

Our Reference: Mr Johan Kruger Your Reference: 43/1/2/5/1
Direct Line: +27 83 444 0908 Date: 14 December 2016
Email Address: johan.kruger@bowmanslaw.com

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 – NANDISA MILISA CONSULTING SERVICES (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 Nandisa Milisa Consulting Services (Pty) Ltd investigation.
3. Please do not hesitate to contact me should you require any further information.

Yours faithfully,

Bowman Gilfillan

per: Johan Kruger

This document is intended only for the use of the addressees named herein and may contain legally privileged and confidential information. If you are not the intended recipient of this document, you are hereby notified that any dissemination, distribution or copying of this document is strictly prohibited. If you have received this document in error, please immediately notify us by telephone and return the original / copy to us via the postal service. We will reimburse you any cost that you incur in notifying us and returning the document to us. Our telephone number is +27 (11) 669 9000.

EXECUTIVE SUMMARY OF FINDINGS AND OPINION

This executive summary must be read together with the full report, annexures and 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 Nandisa Milisa contract.
3. The 20 PRASA contracts Bowmans had to investigate, were selected by the National Treasury.

Summary of findings and opinion

Supplier Development Program

4. On 2 May 2012, a request (Request #1) was sent to the Group Chief Executive Officer ("GCEO") to approve the Supplier Development Program ("SDP"). This program was intended to provide BBBEE companies an opportunity to develop by working together with well-established companies. The SDP suppliers would then be awarded maintenance infrastructure contracts in the future.
5. The GCEO approved the SDP on 14 May 2012.
6. Nine suppliers were added to the SDP during the first request.
7. Three additional requests were submitted to the GCEO for approval where additional suppliers were added to the SDP:
 - a. Request #2 - 17 suppliers added on 11 December 2012
 - b. Request #3 – 27 suppliers added on 11 December 2013
 - c. Request #4 – 26 suppliers added on 9 January 2015
8. A total of 63 suppliers formed part of the SDP (there were some duplications between the various requests, therefore the total suppliers are less than the number of suppliers added during each request).
9. It is unclear how the SDP suppliers were selected by PRASA.
10. The selection and appointment procedures relating to the SDP is not authorized in terms of the PRASA Supply Chain Management ("SCM") Policy.

Contract – 18 June 2015

11. On 18 June 2015, PRASA entered into a contract with Nandisa Milisa Consulting Services (Pty) Ltd ("Nandisa Milisa").
12. The contract with Nandisa Milisa only specified the total contract value. There was no explanation and/or detailed breakdown of this amount stipulated in the contract.

Nandisa Milisa – Company information

13. PRASA awarded the ad hoc work contract, however:
 - a. Nandisa Milisa has only one shareholder and director.
 - b. PRASA had no contracts with Nandisa Milisa prior to this ad hoc contract.
 - c. Nandisa Milisa was founded shortly prior to being approved as an SDP supplier.
 - d. The company has no website or internet profile.
 - e. Nandisa Milisa has no CIDB grading.

No accreditation/"audit"

14. Bowmans has not seen any evidence that Nandisa Milisa was accredited before it was awarded the agreement signed on 18 June 2015.

No quotations submitted

15. Bowmans has found no evidence that Nandisa Milisa submitted quotations to PRASA and that such quotations were subjected to a competitive bidding process.

Missing documentation

16. We were unable to verify 64% of the total amount paid by PRASA, against Nandisa Milisa invoices.
17. Bowmans was unable to reconcile 81% of the total amount paid by PRASA to Nandisa Milisa, against PRASA acceptance certificates.

Irregularities discovered

18. Bowmans found the following:
 - a. Nandisa Milisa was appointed as a SDP supplier by PRASA without any of the prescribed procurement procedures being followed.
 - b. The procurement procedures associated with the SDP program is not provided for in terms of the PRASA SCM policy and is indeed in contravention thereof.

Report
Department of National Treasury
PRASA Nandisa Milisa Consulting Services (Pty) Ltd
Account: 110604
Ad Hoc repair work, call out and technical support

December 2016

Therefore, the appointment of Nandisa Milisa by PRASA may be deemed to be irregular.

- c. It also appears, when the company profile and start-up date of the company is considered that it may have been created solely for the purpose of doing business with PRASA. If this was found to be true, it would also defeat the purpose of the SDP.

Contents

1.	BACKGROUND	9
2.	MANDATE, PERIOD, REPORT FORMAT AND QUALIFICATIONS TO OUR REPORT	9
3.	WORK PERFORMED	11
4.	COMPANY INFORMATION	13
5.	VENDOR REGISTRATION INFORMATION.....	14
6.	PRASA SCM POLICY – FEBRUARY 2009 AND SEPTEMBER 2013	14
7.	PRASA SCM POLICY (FEBRUARY 2009) – UNSOLICITED BIDS (PARA 11.3.3)	14
8.	PRASA SCM POLICY (SEPTEMBER 2013) – CONFINEMENT (PARA 12.3.8)	15
9.	SUPPLIER DEVELOPMENT PROGRAM.....	15
10.	AD HOC CONTRACTORS - PROCEDURES.....	20
11.	AUDIT OF THE SUPPLIER'S SYSTEMS, PROCEDURES AND PRACTICAL CAPABILITY	21
12.	TENDER APPOINTMENT OF NANDISA MILISA.	21
13.	AGREEMENT BETWEEN PRASA AND NANDISA MILISA DATED 18 JUNE 2015	21
14.	AD HOC CONTRACTS FOUND TO BE IRREGULAR AND TERMINATED BY PRASA	24
15.	INTERVIEW – MR TINO GABRYK (NATIONAL MAINTENANCE OPERATIONS MANAGER, ENGINEERING SERVICES, METRO FLEET, PRASA RAIL.).....	24
16.	INTERVIEW – MR JOSEPH PHOKO (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG NORTH).....	26
17.	INTERVIEW – MR MARCUS SITHOLE (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG SOUTH).....	27
18.	INTERVIEW – MS NANDISA GSCHWARI (SOLE DIRECTOR AND SHAREHOLDER OF NANDISA MILISA)	28
19.	PAYMENTS MADE BY PRASA TO NANDISA MILISA	30
20.	PHYSICAL VERIFICATION	32
21.	REMEDIAL ACTION	33
	ANNEXURES.....	34
	EXHIBITS.....	35

