during the tender process:
- a. A three month delay between the evaluation of the bid documentation by the TEC members and when the recommendation report was submitted to the GCEO for approval.
 - b. A three and a half month delay between when the GCEO approved the bid and when PRASA issued the notice to proceed to Stefanutti/4Phase.
 - c. A five month delay between when the notice to proceed was issued and when the contract commenced.
 - d. More than eight months delay between when the GCEO approved the bid and when the contract commenced.

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

Contract value incorrect

24. The contract value was for a fixed price of R26,377,023.16 million (including VAT) excluding a 10% contingency.
25. However, the bid price of Stefanutti/4Phase was R29,307,803.52. This price was also recommended for the GCEO's approval and the notice to proceed issued by PRASA to Stefanutti/4Phase was also for R29,307,803.52.
26. The contract was never rectified to reflect the correct price of R29,307,803.52 (excluding the 10% contingency) or R32,238,583.87.

Late completion of Pietermaritzburg Station

27. Construction at both Durban and Pietermaritzburg stations were intended to run concurrently, however the official approval of detailed designs by the Railway Safety Regulator and PRASA Engineering Services to proceed with Pietermaritzburg station (due to its complex geometry), took longer than anticipated.
28. An internal approval process to re-instate the contract, to complete the works for Pietermaritzburg station was followed. Approval was granted with a new start date of 29 January 2016 and end date of 30 April 2016 almost 7 months after application.
29. The handover of Pietermaritzburg platform took place on 24 May 2016. No delay penalties were charged by PRASA to Stefanutti/4Phase for the late completion of the Pietermaritzburg station.

Conflict of interest

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

31. As Stefanutti/4Phase 's contract with PRASA commenced on 9 February 2015, this 4Phase director may have been benefitting from this Cleveland contract, whilst in the position of Commissioner.
32. We did not identify any significant irregularities pertaining to this contract.

Contents

1.	BACKGROUND	11
2.	MANDATE, PERIOD, REPORT FORMAT AND QUALIFICATIONS TO OUR REPORT	11
3.	WORK PERFORMED	13
4.	COMPANY INFORMATION	14
5.	PRASA SUPPLY CHAIN MANAGEMENT POLICY	16
6.	APPOINTMENT OF STEFANUTTI/4PHASE	16
7.	AGREEMENT BETWEEN PRASA AND STEFANUTTI/4PHASE UNDATED	22
8.	INTERVIEW – MR JOSEPH MOLOSI (PROJECT MANAGER)	23
9.	PAYMENTS MADE BY PRASA TO STEFANUTTI/4PHASE	25
10.	PHYSICAL VERIFICATION OF THE DURBAN AND PIETERMARITZBURG PLATFORMS	26
11.	CONCLUSION	26
	ANNEXURES	29
	EXHIBITS	30

Abbreviations

Descriptions and explanations of terms and abbreviations relevant to this report are listed below. These descriptions and explanations are intended to simplify the report content and are not intended to be authoritative.

Abbreviation / term	Description
BBBEE	Broad-Based Black Economic Empowerment
Bowmans	Bowmans Inc., forensic investigators for National Treasury.
CIDB	Construction Industry Development Board
GCEO	Group Chief Executive Officer
KZN	Kwazulu-Natal
Metrorail	Metrorail operates rail services in urban areas
Mr. Gow	Mr. Earnest Gow, PRASA Line Manager
Mr. Molosi	Mr. Joseph Molosi, Project Manager of the Stefanutti/4Phase Durban/Pietermaritzburg platform rectification contract
Mr. Shiba	Mr. Bongiwe Shiba, PRASA Procurement Official
National Treasury	The National Treasury of the Republic of South Africa. National Treasury means the National Treasury as established in terms of section 5 of the Public Finance Management Act, 1999 (Act no. 1 of 1999).
OCPO	Office of the Chief Procurement Officer
4Phase	4Phase Railtechnik (Pty) Ltd, company registration number 2008/011585/07, is a railway engineering company that was founded in 2008. 4Phase had a joint venture arrangement with Stefanutti (30% - 4Phase and 70% Stefanutti) in order to execute this contract
Perway	Bridges and platforms

Abbreviation / term	Description
PRASA	Passenger Rail Agency of South Africa
R	Rand, the RSA currency.
RSA	Republic of South Africa
RSR	Railway Safety Regulator
SABS	South African Bureau of Standards. SABS is a leading global provider of standards, management systems, business improvement and regulatory approval information.
SCM	Supply Chain Management
Shosholozza	Shosholozza Meyl operates regional and inter-city rail services
Stefanutti	<p>Stefanutti Stocks (Pty) Ltd, company registration number 2003/022221/07, is a construction company that was founded in 2003.</p> <p>Stefanutti had a joint venture arrangement with Stefanutti (30% - 4Phase and 70% Stefanutti) in order to execute this contract.</p>
TEC	Technical Evaluation Committee

