

SA FENCE AND GATE - EXECUTIVE SUMMARY

INVESTIGATION RESULTS - BACKGROUND SEARCHES AND COMPLIANCE (sec 5)	
SUMMARY OF MAJOR FINDINGS & CONCLUSIONS	RECOMMENDATIONS
<p>Requirements for tender number HO/SCM/225/11/2011 included that service providers to have a minimum CIDB grading of 6SQ.</p> <p>SAFG's grading (at the time of submitting their proposal) was 8SQPE - Potentially Emerging indicating that they could tender for contracts in excess of R130m.</p> <p>Chris Mbatha, who at the time, was the acting Chief Procurement Officer and Matshidiso Mosholi - Senior Manager: Procurement failed to adhere to CIDB regulations as tender HO/SCM/225/11/2011 was not advertised on I-tender nor did they advertise the subsequent award of the contract on CIDB's website, resulting in a contravention of cidb regulations. In terms of National Treasury Practice Note 4 of 2008/2009 such expenditure amounts to irregular expenditure.</p> <p>Emex Trust (SANAS number BVA037) awarded SAFG a level four (4) B-BBEE certificate. A search on SANAS' website and Emex Trust' website revealed no records for the company. As a result, we were unable to verify the authenticity of the</p>	<p>Based on the available information, and the non-compliance in respect of the relevant CIDB regulations, we recommend that the expenditure be declared irregular and that all payments made under this contract (HO/SCM/225/11/2011) be reported by PRASA to National Treasury as irregular expenditure.</p> <p>PRASA should institute disciplinary action against Mr Chris Mbatha and Ms Ms Matshidiso Mosholi, in that they failed to ensure that PRASA advertised tender HO/SCM/225/11/2011 on CIDB's I-Tender website as well as the subsequent award of the tender on CIDB's RoP and in so doing contravened section 57 of the PFMA in that they failed to prevent irregular expenditure.</p>

attached B-BBEE certificate	
INVESTIGATION RESULTS - PROCUREMENT PROCESSES (sec 6)	
SUMMARY OF MAJOR FINDINGS & CONCLUSIONS	RECOMMENDATIONS
<p>Tender Award (R209 million)</p> <p>Mbatha and Mosholi of PRASA transgressed CIDB regulation 18(1) and 24 in that they did not ensure that PRASA advertised the tender on CIDB's I-Tender website as well as the award of the tender on CIDB's RoP.</p> <p>PRASA (Mbatha and Mosholi) failed to adhere to applicable legislation and in so doing incurred irregular expenditure as indicated in Treasury Practice Note 4 of 2008/2009</p> <p>PRASA did not follow the correct evaluation process as the CPO only appointed BEC members after the meeting took place.</p> <p>PRASA failed to provide copies of evaluations concluded by the CTPC and GCEO nor with any recommendation from the CTPC to the GCEO as well as the recommendation from the GCEO to the FCIP. In the absence of these documents, we conclude that PRASA failed to do it, which renders the process irregular.</p> <p>PRASA concluded a contract with SAFG but the depots</p>	<p>Tender Award (R209 million)</p> <p>PRASA report the award of tender HO/SCM/225/11/2011 amounting to R209 874 559.79 to National Treasury as irregular expenditure.</p> <p>Mobilisation fee (R20 million)</p>

reflected on the contract refer to only seven of the eight PRASA sites - this despite the BOQ attached to the contracted referring to all eight sites.

Mobilisation fee (R20 million)

Montana, within his delegation of authority, approved the payment of a mobilisation fee to SAFG amounting to 10% of contract value.

Deviation - R47 million

PRASA entered into a formal contract with SAFG (signed on 20 February 2013 and 25 March 2013 respectively). The CTPC recommended on 15 March 2013 that a deviation of R40 341 400.89 be awarded to SAFG, subject to the approval of the GCEO. The subsequent **Notice to Proceed** issued by Mosholi to SAFG confirmed the award of R47 083 730.37. As the FCIP awarded the initial contract, it also had to approve this deviation. PRASA failed to provide us with any documentation explaining the difference between the R40 341 400.80 recommended by the CTPC meeting and the R47 083 730.37 confirmed by Mosholi in the Notice to Proceed. PRASA also failed to provide us with any submission to the FCIP wherein they approved the variation. In the absence of any of the said documentation, we conclude that

No recommendation

Deviation - R47 million

PRASA must investigate the existence and authenticity of any submissions from the CTPC to the GCEO and approvals from GCEO to FCIP in respect of the R40 341 400.80 deviation.