Abbreviations

Descriptions and explanations of abbreviations and terms 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 as defined in the Broad Based Black Economic Empowerment Act no 53. of 2003.
Bowmans	Bowmans Inc., forensic investigators for National Treasury.
CIDB	Construction Industry Development Board
GCEO	Group Chief Executive Officer
Metrorail	Metrorail operates commuter rail services in urban areas
Dr Mtimkhulu	Dr Daniel Mtimkhulu, the former PRASA Executive Manager: Engineering Services
Dr Phungula	Dr Josephat Phungula, former PRASA Group Chief Procurement Officer
Mr Bopape	Mr Maishe Bopape, former Senior Manager of PRASA SCM
Mr Gabryk	Mr Tino Gabryk, National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail.
Mr Khena	Mr Nkosinathi Khena, acting PRASA GCEO during 2015
Mr Mofi	Mr Mosenngwa Mofi, CEO of PRASA Rail
Mr Montana	Mr Tshepo Lucky Montana, former GCEO of PRASA
Mr Phoko	Mr Joseph Phoko, PRASA Maintenance Support Manager, Rolling Stock, Gauteng North
Mr Sithole	Mr Marcus Sithole, PRASA Maintenance Support Manager, Rolling Stock, Gauteng South
Ms Gschwari	Ms Nandisa Gschwari, identity number 840206 0792 082. Ms Gschwari is the sole director and shareholder of Nandisa Milisa,

Abbreviation / term	Description
Ms Ngoye	Ms Martha Ngoye, acting GCEO during 2015
Nandisa Milisa	Nandisa Milisa Consulting Services (Pty) Ltd, registration number 2012/078524/07
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
PRASA	Passenger Rail Agency of South Africa
Public Protector	<p>The Public Protector is appointed by the President, on the recommendation of the National Assembly, in terms of Chapter Nine of the Constitution, 1996. The Public Protector is required to be a South African citizen who is suitably qualified and experienced and has exhibited a reputation for honesty and integrity.</p> <p>The Constitution also prescribes the powers and duties of the Public Protector: Further powers, duties and the execution thereof are regulated by the Public Protector Act.</p> <p>The Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice.</p>
R	Rand, the RSA currency.
RSA	Republic of South Africa
SCM	Supply Chain Management
SDP	Supplier Development Program. A program PRASA attempted to follow in order to provide BBBEE companies the opportunity to develop by working together with well-established companies.
Shosholozza	Shosholozza Meyl operates regional and inter-city rail services.
VAT	Value Added Tax

1. BACKGROUND

- 1.1 In December 2008, the Passenger Rail Agency of South Africa (PRASA) was established, consolidating all of the passenger rail entities to better manage and aggressively address the underperformance of rail passenger services into an entity that would be more modern, efficient and customer-focused.
- 1.2 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 On 15 June 2015, PRASA entered into an agreement with Nandisa Milisa for ad hoc repair work, call out and technical support services.
- 1.5 During 2014, the Public Protector investigated various allegations of irregularities at PRASA. The Public Protector found widespread evidence of maladministration, improper conduct and nepotism at PRASA.
- 1.6 The Public Protector in her report on the 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.
- 1.7 Bowmans was mandated to conduct forensic investigations into 20 PRASA contracts, which included *inter alia* the Nandisa Milisa contract.

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 supplier.

- 2.1.2 Determine whether the appointment of the supplier was 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 the 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 investigated the period from 2012 to April 2016.

Report format

- 2.4 Section 3 of the report sets out the work which we have performed. Section 4 onwards deals with our detailed findings.
- 2.5 References in this report in parenthesis are to 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, their legal Counsel and to the 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 on 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 processes.
- 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. WORK PERFORMED

Documents reviewed

- 3.1 Company search of Nandisa Milisa.
- 3.2 Director search of Ms Nandisa Gschwari.
- 3.3 PRASA SCM Policy dated February 2009.
- 3.4 PRASA SCM Policy dated September 2013.
- 3.5 First request dated 2 May 2012 compiled by Mr Bopape and submitted to the GCEO to approve the SDP.
- 3.6 Second request compiled by Dr Mtimkhulu, the former Executive Manager: Engineering Services, in a memorandum dated 10 December 2012 sent to the GCEO, whereby he requested the approval of additional suppliers for the SDP.
- 3.7 Third request compiled by Dr Mtimkhulu, the former Executive Manager: Engineering Services, in a memorandum dated 26 November 2013 sent to the GCEO, where he again requested the approval of additional suppliers for the SDP.
- 3.8 Fourth request compiled by the former Group Chief Procurement Officer, Dr Phungula, sent to the acting GCEO, Ms Ngoye, in a memorandum dated 12 December 2014, whereby he requested the approval of additional suppliers for the SDP.
- 3.9 SDP contracts register, which contains all 63 SDP suppliers.
- 3.10 Request sent on 8 December 2015 by Mr Bopape (SCM Senior Manager: Rail Operations) and Mr Letsane Rathaba (Acting Executive Manager: Engineering Services) to the Acting GCEO (Mr Khena), whereby the Acting GCEO was requested to approve that the ad hoc works be finalised in the following four months, whilst the new tender and procurement processes are put in place.
- 3.11 Agreement between PRASA and Nandisa Milisa dated 18 June 2015 for the ad hoc repair services, call out and technical support.
- 3.12 Termination of contract letters from PRASA to ad hoc suppliers dated April 2016.
- 3.13 Nandisa Milisa creditor account in the accounting records of PRASA.
- 3.14 Nandisa Milisa invoices and other supporting documentation for the payments made by PRASA to Nandisa Milisa.
- 3.15 Companies and Intellectual Property Commission – Nandisa Milisa certificate of incorporation.

- 3.16 Ms Gschwari share certificate of 100% shares held in Nandisa Milisa.
- 3.17 Copy of Ms Gschwari's identification document.
- 3.18 Nandisa Milisa tax clearance certificate.
- 3.19 Nandisa Milisa BBBEE certificate.
- 3.20 Bank confirmation letter for Nandisa Milisa.
- 3.21 PRASA cancellation of contract letter issued to Nandisa Milisa dated 10 August 2016.

Discussions held

- 3.22 We held discussions with the following individuals:

Name	Position
PRASA	
Ms Sarah du Plessis	Assistant Manager: SCM
Mr Tino Gabryk	National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail.
Mr Joseph Phoko	Maintenance Support Manager, Rolling Stock, Gauteng North
Mr Marcus Sithole	Maintenance Support Manager, Rolling Stock, Gauteng South
Nandisa Milisa	
Ms Gschwari	Director and shareholder of Nandisa Milisa

Other Procedures Performed

- 3.23 Performed a company search on Nandisa Milisa.
- 3.24 Performed a director search on Ms Gschwari.
- 3.25 Obtained and perused the SCM policy and procedures for the period under investigation.
- 3.26 Obtained and perused the four requests relating to the SDP.
- 3.27 Read and reviewed appointment of Nandisa Milisa as supplier of PRASA for the ad hoc repair works, call out and technical support contract.
- 3.28 Obtained and reviewed the agreement between PRASA and Nandisa Milisa dated 18 June 2015.

- 3.29 Obtained the Nandisa Milisa creditors account in the accounting records of PRASA in electronic format.
- 3.30 Obtained all supporting documentation for the payments made by PRASA to Nandisa Milisa.
- 3.31 Compared Nandisa Milisa's creditor account in the accounting records of PRASA to the physical Nandisa Milisa invoices.
- 3.32 Conducted various preliminary interviews with PRASA officials and Nandisa Milisa's sole director and shareholder.
- 3.33 Checked the acceptance certificates against the Nandisa Milisa invoices submitted to and paid by PRASA.
- 3.34 Compiled a report on the findings.