1. BACKGROUND

- 1.1 The Passenger Rail Agency of South Africa (PRASA) was established in 2008, consolidating all of the passenger rail entities into an entity to better manage and aggressively address the under-performance of rail passenger services and that was more modern, efficient and customer-focused as well as champion some much needed investment in the sector.
- 1.2 The Passenger Rail Agency of South Africa (PRASA) is a South African state owned enterprise responsible for most passenger rail services in the country. It consists of four branches:
- 1.2.1 Metrorail - operates commuter rail services in urban areas;
- 1.2.2 Shosholoza Meyl - operates regional and inter-city rail services;
- 1.2.3 Autopax - operates regional and inter-city coach services; and
- 1.2.4 Intersite - manages the property owned by PRASA.
- 1.3 Operating within six large cities across the country, today PRASA manages over 374 stations and transports over 2.2 million passengers daily through its local metropolitan line and 1.4 million passengers per annum through its main line passenger service.
- 1.4 As part of PRASA's plans to expand its service offering to its customers in the Durban region, a decision was made to introduce a new Business Express Service.
- 1.5 In line with this plan, PRASA urgently required the upgrade of two platforms in the Durban region that will assist with the delivery of this Business Express Service.
- 1.6 The affected platforms were:
- 1.6.1 Durban Station - Platform 15
- 1.6.2 Pietermaritzburg Station - Land Side Platform
- 1.7 Due to the urgency of the project, the PRASA Technical Strategic Infrastructure Department started the procurement process with the intent of appointing a contractor to provide a turnkey (design and construction) solution for the rectification of the two affected platforms.
- 1.8 The scope of the project entailed the rectification of two platforms, namely Durban Station Platform 15 and Pietermaritzburg Station (Land Side Platform) in order to ensure compliance with the latest standard specification in terms of clearance (ARP 084-1:2009, Edition 1, RSR 84-1:2009 Edition 1).

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

MANDATE

- 2.1 Bowmans was mandated by National Treasury to provide forensic investigation services in respect of PRASA. The principal objectives of our investigation were to:

- 2.1.1 Investigate the procurement processes, which were followed in the appointment of the suppliers.
- 2.1.2 Determine whether the appointments of identified service providers were made in line with relevant prescripts and were approved by relevant authorities.
- 2.1.3 Establish where applicable, whether deviations were in-line with relevant prescripts.
- 2.1.4 Determine whether payments correspond to the respective bid price and/or contractual agreement.
- 2.1.5 Identify all persons or entities that unduly benefited as a result of irregular conduct.
- 2.1.6 Advise on the remedial actions which must be taken in instances of maladministration and/or where improper conduct has been detected.
- 2.1.7 Provide a report on our findings.
- 2.2 We were not mandated to and did not conduct an audit in compliance with generally accepted auditing standards.

Period under investigation

- 2.3 Bowmans' investigation covered the period from 6 December 2013 to 25 December 2015.

Report format

- 2.4 Section 3 of the report sets out the work which we performed. Section 4 onwards deals with our detailed findings.
- 2.5 References in this report in parenthesis are to documents in the various annexures and exhibits, which must be read in conjunction with this report.

Qualifications to our report

- 2.6 This report is provided solely as an internal document, for the addressees and their legal Counsel, to National Treasury. It may not be used for any other purpose or disseminated to any person without the prior written consent of Bowmans.
- 2.7 Our report deals only with the documentation with which we have been provided, together with other information which we have been able to obtain ourselves from third parties.
- 2.8 In compiling this report, we have accepted and relied on representations from persons and the authenticity of documents provided to us. In order to make these representations and documents admissible for Court purposes, the authors of the representations and documents would have to confirm these in the relevant Court process.
- 2.9 Should it come to light that material information has been withheld or additional information is brought to our attention, we have the right to amend our report.

3. PROCEDURES PERFORMED

DOCUMENTS REVIEWED

- 3.1 Company searches of Stefanutti and 4Phase.
- 3.2 PRASA Supply Chain Management Policy dated February 2009.
- 3.3 PRASA Supply Chain Management Policy dated September 2013.
- 3.4 Tender documentation relating to the Durban and Pietermaritzburg platform rectification contract and appointment of Stefanutti/4Phase as the contractor.
- 3.5 Agreement between PRASA and Stefanutti/4Phase undated for the rectification of the Durban and Pietermaritzburg platforms.
- 3.6 Stefanutti/4Phase creditor account in the accounting records of PRASA.
- 3.7 Stefanutti/4Phase invoices and other supporting documentation for the payments made by PRASA to Stefanutti/4Phase in terms of the rectification of the Durban and Pietermaritzburg platforms.