PRASA to report the award of the R47 083 730.37 to National Treasury as irregular expenditure.

In the absence of any documentation to the contrary, PRASA must consider disciplinary steps against Ms Matshidiso Mosholi in terms of section 57 of the PFMA for issuing the Notice to Proceed to SAFG without approval from the FCIP, as this letter increased the commitment by PRASA with R6 742 329.57.

The non-compliance with sections 50 and 51 is financial misconduct as defined in section 83 of the PFMA and disciplinary action is recommended against the relevant officials, including Matshidiso Mosholi.

the award to SAFG was not fair, equitable, transparent, competitive and cost effective and thus regarded as irregular.

Additional lights - R58 million

SAFG provided for 236 lights valued at R2 471 061 in the BOQ attached to the original contract. Despite this, Matebu issued an instruction to SAFG not to procure any lights as part of the R47 083 730.37 deviation. Documentation indicated that an employee at PRASA committed PRASA to procure additional lights from SAFG at a cost of R58 153 296.72. This action renders the provision of lights in the original contract amounting to R2 471 061.00 to be fruitless and wasteful as this could have been avoided had PRASA taken due care.

PRASA did not follow correct SCM procedures in the procurement of the additional lights nor did the FCIP (who approved the original contract) approve the commitment. The award is thus irregular.

Lebaka allegedly instructed SAFG to procure the additional lights through Top 6 Holdings (Pty) Ltd, resulting in additional

Additional lights - R58 million

PRASA to report to National Treasury the provision of lights in the original contract amounting to R2 471 061.00 to be fruitless and wasteful as well as irregular expenditure as this could have been avoided had PRASA taken due care.

PRASA to report the award of the R58 153 296.72 commitment for additional lights to National Treasury as irregular expenditure.

PRASA to report the additional cost amounting to R27 986 245.65 to National Treasury as this could have been avoided had due care been taken.

PRASA must also report this procurement through Top 6 in terms of PRECCA to the SAPS for investigation.

cost amounting to R27 986 245.65. This cost could have been avoided had PRASA procured it directly from the supplier Beka-Schreder (with whom it done business before) and thus are seen to be fruitless and wasteful.

The procurement of the lights through Top 6 Holding raises a reasonable suspicion which is reportable in terms of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004 ('PRECCA')

Acceleration costs - R8.9 million

Due to various problems with the SAFG contract, PRASA had to accelerate the completion of fencing project at the Wolmerton depot in anticipation of the arrival of their new rolling stock. This acceleration cost PRASA R8 909 342.95 which could have been avoided had due care been taken by management during the project. The cost is thus fruitless and wasteful expenditure.

Acceleration costs - R8.9 million

PRASA must investigate the involvement of staff which lead to the delays in the fencing project that ultimately cost PRASA an additional R8 909 342.95 and take immediate and appropriate action against these individuals, if needed.

General:

It was not within our scope to investigate where documentation is, or who is directly responsible for the delay in providing the documentation and data, or for misplacing / destroying / losing the documentation / data. The PRASA Board should investigate the root causes for the delay or omission in providing the required data / documentation; and act accordingly.

In the event that any disciplinary hearings and / or criminal charges are instituted against any officials, PRASA must report such to the Executive Authority, relevant Treasury and Auditor-General in terms of National Treasury Regulation 33.3.

INVESTIGATION RESULTS - PAYMENT VERIFICATION (sec 7)

SUMMARY OF MAJOR FINDINGS & CONCLUSIONS	RECOMMENDATIONS
<p>29 payments amounting to R286 639 418.36 were paid to SAFG during the span of the project.</p> <p>The original contract was awarded at a cost of R209 874 559.79 but was increased with R114 146 370.04 (or 54%) to R324 020 929.83.</p> <p>To date, SAFG invoiced (and which PRASA paid) R295 292 897.77 or 91% of the total value of the project, despite the completion of the project being estimated at only 46.25%</p> <p>Only 24 lights (or 1.26%) of the total number of 2 000 lights had been installed by SAFG - this despite being paid R53 618 790.68 (92.2%) of the contract value (R58 153 296.72). The payment is regarded as fruitless and wasteful.</p>	<p>Due to the contravention of CIDB regulation 18(1) the award of the SAFG contract is irregular and all payments in respect of this contract is regarded as irregular. PRASA must report to National Treasury all expenses incurred amounting to R295 292 897.77 as irregular.</p> <p>PRASA must identify all employees who authorised payments in excess of 46% and request them to provide reasons why the company should not take disciplinary action against them.</p>