4. COMPANY INFORMATION

- 4.1 Nandisa Milisa Consulting Services (Pty) Ltd ("Nandisa Milisa"), registration number 2012/078524/07, was founded in 2012 (Exhibit 1).
- 4.2 Nandisa Milisa only has one director and shareholder as listed in the table below (Exhibit 1):

#	Director	ID number	Appointment date
1	Ms Nandisa Gschwari	840206 0792 082	3 May 2012

- 4.3 Ms Nandisa Gschwari ("Ms Gschwari") is 32 years of age.
- 4.4 Nandisa Milisa's business address is 33 Parklands, George Road, Noordwyk Midrand.
- 4.5 Nandisa Milisa's nature of business according to the company search is unknown (Exhibit 1).
- 4.6 Nandisa Milisa has no website or internet profile.
- 4.7 Ms Gschwari is also a director of the following entities (Exhibit 2):

#	Entity	Registration number
1	Millis Fashion Style CC	2009/156459/23
2	Carbon Brush Technology (Pty) Ltd	2011/140798/07
3	NMC Investments (Pty) Ltd	2015/228181/07
4	Express Tools Holdings (Pty) Ltd	1969/009984/07

5. VENDOR REGISTRATION INFORMATION

- 5.1 Nandisa Milisa was loaded as a vendor on the PRASA system on 27 June 2014 (Exhibit 3).
- 5.2 According to the vendor information, Nandisa Milisa had no CIDB grading, which is a requirement for the performance of any construction goods, works or services for the State. (Exhibit 3).
- 5.3 Nandisa Milisa's core products/services were described as "Rolling Stock Supplier" (Exhibit 3).
- 5.4 According to vendor information, no security screening report was performed and /or obtained by PRASA for Nandisa Milisa (Exhibit 3).

6. PRASA SCM POLICY – FEBRUARY 2009 AND SEPTEMBER 2013

- 6.1 The PRASA SCM policies dated February 2009 and September 2013 stipulates that for (Exhibits 4 and 5):
- 6.1.1 All amounts less than R350,000 - a minimum of three written quotes should be obtained from suppliers listed on the PRASA database.
- 6.1.2 All amounts more than R350,000 - a competitive tendering process is applicable.
- 6.2 Exceptions for competitive tendering will only be considered in the following circumstances (Exhibits 4 and 5):
- 6.2.1 In the case of an emergency;
- 6.2.2 In the case of a sole source; and
- 6.2.3 In the case of confinements.
- 6.3 Contracts must be awarded for a period of not more than three years except bids for lease agreements for immovable property, which may be awarded for a period of not more than five years.

7. PRASA SCM POLICY (FEBRUARY 2009) – UNSOLICITED BIDS (PARA 11.3.3)

- 7.1 According to the PRASA SCM Policy dated February 2009, unsolicited bids are generally prohibited unless it is approved for consideration by the GCEO (Exhibit 4).
- 7.2 However, the GCEO should take the following into account (Exhibit 4):
- 7.2.1 That the unsolicited bid is a unique concept or offering.

- 7.2.2 That the offering of the bid cannot be provided efficiently through competitive bidding process.
- 7.2.3 That there are no suppliers in the market that can provide a similar offering without copying from the unsolicited bid.

8. PRASA SCM POLICY (SEPTEMBER 2013) – CONFINEMENT (PARA 12.3.8)

- 8.1 According to paragraph 12.3.8 of the PRASA SCM policy dated September 2013, "Confinement" occurs "where the needs of the business preclude the use of the competitive tendering process and for practical reasons only one or a select number of tenderers are approached to quote for goods and/or services" (Exhibit 5).
- 8.2 Situations where the method of "Confinement" are used include, but are not limited to the following (Exhibit 5):
- 8.2.1 The task that represents a natural continuation of previous work carried out by the firm;
- 8.2.2 An assignment where only one or a limited number of firms are qualified or have experience of exceptional worth for the assignment;
- 8.2.3 Appointment of professional services such as legal, financial, technical contracts and security where unique expertise and/or security are required; and
- 8.2.4 If it is an emergency as defined in clause 12.3.6 (refer below).
- 8.3 The decision to make use of the confinement process has to be motivated by PRASA for approval and ratification by the GCEO (Exhibit 5).

Emergency purchases (Para 12.3.6)

- 8.4 Purchases made for emergency "situations" where competitive tendering would be inappropriate is limited to the following types of situations (Exhibit 5):
- 8.4.1 Disasters (e.g. damage from cyclone, flood, fires, etc.);
- 8.4.2 System failures (including supporting items which could affect the system); and
- 8.4.3 Security risk.
- 8.5 During emergencies the required goods, works or services may be obtained by means of quotations by preferably making use of PRASA's supplier database (Exhibit 5).
- 8.6 A motivation of the emergency purchase has to be submitted by PRASA to the GCEO for ratification (Exhibit 5).

9. SUPPLIER DEVELOPMENT PROGRAM

- 9.1 During 2010, PRASA invited suppliers to bid for various tenders and during an open tender process PRASA obtained bids from interested suppliers for the following tenders (Annexure A):
- 9.1.1 Tender HO/PR/INFR (P) 202/12/2010: Ballast Tamping Machine for Gauteng South;
- 9.1.2 Tender HO/PR/INFR (P) 211/09/2011: Ballast screening of Track Nationally;
- 9.1.3 Tender HO/PR/INFR (P) 301/09/2011: Grinding and Pre-Profiling of Rails Nationally;
- 9.1.4 Tender HO/PR/INFR (P) 209/09/2011: Ballast Regulating of Tracks Nationally.
- 9.2 A formal tender process was followed regarding the four tenders referred to above. PRASA received tenders submitted by interested suppliers (Annexure A).
- 9.3 The tender processes were then put on hold by PRASA (Annexure A).

REQUEST 1:

- 9.4 On 2 May 2012, the former Senior Manager of PRASA Rail SCM Department, Mr Maishe Bopape ("Mr Bopape"), drafted a business case recommending that the GCEO approves the strategy for the SDP that sought to insist on partnerships between well-established perway companies and emerging BBBEE companies, for a period of three years as part of the awarding of future Perway contracts (Exhibit 6).
- 9.5 Mr Bopape stated in the business case that three companies were appointed by PRASA on an emergency basis to assist PRASA Rail in restoring the rail tracks to acceptable levels of safety and operation. According to Mr Bopape, these companies had continuous monopoly of service provision and participation over a long period of time (Exhibit 6).
- 9.6 According to Mr Bopape, a number of BBBEE companies showed an interest in participating in the maintenance of the PRASA railway tracks. However, because of the massive infrastructure, specialised equipment and training required for effective participation in the sector, some BBBEE companies have been reluctant to invest without first signing contracts with PRASA (Exhibit 6).
- 9.7 Once the BBBEE companies sign contracts with PRASA, it enables the companies to apply for funding at a financial institution (Exhibit 6).
- 9.8 There was insufficient time for the BBBEE company to participate in tenders advertised by PRASA, as it required at least a year to manufacture the machinery required for the maintenance of the tracks (Exhibit 6).
- 9.9 According to Mr Bopape, the same companies were appointed by PRASA every time at exorbitant costs (Exhibit 6).