Interviews Conducted

- 3.8 We have held discussions with the following individuals:

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

Other procedures performed

- 3.9 Performed company searches on Stefanutti and 4Phase.
- 3.10 Obtained and perused the supply chain management policy and procedures for the period under investigation.
- 3.11 Obtained copies of all procurement files and related documentation relevant to this Stefanutti/4Phase rectification of the Durban and Pietermaritzburg platforms.
- 3.12 Read and reviewed appointment of Stefanutti/4Phase as supplier of PRASA for the rectification of the Durban and Pietermaritzburg platforms.
- 3.13 Obtained and reviewed the agreement between PRASA and Stefanutti/4Phase.

- 3.14 Obtained the Stefanutti/4Phase creditors account in the accounting records of PRASA in electronic format.
- 3.15 Obtained all supporting documentation for the payments made by PRASA to Stefanutti/4Phase.
- 3.16 Compared Stefanutti/4Phase creditor accounts in the accounting records of PRASA to the physical Stefanutti/4Phase invoices.
- 3.17 Conducted various preliminary interviews with PRASA officials.
- 3.18 Physically inspected the PRASA Durban and Pietermaritzburg platforms rectified by Stefanutti/4Phase.
- 3.19 Compiled a report on our findings.

4. COMPANY INFORMATION

- 4.1 The Durban and Pietermaritzburg platform rectification was awarded by PRASA to the Stefanutti/4Phase joint venture:
- 70% - Stefanutti Stocks Civils (a division of Stefanutti Stocks (Pty) Ltd)
 - 30% - 4Phase Railtechnik (Pty) Ltd

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

- 4.2 Stefanutti Stocks (Pty) Ltd, company registration number 2003/022221/07, is a construction company that was founded in 2003 (Exhibit 1).
- 4.3 Stefanutti is one of South Africa's leading multidisciplinary construction groups with over 12,000 employees. Stefanutti deliver a range of infrastructure development projects to its clients across diverse sectors.
- 4.4 Their operations offer a broad spectrum of capabilities to the following sectors:
- 4.4.1 Building
- 4.4.2 Bulk Earthworks and Geotechnical
- 4.4.3 Energy Generation
- 4.4.4 Industrial Plants, Oil and Gas Mining and Mining Infrastructure
- 4.4.5 Transport Infrastructure (road, rail, marine and air)
- 4.4.6 Water, Sanitation and Pipelines
- 4.5 Stefanutti are active in South Africa and across sub-Saharan Africa including in countries such as Botswana, Mozambique, Namibia, Nigeria, Sierra Leone, Swaziland, Tanzania and Zambia. In the United Arab Emirates (UAE) they have established businesses in Dubai, Abu-Dhabi and Qatar.

- 4.6 All South African operations are divisions of Stefanutti, a Level Three BBBEE contributor.
- 4.7 Stefanutti's registered address is Protec Park, corner of Zuurfontein Avenue and Oranjerivier Drive, Chloorkop, Johannesburg.
- 4.8 Stefanutti currently has eight active directors as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date	Status
1	Antonio Vito Coccianta	691123 5243 088	01/06/2015	Active
2	Werner Jerling	660306 5102 084	18/11/2015	Active
3	Howard Douglas Kingsley Jones	481016 5075 084	09/06/2014	Active
4	Willem Meyburgh	540605 5081 081	01/03/2010	Active
5	Vincent Earl Olley	620812 5148 083	31/07/2012	Active
6	Michael Siyelelesa Mbusi Sikhakhane	651026 5671 083	01/01/2014	Active
7	Frederick Theron Venter	530109 5024 086	01/12/2010	Active
8	Stefanutti Stocks Holdings Secretary		01/03/2010	Active

4Phase Railtechnik (Pty) Ltd

- 4.9 4Phase Railtechnik (Pty) Ltd ("4Phase"), company registration number 2008/011585/07, is a railway engineering company that was founded in 2008 (Exhibit 1).
- 4.10 4Phase's registered address is Plot 401, Van Der Hoff Road, Rietfontein, Hartebeespoort, 0216 (Exhibit 1).
- 4.11 4Phase currently has two active directors as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date	Status
1	Thanyani Ramatsea	741215 6063 083	14/12/2010	Active
2	Motshabi Martha Senna	840820 0649 082	03/01/2013	Active

- 4.12 One of the directors of 4Phase was appointed as the Commissioner of the National Planning Commission on 16 October 2015. He may have been benefitting from this contract, whilst in the position of Commissioner.