- 9.10 Mr Bopape stated that if the emerging BBBEE companies could partner with the well-established construction companies, after a period of three years, the BBBEE companies would have acquired the necessary skills, expertise, knowledge and competency to stand alone and fairly compete with well-established companies in the tendering process (Exhibit 6).
- 9.11 Nine companies were recommended for consideration by the GCEO for the SDP (Exhibit 6).
- 9.12 On 14 May 2012, Mr Tshepo Lucky Montana ("Mr Montana"), the GCEO, approved the business case (Exhibit 6).
- 9.13 The GCEO directed as part of his approval that wider internal consultation should include (Exhibit 13 – Memorandum dated 14 March 2013):
- 9.13.1 Leadership by the OCPO should be the cornerstone of the strategy.
- 9.13.2 PRASA's key business units affected by this process be engaged in the development of the implementation strategy i.e. the SCM Department of PRASA Rail and PRASA Technical.
- 9.14 External consultations were conducted with (Exhibit 13 – Memorandum dated 14 March 2013):
- 9.14.1 Well established companies, i.e. Plasserail (Pty) Ltd, Aveng Manufacturing (Lenning Rail Services) and the Construction Industry Development Board (CIDB);
- 9.14.2 The emerging BBBEE service providers; and
- 9.14.3 Department of Trade and Industry's Rail Transport Equipment Directorate represented by Ms Mmetisa Lebelo and Mr Nicholas Pule.
- 9.15 PRASA would present training to the Supply Development Program suppliers. Once the training was completed, the Supply Development Program suppliers were expected to commence with the implementation of their work packages/streams during February 2013 (Exhibit 13 – Memorandum dated 14 March 2013).

REQUEST 2:

- 9.16 Dr Daniel Mtimkhulu ("Dr Mtimkhulu"), the former Executive Manager: Engineering Services, in a memorandum dated 10 December 2012 requested the approval of additional suppliers to the SDP (Exhibit 7).
- 9.17 According to Dr Mtimkhulu, there was inadequate technical team support after hours, which added pressure on the limited staff and which resulted in increasing delays in operations (Exhibit 7).

- 9.18 Dr Mtimkhulu stated that urgent interventions were required to assist the technical team to increase the capacity on the call-out basis based on the negotiated rate with various service providers to minimise delays and on route failures (Exhibit 7).
- 9.19 The submission to the GCEO was to request approval, to extend the technical support to 17 (seventeen) service providers (Exhibit 7).
- 9.20 Mr Bopape supported the recommendation by Dr Mtimkhulu on 10 December 2012 (Exhibit 7).
- 9.21 Mr Mosengwa Mofi ("Mr Mofi"), PRASA Rail CEO, recommended the memorandum on 10 December 2012.
- 9.22 On 11 December 2012, the GCEO, Mr Montana, approved the request (Exhibit 7).

REQUEST 3:

- 9.23 Dr Mtimkhulu, in a memorandum dated 26 November 2013, requested the approval of additional suppliers to the SDP (Exhibit 8).
- 9.24 According to Dr Mtimkhulu, the staff members and personnel of PRASA were engaged in a number of projects and work activities resulting in the organisation being "thin" on capacity to deal with other priority areas of work (Exhibit 8).
- 9.25 Therefore, PRASA required identified service providers outside of the organisation to provide services on negotiated rates to perform ad hoc works in order to provide technical support (Exhibit 8).
- 9.26 Dr Mtimkhulu requested the approval of 27 (twenty-seven) service providers including Nandisa Milisa.
- 9.27 The technical support by the service providers were recommended for a period of two years (Exhibit 8).
- 9.28 Mr Bopape signed the request on 6 December 2013 as proof that he supported the request (Exhibit 8).
- 9.29 Mr Saki Zamxaka, PRASA Technical CEO, recommended the memorandum.
- 9.30 Mr Mofi, CEO PRASA Rail, recommended the request on 6 December 2013 (Exhibit 8).
- 9.31 The GCEO, Mr Montana, approved the request on 11 December 2013 (Exhibit 8).

REQUEST 4:

- 9.32 The former Group Chief Procurement Officer, Dr Josephat Phungula ("Dr Phungula"), in a memorandum dated 12 December 2014, requested the approval of additional suppliers for the SDP (Exhibit 9).
- 9.33 Prior to 2000, PRASA procured all its rails and rail related perway material from Transwerk which was sold to Voestalpine VAE (Pty) Ltd. Since 2000, PRASA procures all rails and rail related perway material from Voestalpine VAE SA (Pty) Ltd (Exhibit 9).
- 9.34 Voestalpine VAE SA (Pty) Ltd has workshops at Isando, Bloemfontein and Kimberley. Voestalpine VAE SA (Pty) Ltd is currently the sole supplier in the country that provides both PRASA and Transnet and possible other private companies with all rails and rail related material (Exhibit 9).
- 9.35 According to Dr Phungula, this monopoly has created a number of challenges for PRASA, e.g. Voestalpine VAE SA (Pty) Ltd was unable to honour PRASA's requirement of rails to address an urgent safety related situation in the Western Cape. Upon failure by Voestalpine VAE SA (Pty) Ltd to meet PRASA's urgent requirements, PRASA had to engage an international supplier to supply the required rails (Exhibit 9).
- 9.36 Dr Phungula recommended eight companies. These companies were recommended and included in the memorandum dated 14 May 2012 (Exhibit 9).
- 9.37 Subsequently, a further 26 (twenty-six) companies were recommended.
- 9.38 These companies were recommended to provide the following services (Exhibit 9):
- 9.38.1 Replacement of rail fasteners
 - 9.38.2 Drainage rehabilitation
 - 9.38.3 Turn-outs replacement
 - 9.38.4 Rails and formation rehabilitation
 - 9.38.5 Overhauling and Transformers
 - 9.38.6 Supply, delivery and installation of concrete sleepers
 - 9.38.7 Rail grinding and profiling
 - 9.38.8 Ultrasonic rail flaw detection and measuring
 - 9.38.9 Provision of on-track machines and maintenance services of the tracks nationally.
- 9.39 The Acting GCEO, Ms Martha Ngoye, approved the request on 9 January 2015 (Exhibit 9).

- 9.40 At the PRASA SCM office a record is kept of all the suppliers selected for the SDP and relevant information regarding the contracts. To date, PRASA have a total number of approximately 63 (sixty-three) suppliers registered for the SDP. The contracts with the 63 (sixty-three) suppliers amount to more than R1.5 billion in contracts (Exhibit 10).
- 9.41 All of the suppliers for the SDP (except Active Power Projects) were appointed as "Confinement Suppliers". Active Power Projects was appointed through a normal tender process. (Annexure A).