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

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

5. PRASA SUPPLY CHAIN MANAGEMENT POLICY

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

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

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

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

5.2.1 In the case of emergency;

5.2.2 In the case of a sole source; and

5.2.3 In the case of confinements.

5.3 The Durban and Pietermaritzburg platform rectification contract was for an estimated R30 million to R40 million. Therefore, PRASA had to follow a competitive tendering process in order to appoint a suitable contractor.

6. APPOINTMENT OF STEFANUTTI/4PHASE

Purchase requisition

6.1 On 6 December 2013, Mr Alison Moosa of the PRASA Infrastructure Department, issued a purchase requisition for the "*Durban Region: Correct Platform Alignment and clearances at various Platforms (Turnkey Contract)*" (Exhibit 5).

6.2 The estimated cost for the project was R30 million to R40 million.

6.3 The requisition was signed by the Requestor, Mr Alison Moosa, and signed for approval by the Line Manager, Mr Earnest Gow ("Mr Gow") and Procurement Official, Bongjiwe Shiba ("Mr Shiba") on 6 December 2013.

Tender forms for issuing (Purchase order for tender advert/draft/quote)

6.4 A request for tender was advertised by PRASA on 8 December 2013 on the Construction Industry Development Board ("CIDB") website and the following newspapers (Exhibits 6 and 7):

6.4.1 The New Age

6.4.2 Sunday Times

6.4.3 Sowetan

6.4.4 Cape Argus

6.4.5 The Mercury

6.4.6 The Star

6.4.7 Business Day

6.4.8 Citizen

6.4.9 Pretoria News

6.4.10 City Press

6.5 According to advertisement, the tender participants could:

6.5.1 Collect the tender documentation from 9 to 12 December 2013.

6.5.2 They were required by PRASA to attend a compulsory briefing on 13 December 2013.

6.5.3 All tenders had to be submitted before the closing date of 15 January 2014, 12h00.

Collection register and proof of payment

6.6 The PRASA collection register reflects that the construction companies listed in the table below collected the tender documentation from 9 to 12 December 2013 (Exhibit 8).

6.7 Bowmans received proof of payment for five of the seven companies on the collection register, of the R500 non-refundable tender deposit on collection of the tender documents:

#	Construction company	Proof of payment
1	Tubular Track (Pty) Ltd	Yes
2	Stefanutti Stocks (Pty) Ltd	Yes
3	Soyama Construction Services	Yes
4	Dweba Engineering CC	Yes
5	Motheo Construction	Yes
6	4Phase	No
7	Bicacon	No

Tender briefing register

6.8 The tender briefing attendance register reflects that the following construction companies attended the compulsory site inspection/briefing session held by PRASA on 13 December 2013 from 11h00 to 12h00 (Exhibit 9):

#	Construction company
1	Tubular Track (Pty) Ltd
2	Stefanutti Stocks (Pty) Ltd
3	Soyama Construction Services
4	Dweba Engineering CC
5	Motheo Construction
6	4Phase
7	Bicacon
8	Midron Construction****

******The company Midron Construction attended the briefing session but did not purchase or collect the tender document nor did they submit a proposal.**

Tender opening register

- 6.9 PRASA compiled a tender opening register that recorded the bid documentation received from the construction companies before the closing date of the tender, i.e. 15 January 2014 for all bidders that submitted their bid documentation within the specified time (Exhibits 10 and 11).
- 6.10 Of the eight construction companies that attended the compulsory briefing session, only two construction companies submitted tender bid documentation, namely Tubular Track/Glenro Consortium (joint venture) and Stefanutti/4Phase (joint venture).
- 6.11 The bid documentation was received and opened by Ms Rosemary Moagi, Tender Administrator, in the presence of two witnesses, Mr Gow and Mr Moosa.
- 6.12 The tender opening register was submitted to Mr Gow and Mr Moosa.

Appointment letter of evaluation

- 6.13 On 21 January 2014, letters of appointment were sent to the following individuals (Exhibit 12):
- 6.13.1 Mr. Nkululeko Kumalo
- 6.13.2 Mr. Earnest Gow
- 6.13.3 Mr. Keba Kgobe
- 6.13.4 Mr. Bongwiwe Shiba

6.13.5 Mr. Sonwabile Kondlo

6.14 These individuals were appointed to serve on the Tender Evaluation Committee ("TEC") to evaluate the bid documentation received from the construction companies for the Durban platform turnkey rectification project.