Memorandum dated 14 March 2013

- 9.42 The Senior Manager of PRASA SCM submitted a request to the GCEO on 14 March 2013. The request was for the approval by the GCEO for (Exhibit 13) included the following:
- 9.42.1 The implementation of the SDP.
- 9.42.2 Request for the confinement of the appointments of the companies identified in the memorandum dated 14 May 2012 as part of the transformation of the Perway sector to allow BBBEE companies to play a significant role in this Perway sector, thus creating competition and addressing the undesirable challenges related to monopoly and the lack of competition in the sector.
- 9.42.3 Introduce and implement training, development and accreditation program to assist the identified BBBEE companies to execute their mandates in line with PRASA's safety plan and other related requirements in time to ensure systems availability and readiness for the launch of the New Rolling Stock Fleet in 2015.

10. AD HOC CONTRACTORS - PROCEDURES

- 10.1 The ad hoc suppliers/contractors were required to undergo an accreditation process. The purpose of accreditation was to ensure the minimum competency, capacity and facility requirements of any service provider to build, refurbish and supply new material and components for PRASA as required by the Railway Safety Regulatory Act and the SANS 3000-1 Standard for Safety Management (Exhibit 11).
- 10.2 The first stage of the accreditation entails an audit of the suppliers systems and procedures to ensure capacity to deliver. The staff, facilities, equipment and infrastructure of the supplier is assessed as part of the process (Exhibit 11).
- 10.3 Apart from the audit, the supplier is assessed on their practical ability to carry out the required maintenance and repairs on the assets. On successful conclusion of this process, an accreditation certificate is issued, and the contractors work quality is monitored on an ongoing basis (Exhibit 11).

- 10.4 The issuing of work is done on an “as and when” basis where accredited ad hoc contractors are requested to submit quotations based on a technical work list. Work is allocated to service providers considering the quality, repair turnaround times and warranty repair performance (Exhibit 11).
- 10.5 Once accredited, the normal process for engaging the contractor is as follows (Exhibit 11):
- 10.5.1 The depot assesses the work load on a coach.
- 10.5.2 A request is made for development of scope of work.
- 10.5.3 All ad hoc contractors are invited for a site briefing where the Quality Assessor develops scope of work jointly with them to minimize variations on execution.
- 10.5.4 The scope of work is then issued to all the contractors with specific response deadlines and expected mean time to repair.
- 10.5.5 Before invoicing and payment is made, the work is verified to ensure it is completed as per the work list and that the work meets the PRASA quality standards.
- 10.5.6 The job card and an acceptance certificate are then signed off.
- 10.5.7 The documentation which includes the work list, works order, job card and acceptance certificate is then submitted to the PRASA Finance Department for payment.
- 10.5.8 The capitalization documentation is then completed and payment requisition documents are validated and signed off by the Project Manager and Executive Manager for final payment.
- 11. AUDIT OF THE SUPPLIER'S SYSTEMS, PROCEDURES AND PRACTICAL CAPABILITY**
- 11.1 There was no supplier audit/accreditation performed by PRASA on Nandisa Milisa. This was confirmed with Mr Khumbulani Khumalo, Engineer of PRASA, on 8 November 2016.
- 12. TENDER APPOINTMENT OF NANDISA MILISA.**
- 12.1 PRASA did not follow a tender process to appoint Nandisa Milisa. This was confirmed with Ms Sarah du Plessis (Assistant Manager of PRASA SCM, on 29 November 2016).
- 13. AGREEMENT BETWEEN PRASA AND NANDISA MILISA DATED 18 JUNE 2015**
- 13.1 PRASA and Nandisa Milisa signed an agreement on the 18 June 2015 for the “Ad hoc repair works, call out and technical support”, contract number HO/PR/INF(P)/258/04/2014 (Exhibit 14).
- 13.2 The contract value was R50,000,000 (Fifty Million Rand) including VAT (Exhibit 14).

- 13.3 The contract commenced on 1 June 2014 and the date of completion was stipulated as 31 May 2017 (Exhibit 14), a period of three years.
- 13.4 The agreement between PRASA and Nandisa Milisa was subject to the fulfilment of the conditions precedent within 30 days of the signature date of the agreement (para 5) (Exhibit 14).
- 13.5 The conditions precedent was that Nandisa Milisa had to deliver a Performance Bond to PRASA prior to 18 June 2015 2014. A "Performance Bond" was defined in terms of the agreement as (para 1.1.27) (Exhibit 14):
- "... an unconditional and on demand bank guarantee to the value of 10% of the Contract Price as indicated pursuant to clause 29.5, to be issued by a South African registered bank in favour of the Employer, substantially in the form set out in the RFT or Request of Quotation".*
- 13.6 According to the agreement, Nandisa Milisa did not have the right to subcontract the entire contract but only a portion of the services subject to the written approval of PRASA (para 15.2.1) (Exhibit 14).
- 13.7 PRASA's written consent prior to the sub-contracting should be obtained (para 15.3.3) (Exhibit 14).
- 13.8 Annexure B under part "SCOPE OF SERVICES" the services were listed as follows (Exhibit 14):
- 1. Identification of major work, refurbish, defective components and fault finding or diagnostics analysis, then effecting work.*
 - 2. Plant hire and work execution where necessary, otherwise leasing to other companies.*
 - 3. Documentation of faults and remedial actions taken to repair the components and subsystems.*
 - 4. Investigation that relates to major problems on the equipment to provide detailed report and warrant the workmanship.*
 - 5. Improvements or overhaul to the maintenance practices as deemed necessary.*
 - 6. Corrective action and renew assets as required and allocate resources for in-service failures or stopped assets.*
 - 7. On call technical assist to the accessible remote areas to assist in the event of any failures.*
 - 8. Interior fire protective coating to mitigate fire risk and enhance the interior Adhoc work to improve the availability and reliability of the assets*

9. Interior modernization and safety improvement

10. Replacement of Rail fasteners

11. Drainage rehabilitation

12. Turn-outs replacement

13. Rails and formation rehabilitation

14. Overhauling and Transformers

15. On-Track Machines (procure or lease on-track Machines)"

13.9 We noted the following regarding the annexures to the agreement:

Annexure	Comments
A	The Performance Bond was not attached as Annexure A but marked as "N/A", i.e. not applicable
C	List of subcontractors was not attached to the agreement
D	Working hours and days were not annotated in the agreement
E	Request for Tender was not attached to the agreement
F	Occupational Health and Safety annexures were not signed by Ms Gschwari
H	Occupational Health and Safety annexures were not signed by Ms Gschwari
I	The Occupational Health and Safety annexures were incomplete
O	The "mandatory" section was incomplete
Q	The specifications for services was not signed
R	Annexure R was not attached to the agreement
S	The service payment schedule was not attached to the agreement

T	Annexure T was not attached to the agreement
---	--

14. **AD HOC CONTRACTS FOUND TO BE IRREGULAR AND TERMINATED BY PRASA**

14.1 During December 2015 all confinements were declared irregular by PRASA Internal Audit and all contracts were stopped and/or cancelled with the suppliers. The PRASA Internal Auditors found the ad hoc contracts to be irregular because of the following reasons (Exhibit 11):

14.1.1 Non-application of the preferential point system as required by the Preferential Procurement Policy Framework Act, in all procurement activities above R30,000. The key issue was the non-application of the 90/10 point system.