Evaluation register, declaration and confidentiality forms

6.15 On 31 January 2014, the TEC met in order to evaluate the bid documentation received from the construction companies for the Durban platform turnkey rectification project (Exhibit 13).

6.16 All the members of the TEC were present, namely (Exhibit 13):

6.16.1 Mr. Nkululeko Kumalo

6.16.2 Mr. Earnest Gow

6.16.3 Mr. Keba Kgobe

6.16.4 Mr. Bongwiwe Shiba

6.16.5 Mr. Sonwabile Kondlo

6.17 During the TEC meeting, all TEC members declared that they had no interest or relationship with the construction companies that submitted bid documentation for the Durban platform turnkey rectification project (Exhibit 14).

6.18 Furthermore, all TEC members signed a confidentiality agreement in which they undertook to keep the information about the tender confidential and not to disclose the tender information to anyone (Exhibit 14).

Evaluation score sheet

6.19 On 10 February 2014, all TEC members submitted their scores for the bid documentation submitted by the bidders (Exhibit 15).

6.20 The evaluation criteria for the tender bid documentation was the following:

Technical evaluation criteria	Weight
Technical proposal, design and construction methodology	15%
Project management competency	10%
Experience of key staff curriculum vitae (personnel assigned to the project)	15%
Project implementation period	10%

Technical evaluation criteria	Weight
WBS/milestone schedule	10%
Railway electrical engineering design competencies (curriculum vitae and projects)	5%
Specific civil engineering perway (i.e. bridges and platforms) structure design competencies (curriculum vitae and projects)	10%
Railway electrical construction competencies (curriculum vitae and projects)	5%
Specific civil engineering perway structure construction	10%
Health and safety plan (plan included and site specification)	10%

Technical report

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

Security screening report

6.22 On 12 May 2014, the Head Group Corporate Security, Mr Mkhuseleli Matakata, submitted a security screening report to Godfrey Sonny, the Supply Chain Management Manager (Exhibit 16).

6.23 The report confirmed that security screening was conducted on 4Phase Railtechnik (Pty) Ltd and that no security risk was identified relating to the entity. No security screening report was performed on Stefanutti.

Submission and recommendation report

6.24 On 13 May 2014, the Chief Procurement Officer, Dr Josephat Phungula, submitted a recommendation report to the former Group Chief Executive Officer, Mr Tshepo Lucky Montana (Exhibit 17).

6.25 The scope of the project was described as the rectification of two platforms, namely Durban Station Platform 15 and Pietermaritzburg Station (Land Side Platform) in order to ensure compliance with the latest standard specification in terms of clearances (ARP 084-1:2009 Edition 1, RSR 84-1:2009 Edition 1).

6.26 The work entailed the following steps:

- 6.26.1 Review AECOM (i.e. environmental and social impacts and regulatory constraints) assessment report
- 6.26.2 Perform own assessment of work (geotechnical investigation, site surveys, etc.)
- 6.26.3 Identify appropriate solutions
- 6.26.4 Compile conceptual design and submit for approval
- 6.26.5 Following conceptual design approval, compile detailed design and submit for approval
- 6.26.6 Execute construction
- 6.26.7 Handover and close out
- 6.27 Construction would include in the following activities:
 - 6.27.1 Picking up the rail track
 - 6.27.2 The replacement of track formation
 - 6.27.3 The replacement of the ballasted tract with track slab
 - 6.27.4 Construction of the track run-outs
 - 6.27.5 Realignment of the track
 - 6.27.6 Cleaning of tamping of ballast to specification where required
 - 6.27.7 The construction of a sub-surface and surface drainage system
 - 6.27.8 Rectification of affected platform walls (raising of platforms)
 - 6.27.9 Installation of platform way finding tact-tiles in accordance with the latest PRASA specification
 - 6.27.10 Resurfacing of platforms
 - 6.27.11 Painting of platform copings in accordance with latest PRASA specifications
- 6.28 The contract period was four months as per the tender bid documentation, which PRASA deemed to be acceptable.
- 6.29 70% of the work would be performed by Stefanutti and 30% of the work by 4Phase (joint venture).
- 6.30 The Chief Procurement Officer, based on the TEC's scoring of the bid documentation, recommended to the GCEO, that the tender bid of Stefanutti/4Phase be approved for the turnkey solution for the rectification of the two platforms at the Durban Station at a total cost of R29,307,803.52.
- 6.31 The GCEO, Mr Tshepo Lucky Montana, approved Stefanutti/4Phase's bid submission and the recommendation report on 30 May 2014.