14.1.2 The sourcing of emerging suppliers to be placed on the ad hoc supplier lists for the provision of services to the infrastructure and rolling stock disciplines on an “as and when” basis, was non-transparent.

14.1.3 Technical capability and capacity of the suppliers placed on the ad hoc supplier lists was not assessed as contractors were appointed on the basis of a confinement.

14.1.4 The suppliers placed on the ad hoc lists did not have the CIDB grading applicable to their allocated contract values, in the case of construction projects.

14.2 PRASA provided all the suppliers with letters of regret (Exhibit 12).

14.3 On 8 December 2015, Mr Bopape (SCM Senior Manager: Rail Operations) and Mr Letsane Rathaba (Acting Executive Manager: Engineering Services) sent a request to the Acting GCEO (Mr Khena) (Exhibit 11).

14.4 They requested the Acting GCEO to approve the finalisation of the ad hoc works, which would still be in progress in the following four months, whilst the new tender and procurement processes were put in place (Exhibit 11).

15. **INTERVIEW – MR TINO GABRYK (NATIONAL MAINTENANCE OPERATIONS MANAGER, ENGINEERING SERVICES, METRO FLEET, PRASA RAIL.)**

15.1 Mr Tino Gabryk (“Mr Gabryk”) is employed as the National Maintenance Operations Manager, Engineering Services, Metro Fleet, PRASA Rail (Annexure B).

15.2 According to Mr Gabryk, PRASA appointed several service providers as “Confinement Suppliers”.

Background

- 15.3 PRASA made use of a panel of ad hoc service providers to assist with work that the Depots had no capacity to carry out. This was done to sustain PRASA's coach availability.
- 15.4 Mr Gabryk's involvement with the Nandisa Milisa contract was mainly on contractual validation of compliance documentation required for payment at a Head Office level, i.e. work list, quotation, job card, works order or purchase order.
- 15.5 An acceptance certificate is completed for payment by the quality officials at the depot to confirm that the work was done.
- 15.6 The allocation of work for the suppliers was done at depot level, taking into account the quality of the workmanship and the repair turnaround time on work allocated.
- 15.7 Nandisa Milisa mainly provided services to Wolmerton and Braamfontein depots.
- 15.8 Nandisa Milisa was appointed through the confinement process which was approved by the Group CEO, Mr Montana. Nandisa Milisa performed electrical and mechanical refurbishment of coaches that were vandalised. They replaced cables that were stolen and repaired High tension electrical switch compartments and electrical components.
- 15.9 They furthermore conducted light collision coach repairs when the coaches were not damaged excessively.
- 15.10 The two depots allocated the work to the service providers. The depot would ensure that they issue a work list to the service provider and the service provider then submits their quotation for the work requested in the works order.
- 15.11 The depot ensured that the pricing was aligned to the PRASA price book. If the depot was satisfied with the quotation, they signed it as proof of acceptance and forwarded it to the PRASA Head Office who then issued a works order / purchase order for the work to proceed.
- 15.12 The depot received the purchase orders from Head Office and then tasked the service provider to proceed with the work they quoted for.
- 15.13 The service provider then submits their invoices. The invoice would be accompanied by the acceptance certificate signed by both parties. The acceptance certificate stated that the work was completed according to standards at PRASA.
- 15.14 The depot submits the invoice with the following documentation:
- 15.14.1 Work list
 - 15.14.2 Quotation
 - 15.14.3 Job card

15.14.4 Acceptance certificate

- 15.15 All of the documentation was submitted to PRASA Rail Head Office, where the documentation was processed for payment to the supplier.
- 15.16 Mr Gabryk's involvement was to validate the documentation in terms of relevant work performed, e.g. to check that the pricing was fair, to check all accompanying documentation, capitalisation of the work performed on the coach, etc.
- 15.17 Once Mr Gabryk checked for the completeness of the abovementioned documentation, he would recommend payment to the supplier.
- 15.18 During December 2015 all confinements were declared irregular by PRASA Internal Audit and all contracts stopped and/or were cancelled with the confinement suppliers.

16. INTERVIEW – MR JOSEPH PHOKO (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG NORTH)

- 16.1 Mr Joseph Phoko ("Mr Phoko") is employed as the Maintenance Support Manager, Rolling Stock, Gauteng North, PRASA Rail. His office is situated at the Wolmerton Depot, Pretoria North (Annexure C).
- 16.2 According to Mr Phoko, PRASA appointed several service providers as "Confinement Suppliers".

Background

- 16.3 PRASA made use of the confinement suppliers, in this case Nandisa Milisa. Nandisa Milisa was based at the PRASA Wolmerton Depot.
- 16.4 PRASA issued accreditation certificates to Nandisa Milisa, before they commenced with work at the Depot in terms of the ad hoc appointments. Nandisa Milisa was required to comply with *inter alia* all the Health and Safety requirements. After Nandisa Milisa met all the accreditation requirements, PRASA allocated work to it.
- 16.5 Nandisa Milisa commenced with work during October 2014.
- 16.6 Nandisa Milisa had a container at the Depot where they placed their tools and spares for safe keeping,
- 16.7 Nandisa Milisa was tasked with performing small repairs to the PRASA coaches. The allocation of work to the suppliers was done at Depot level, taking into account the quality of their workmanship and the repair turnaround time on work allocated.

- 16.8 Nandisa Milisa performed electrical and mechanical refurbishment of coaches that were vandalised, replacing cables that were stolen and any repairs of high tension electrical switch compartments and electrical components.
- 16.9 They furthermore repaired light collision coach repairs when the coaches were not damaged excessively.
- 16.10 The Wolmerton Depot allocated the work to the service providers. The Depot would ensure that they issue a work list to the service provider and the service provider then submits a quotation for the work requested per the works order.
- 16.11 Mr Phoko would check that the pricing is aligned to the price book. If they were satisfied with the quotation, they would sign it as proof of acceptance and forward it through to the PRASA Head Office, who in turn would issue a works order / purchase order for the work to proceed.
- 16.12 The depot would receive the works order/purchase order from Head Office and then task the service provider to proceed with the work they quoted for.
- 16.13 When the service provider submits an invoice it has to be accompanied by the acceptance certificate signed by both parties. The certificates state that the work was completed according to standards at PRASA (electrical and mechanical testing were conducted before PRASA signed the acceptance certificate).
- 16.14 The depot submits the invoice with a work list, quotation, job card and acceptance certificate. All the documentation is submitted to PRASA Rail Head Office where the documentation is processed for payment to the supplier.

17. INTERVIEW – MR MARCUS SITHOLE (MAINTENANCE SUPPORT MANAGER, ROLLING STOCK, GAUTENG SOUTH)

- 17.1 Mr Marcus Sithole ("Mr Sithole") is the Maintenance Support Manager, Rolling Stock, Gauteng South, PRASA Rail. His office is situated at the Braamfontein Depot, Johannesburg (Annexure D).
- 17.2 According to Mr Sithole, PRASA appointed several service providers as "*Confinement Suppliers*".

Background

- 17.3 PRASA made use of Nandisa Milisa as an adhoc works supplier. Nandisa Milisa was based at the PRASA Braamfontein Depot and used containers for the storage of their tools and spares. Mr Sithole worked with Nandisa Milisa at the Depot.

- 17.4 PRASA Engineering Services issued accreditation certificates to Nandisa Milisa before Nandisa Milisa commenced with work at the Depot. In terms of the ad hoc appointments, it was required that Nandisa Milisa complies with all the Health and Safety Requirements. After Nandisa Milisa met the requirements, PRASA was able to allocate work to them.
- 17.5 Nandisa Milisa provided PRASA with all the relevant information and documentation required, e.g. list of Nandisa Milisa employees and their qualifications, registration with the Department of Labour, Health and Safety requirements and previous accreditation certificates issued by PRASA.
- 17.6 Nandisa Milisa was tasked with performing small to medium repairs and electrical work to the PRASA coaches. The allocation of work for the suppliers was done at Depot level, taking into account the quality of the workmanship and the repair turnaround time on work allocated.
- 17.7 PRASA used Nandisa Milisa to perform electrical and mechanical refurbishment of PRASA coaches that were vandalised, replacing cables that were stolen and any repairs of high tension electrical switch compartments and electrical components.
- 17.8 The depot allocated the work to the service providers, they further ensure that they issue a work list to the service provider and the service provider then submits a quotation for the work requested in the works order.
- 17.9 PRASA checked that the pricing was aligned to the price book. Once PRASA was satisfied with the quotation, they signed it as having been accepted and forwarded it through to Head Office, who would in turn issue a works order / purchase order for the work to proceed.
- 17.10 Mr Sithole then receives the works order/purchase order from Head Office and then tasks the service provider to proceed with the work quoted for.
- 17.11 When the service provider submits an invoice it has to be accompanied by the acceptance certificate signed by both parties. The certificates state that the work was completed according to standards at PRASA (electrical and mechanical testing were conducted before PRASA signed the acceptance certificate).
- 17.12 The depot submits the invoice with a work list, quotation, job card and acceptance certificate. All documentation is submitted to PRASA Rail Head Office, where the documentation is processed for payment to the supplier.
18. **INTERVIEW – MS NANDISA GSCHWARI (SOLE DIRECTOR AND SHAREHOLDER OF NANDISA MILISA)**
- 18.1 Ms Nandisa Gschwari ("Ms Gschwari") is the sole director and shareholder of Nandisa Milisa Consulting Services (Pty) Ltd ("Nandisa Milisa") (Annexure E) (Exhibit 16).

- 18.2 The administration physical address is 147 Jacaranda Road, Kyalami, Midrand (Exhibits 15 to 21).
- 18.3 The business is registered at the Companies and Intellectual Property Commission (CIPC) with registration number 2012/078524/07 (Exhibit 15).
- 18.4 Nandisa Milisa's operation workshop physical address is at Unit 2, 3rd Street, Booyens Reserve, 2194, Johannesburg.
- 18.5 Ms Gschwari purchased the workshop property from Scope Engineering during March 2016. Scope Engineering is also a service provider on the PRASA SDP.
- 18.6 According to Ms Gschwari, PRASA started an ad hoc program as they realised that they were not keeping up with the maintenance demands. Nandisa Milisa was awarded a service contract for ad hoc work repairs, call out and technical support.
- 18.7 Nandisa Milisa performed ad hoc repair work for PRASA at Wolmerton and Braamfontein Rolling Stock depots. At both the depots, Nandisa Milisa utilised containers for their spares and tools used by the Nandisa Milisa staff, when performing the ad hoc work.
- 18.8 According to Ms Gschwari, Nandisa Milisa was registered as an ad hoc supplier and entered into an agreement with PRASA under contact number HO/PR/INF(P)/258/04/2014. The tender commenced on 01 April 2014 and completion date was 30 April 2016. The contract value was limited to R22,000,000.00 (Twenty Two Million Rand).
- 18.9 PRASA then entered into another agreement with Nandisa Milisa under Contact Number HO/PR/INF(P)258/04/2014. The tender commenced on 01 June 2014 and completion date is 31 May 2017. The contract value is limited to R50,000,000.00 (Fifty Million Rand).
- 18.10 According to Ms Gschwari, she was presented with a copy of the second contract by PRASA and she noted that she signed the contract on 2 June 2015 and PRASA signed the contract on 18 June 2015. However, Ms Gschwari never received a copy of the signed agreement from PRASA.
- 18.11 Nandisa Milisa did not utilise the full contract value during the period of the contract. Nandisa Milisa invoiced PRASA for approximately R15 million for work performed at Wolmerton and Braamfontein Depots. According to Ms Gschwari, PRASA still needs to pay Nandisa Milisa for some of the work performed. [It should be noted that according to the PRASA accounting records, PRASA paid Nandisa Milisa a total of R35 million and that the records do not reflect any outstanding balance].
- 18.12 Nandisa Milisa performed the ad hoc work for PRASA at the Wolmerton and Braamfontein Rolling Stock Depots. Nandisa Milisa was requested to provide PRASA with quotations and

"if and when" PRASA accepted Nandisa Milisa's quotation, PRASA would issue Nandisa Milisa with a purchase order for the work that was required to be performed.

- 18.13 Once Nandisa Milisa completed the work, they provided PRASA with their delivery note. PRASA checked Nandisa Milisa's work and then signed the delivery note and subsequently authorised the invoice for payment.
- 18.14 Nandisa Milisa submitted their invoices with the accompanying documentation to PRASA Head Office for payment.
- 18.15 Nandisa Milisa was accredited by PRASA to provide component product repairs and ad hoc repair works on Metrorail coaches. Nandisa Milisa undertook to provide Bowmans with a copy of the accreditation certificate. At the time of the finalisation of this report Ms Gschwari had failed to provide Bowmans proof of Nandisa Milisa's accreditation.
- 18.16 PRASA in a letter dated 10 August 2016 informed Nandisa that they are terminating the contract (Exhibit 21).

19. PAYMENTS MADE BY PRASA TO NANDISA MILISA

- 19.1 Nandisa Milisa submitted a total of 359 invoices to PRASA for payment totalling R35,290,987.91. The table below is a summary of the total Rand value of the invoices submitted by Nandisa Milisa to PRASA and which PRASA paid (Annexure F) (Exhibits 22 and 23).