Resolution minutes, GCEO approval and tender advice

- 6.32 A tender advice was submitted on 30 May 2014 to Mr Asif Rehman, PRASA Technical Supply Chain Management to inform him of the approval of the Stefanutti/4Phase Durban turnkey project (Exhibit 18).

Notice to proceed

- 6.33 On 17 September 2014, PRASA submitted a Notice to Proceed to Stefanutti/4Phase confirming the approval by PRASA of the Stefanutti/4Phase bid documentation for the Durban turnkey project (Exhibit 19).
- 6.34 There was almost a four month delay between the approval of the Stefanutti/4Phase bid and the notice to proceed. However, the PRASA SCM policies are silent on the turnaround time for each stage in the tender process.

Letter of acceptance

- 6.35 Stefanutti/4Phase accepted the appointment on the same day, namely 17 September 2014 (Exhibit 20).

Rejection letters

- 6.36 On 24 November 2014, PRASA sent a letter of regret to Tubular Track/Glenro joint venture, who was the only other bidder who submitted bid documentation (Exhibit 21).

7. AGREEMENT BETWEEN PRASA AND STEFANUTTI/4PHASE UNDATED

- 7.1 An agreement ("the Agreement") was concluded between PRASA and Stefanutti Civils/4 Phase Railtechnik (Pty) Ltd ("Stefanutti/4Phase) joint venture ("the Contractor") (Exhibit 22).
- 7.2 The contract was signed by Mr M Stevensen and Mr R Lennox of Stefanutti/4Phase but the contract was not signed by PRASA and was not dated.
- 7.3 The commencement date of the contract was 9 February 2015 irrespective of when the contract was signed, for a period of eight months [There was another delay of almost five months between the date of the notice to proceed of 17 September 2014 and the date the contract was signed on 9 February 2015].
- 7.4 The contract price was for a fixed price of R26,377,023.16 million (including VAT) excluding a 10% contingency.
- 7.5 It should be noted that the bid price of Stefanutti/4Phase was R29,307,803.52. This price was also recommended for the GCEO's approval and the notice to proceed issued by PRASA to Stefanutti/4Phase. The contract was never rectified to reflect the correct price of R29,307,803.52 (excluding the 10% contingency) or R32,238,583.87.
- 7.6 5% retention would be deducted from each milestone payment.
- 7.7 The agreement was for the:

“Rectification of Platform Heights, Clearances and Alignments at the Durban and Pietermaritzburg Stations, KZN Region and turnkey solution being undertaken by the Employer [PRASA], that includes inter alia the design execution, completion, and commissioning of the Works...”

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

7.8.1 Project mobilization (12.5%)

a. Submission of contract surety and core project documentation including:

b. Design and engineering plan

c. Quality plan

d. Environmental plan

e. Safety plan

f. Baseline project schedule and occupation plan

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

7.8.3 Site establishment complete (15%)

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

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

7.8.6 Installation of track on slow down track (2.5%)

7.8.7 Removal of existing ballast, sleepers, tracks and completion of earthworks on slow up track (5%)

7.8.8 Casting of in-rail concrete slab on slow up track (5%)

7.8.9 Installation of track on slow up track (2.5%)

7.8.10 Removal of existing ballast, sleepers, tracks and completion of earthworks on tracks between platforms (5%)

7.8.11 Casting of in-rail concrete slab on tracks between two platforms (10%)

7.8.12 Installation of track on tracks between the two platforms (5%)

7.8.13 Completion of platforms works (10%)

7.8.14 De-establishment and completion of works (5%)

7.9 PRASA had the right to enforce a delay penalty of R1,000 per day for any damages suffered as a result of the delay of the work by Stefanutti/4Phase.

8. **INTERVIEW – MR JOSEPH MOLOSI (PROJECT MANAGER)**

- 8.1 Bowmans interviewed Mr Joseph Molosi. Mr Molosi provided us with the following background to the Durban turnkey project (Annexure A):
- 8.1.1 Mr. Molosi commenced his employment at PRASA during 2014, in the PRASA Technical Department.
- 8.1.2 His duties include *inter alia* supporting the Chief Engineer in Planning and Execution of Projects.