Month/year	Amount (Rand)
July 2014	(1 074 966.37)
September 2014	(272 503.60)
October 2014	(566 845.43)
November 2014	(7 128 263.32)
December 2014	(361 433.32)
January 2015	(5 789 582.66)
February 2015	(5 795 819.13)
March 2015	(4 890 393.27)
April 2015	(3 153 848.75)
May 2015	(915 750.06)

Report
 Department of National Treasury
 PRASA Nandisa Milisa Consulting Services (Pty) Ltd
 Account: 110604
 Ad Hoc repair work, call out and technical support

December 2016

Month/year	Amount (Rand)
June 2015	(2 093 582.21)
July 2015	(22 209.99)
August 2015	(467 684.48)
September 2015	(838 934.14)
October 2015	(142 111.19)
November 2015	(252 348.15)
December 2015	(1 354 194.03)
March 2016	(170 517.81)
Grand Total	(35 290 987.91)

19.2 PRASA made a total of 25 payments to Nandisa Milisa totalling R35,290,987.91 as reflected in the table below (Annexure F) (Exhibits 22 and 23):

#	Date	Amount (Rand)
1	2014/08/15	99 688.41
2	2014/08/28	240 277.96
3	2014/09/16	735 000.00
4	2014/11/14	271 955.21
5	2014/11/28	74 152.01
6	2014/12/18	7 621 505.13
7	2015/02/10	241 614.75
8	2015/03/04	3 755 578.13
9	2015/03/16	289 619.40
10	2015/03/31	1 864 203.70
11	2015/04/24	1 606 348.22
12	2015/04/30	1 953 912.08

#	Date	Amount (Rand)
13	2015/05/11	3 326 995.21
14	2015/06/04	2 994 387.16
15	2015/07/01	206 475.68
16	2015/08/06	4 654 638.83
17	2015/08/31	829 245.13
18	2015/09/15	1 276 020.20
19	2015/11/03	466 275.91
20	2015/12/15	55 662.59
21	2015/12/18	454 480.82
22	2016/02/04	1 106 842.02
23	2016/03/03	5 483.88
24	2016/03/31	990 107.67
25	2016/04/29	170 517.81
	Total	35 290 987.91

19.3 Of the total amount of R35,290,987.91, Bowmans was able to reconcile a total of R12,808,616.02 (36%) to the physical invoices that were submitted by Nandisa Milisa to PRASA during July 2014 to March 2016.

19.4 Bowmans was unable to reconcile R22,482,371.89 (64%) against physical Nandisa Milisa invoices.

20. PHYSICAL VERIFICATION

20.1 As a result of the time difference between when Nandisa Milisa completed the ad hoc work and when Bowmans commenced the investigation, it was not possible for Bowmans to perform a physical verification of the work completed by Nandisa Milisa.

20.2 Therefore, Bowmans relied on the inspection and verification by PRASA at the time when the work was completed by Nandisa Milisa.

20.3 The ad hoc work completed by Nandisa Milisa was checked by Messrs Phoko and Sithole.

- 20.4 Bowmans was able to reconcile a total of R6,728,264.32 (19%) against PRASA acceptance certificates.
- 20.5 Bowmans was unable to reconcile R28,562,723.59 (81%) against PRASA acceptance certificates.

21. **REMEDIAL ACTION**

- 21.1 It appears that all awards and appointments of contractors made under the SDP can be considered to be in contravention of PRASA's SCM policies and should be regarded as irregular expenditure and reported as such.
- 21.2 The PRASA Board should consider its legal remedies against the individuals involved with regard to possible disciplinary action, criminal investigation and /or civil recovery of losses. Further investigation will be required in this regard.
- 21.3 Legal action against Nandisa Milisa could be considered with regard to the portion of payments that were not reconcilable to quotations, invoices and/or acceptance certificates. Further evidence would have to be prepared in this regard.
- 21.4 Internal control processes as identified in the National Treasury Irregular Expenditure guidelines must be developed and implemented to ensure irregular expenditure is adequately addressed within the organisation in the future.

ANNEXURES

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

Annexure #	Description
A	Notes of interview conducted with Ms Sarah du Plessis
B	Notes of interview conducted with Mr Tino Gabryk (National Maintenance Operations Manager: Engineering Services, Metro Fleet, PRASA Rail)
C	Notes of interview conducted with Mr Joseph Phoko (Maintenance Support Manager, Rolling Stock, Gauteng North)
D	Notes of interview conducted with Mr Marcus Sithole (Maintenance Support Manager, Rolling Stock, Gauteng South)
E	Notes of interview conducted with Ms Nandisa Gschwari (shareholder and director of Nandisa Milisa)
F	Nandisa Milisa invoices paid by PRASA as per the Nandisa Milisa creditor account in accounting records of PRASA compared and agreed to the physical Nandisa Milisa invoices

EXHIBITS

The detailed report should be read in conjunction with the exhibits listed below. Exhibits are third party documentation obtained from e.g. PRASA and SN Project Management:

Exhibit #	Description
1	Company search of Nandisa Milisa
2	Director search on Ms Nandisa Gschwari
3	PRASA vendor registration information for Nandisa Milisa
4	PRASA Supply Chain Management Policy dated February 2009
5	PRASA Supply Chain Management Policy dated September 2013
6	First request dated 2 May 2012 compiled by Mr Bopape and submitted to the GCEO to approve the Supplier Development Program.
7	Second request by Dr Daniel Mtimkhulu, the former Executive Manager: Engineering Services, in a Memorandum dated 10 December 2012, whereby he requested the approval of additional suppliers to the Supplier Development Program.
8	Third request by the former Executive Manager: Engineering Services, Dr Daniel Mtimkhulu, in a Memorandum dated 26 November 2013, where he furthermore requested the approval of additional suppliers to the Supplier Development Program.
9	Fourth request by the former Group Chief Procurement Officer, Dr Josephat Phungula, in a Memorandum dated 12 December 2014, whereby he requested the approval of additional suppliers for the Supplier Development Program.
10	SDP contracts register containing all 63 SDP suppliers

Exhibit #	Description
11	Request sent on 8 December 2015 by Mr Bopape (Supply Chain Management Senior Manager: Rail Operations) and Mr Letsame Rathaba (Acting Executive Manager: Engineering Services) to the Acting GCEO (Mr Nkosinathi Khena), requested the Acting GCEO to approve the finalisation of the ad hoc works, which would be in process for the following four months, whilst the new tender and procurement processes were put in place.
12	Termination of contract letters from PRASA to ad hoc suppliers.
13	Memorandum dated 14 March 2013 sent by the Senior Manager of the Supply Chain Management Department to the GCEO
14	Agreement between PRASA and Nandisa Milisa dated 18 June 2015
15	Companies and Intellectual Property Commission – Nandisa Milisa certificate of incorporation
16	Ms Gschwari share certificate of 100% shares held in Nandisa Milisa
17	Copy of Ms Gschwari's identification document
18	Nandisa Milisa tax clearance certificate
19	Nandisa Milisa BBBEE certificate
20	Bank confirmation letter for Nandisa Milisa
21	PRASA cancellation of contract letter issued to Nandisa Milisa dated 10 August 2016
22	Nandisa Milisa creditor account in the accounting records of PRASA
23	Nandisa Milisa invoice and other supporting documentation for the payment made by PRASA to Nandisa Milisa