Durban and Pietermaritzburg Turnkey Projects

- 8.2 The upgrade of the affected platforms at Durban and Pietermaritzburg were initially planned to form part of the overall National Platform rectification Program. However, based on the decision to implement the new Business Express Service it was decided that these platforms would have to be addressed urgently to conform to the new National standard.
- 8.3 During 2014, PRASA invited prospective bidders to tender for the project and several bidders submitted bids for the project.
- 8.4 The evaluation process was completed and the tender for the rectification of the Durban and Pietermaritzburg platforms was awarded to Stefanutti Stocks/4Phase joint venture.
- 8.5 During February 2015, they commenced with the rectification of platform 15 at the Durban Station. The main purpose of the rectification was to align the floor level of the train with the platform level to bring it to the required specification.
- 8.6 Mr Molosi, the Project Manager visited the project on several occasions, normally on a bi-monthly basis, which included attending both the site visits and the progress meetings with the contractor.
- 8.7 Whenever Mr Molosi was not able to attend, these visits were done by the Perway Regional Engineer who signed off on the quality and progress of the work completed.
- 8.8 Stefanutti/4Phase completed the Durban platform 15 rectification and commenced with the work at the Pietermaritzburg platform 1 on / about the end of June 2015.
- 8.9 The same KZN perway and electrical team also assisted with the Pietermaritzburg Project.
- 8.10 Both Durban and Pietermaritzburg platforms formed part of the same tender awarded to Stefanutti/4Phase under tender number HO/PT/INFR (P) 0033/12/2013.
- 8.11 The total contract amount for the projects was R29, 307,803.52 as reflected in the Notice to Proceed that was provided to the contractor.
- 8.12 Both platforms, Durban and Pietermaritzburg, were completed and the handover process for Durban took place on 13 August 2015. The handover of Pietermaritzburg platform took place on 24 May 2016.
- 8.13 The Stefanutti/4Phase completed the work successfully for both platforms. Mr Molosi was satisfied that PRASA received a quality product from the Stefanutti/4Phase.

8.14 Mr Molosi is of the opinion that the contractor provided a good service.

9. PAYMENTS MADE BY PRASA TO STEFANUTTI/4PHASE

9.1 PRASA made a total of R32,237,723.03 payments to Stefanutti/4Phase for the Durban and Pietermaritzburg platform rectification turnkey project contract (Annexures B and C) (Exhibits 23 and 24).

#	Invoice #	Document Date	Amount in local currency	Supporting document
1	CIN017459	2015/01/20	(2 930 780.35)	Advance payment for mobilisation certificate no 1
2	CIN017448	2015/01/20	(1 905 007.23)	Certificate 2
3	CIN018082	2015/04/01	(3 406 417.68)	Payment certificate 3
4	CIN018283	2015/05/21	(4 440 575.03)	Valuation certificate 4
5	IN00000009	2015/06/30	(5 075 554.67)	Payment certificate 5
6	IN000000010	2015/08/04	(2 599 252.86)	Payment certificate 6
7	IN000000014	2015/08/25	(2 599 491.79)	Payment certificate 7
8	IN000000016	2015/09/25	(3 389 025.05)	Payment certificate 8
9	IN000000018	2015/10/25	(4 326 004.73)	Payment certificate 9
10	IN000000022	2015/11/25	(331 507.44)	Payment certificate 10
11	IN000000023	2015/12/25	(204 629.26)	Payment certificate 1
12	IN000000040	2016/09/01	(1,029,476.94)	
			(32,237,723.03)	

9.2 Bowmans compared all the invoices paid by PRASA to the physical Stefanutti/4Phase invoices (Annexure C) (Exhibits 23 and 24).

9.3 All the invoice information per the Stefanutti/4Phase creditors account in the accounting records of PRASA agreed with the physical Stefanutti/4Phase invoices (Annexure C) (Exhibits 24).

- 9.4 The total amount paid by PRASA to Stefanutti/4Phase of R32,237,723.03 exceeded the Notice to Proceed value of R29,307,803.52. However, the contract provided for a 10% contingency, i.e. R2,930,780.35:

Description	Amount (Rand)
Notice to proceed	29,307,803.52
10% contingency	2,930,780.35
Total	32,238,583.87
Actual amount paid by PRASA	(32,237,723.03)
Remaining amount	860.84

- 9.5 The Notice to Proceed value of R29,307,803.52 plus the 10% contingency of R2,930,780.35 as per the agreement was a total amount of R32,238,583.87 PRASA approved for the Stefanutti/4Phase Durban and Pietermaritzburg platform rectification contract.

10. PHYSICAL VERIFICATION OF THE DURBAN AND PIETERMARITZBURG PLATFORMS

- 10.1 On 24 October 2016, we visited the Durban and Pietermaritzburg Railway Stations and performed a physical verification of the work performed by Stefanutti/4Phase (Exhibit 25).
- 10.2 The station is operational and the rectification project was completed by Stefanutti/4Phase. We took several photos of the work performed.

11. CONCLUSION

Delays in the tender process

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

Description	Date
Purchase requisition	6 December 2013
Advertisement of the tender	8 December 2013
Collection of tender documents	9-12 December 2013
Briefing of bidders	13 December 2013
Opening of bid documentation	15 January 2014

Description	Date
Appointment of the TEC members	21 January 2013
Meeting of the TEC members	31 January 2014
Evaluation score cards submitted by TEC members	10 February 2014
Security screening report	12 May 2014
Recommendation report submitted to GCEO	13 May 2014
Approval by GCEO	30 May 2014
Notice to proceed	17 September 2014
Commencement of agreement	9 February 2015

- 11.2 There were several delays during the tender process:
- 11.2.1 Three months delay between the evaluation of the bid documentation by the TEC members and when the recommendation report was submitted to the GCEO for approval.
- 11.2.2 Three and a half months delay between when the GCEO approved the bid and when PRASA issued the notice to proceed to Stefanutti/4Phase.
- 11.2.3 Five month delay between when the notice to proceed was issued and when the contract commenced.
- 11.2.4 More than eight months delay between when the GCEO approved the bid and when the contract commenced.
- 11.3 The delays in the tender process could be an indication of lack of internal control within PRASA's SCM Department.

Contract value incorrect

- 11.4 The contract value was for a fixed price of R26,377,023.16 million (including VAT) excluding a 10% contingency.
- 11.5 However, the bid price of Stefanutti/4Phase was R29,307,803.52. This price was also recommended for the GCEO's approval and the notice to proceed issued by PRASA to Stefanutti/4Phase was also for R29,307,803.52.
- 11.6 The contract was never rectified to reflect the correct price of R29,307,803.52 (excluding the 10% contingency) or R32,238,583.87.

Late completion of Pietermaritzburg Station

- 11.7 Construction at both Durban and Pietermaritzburg stations were intended to run in parallel but official approval of detailed designs by the Railway Safety Regulator and PRASA Engineering Services to go ahead with Pietermaritzburg station due to its complex geometry, took longer than expected.
- 11.8 An internal approval process to re-instate the contract to complete the works for Pietermaritzburg station was followed. Approval was granted with a new start date of 29 January 2016 and end date of 30 April 2016 almost 7 months after application.
- 11.9 The handover of Pietermaritzburg platform took place on 24 May 2016. No delay penalties were charged by PRASA to Stefanutti/4Phase for the late completion of the Pietermaritzburg station.
12. No significant irregularities could be identified relating to this contract.

Annexures

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

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

Exhibits

The detailed reports should be read in conjunction with the exhibits listed below. Exhibits are third party documentation:

Exhibit #	Description
1	Company searches of Stefanutti and 4Phase
2	PRASA Supply Chain Management Policy dated February 2009
3	PRASA Supply Chain Management Policy dated September 2013
4	Tender file check list
5	Purchase requisition dated 6 December 2013
6	Tender notice and invitation to tender
7	Tender advertisement
8	Tender collection register for the period 9 to 12 December 2013 and proof of payment by tenderers for the documents collected
9	Tender briefing register dated 13 December 2013
10	Supply Chain Management – tender opening register dated 15 January 2014
11	Tender opening register dated 15 January 2014 of attendees
12	Appointment to serve in the tender evaluation committee to evaluate the tender for the Durban and Pietermaritzburg platform rectification turnkey contract, dated 21 January 2014
13	Tender evaluation attendance register dated 31 January 2014
14	Declaration of interest by TEC members and confidentiality agreements signed by the TEC members
15	TEC members' scorecards for the tenders
16	Security screening report dated 12 May 2014 from Mr. Mkhuseleli Matakata (Head of Group Corporate Security) to Mr. Godfrey Sonny (SCM Manager-PRASA Technical)
17	Supply Chain Management recommendation report addressed to the Group Chief

Exhibit #	Description
	Executive Officer dated 13 May 2014
18	Tender advice from the CTPC Secretariat to Mr. Asif Rehman: PRASA Technical Supply Chain Management dated 30 May 2014.
19	Notice to proceed dated 9 September 2014
20	Stefanutti/4Phase letter addressed to PRASA accepting the appointment for the Durban and Pietermaritzburg platform rectification contract dated 17 September 2014
21	PRASA rejection letters send to the unsuccessful tenderers dated 25 November 2014
22	Agreement between PRASA and Stefanutti/4Phase undated for the Durban and Pietermaritzburg platform rectification
23	Stefanutti/4Phase creditor account in the accounting records of PRASA
24	Stefanutti/4Phase invoices and other supporting documentation for the payments made by PRASA to Stefanutti/4Phase in terms of the Durban and Pietermaritzburg platform rectification contract
25	Photographs of the Durban and Pietermaritzburg platforms after rectification