

Executive summary

1. The Public Protector investigated several procurement transactions at the Passenger Rail Agency of South Africa (PRASA). The Public Protector issued a report titled “*Derailed*” on 24 August 2015, in terms of section 182 (1)(b) of the Constitution of the Republic of South Africa of 1996 and section 8(1) of the Public Protector Act 23 of 1994. The Public Protector took remedial action in pursuit of Section 182 (1) (c) of the Constitution in respect of the investigation. As part of the remedial action, the Public Protector directed the Chief Procurement Officer of National Treasury (NT) to conduct forensic investigations into all PRASA contracts since 2012 with a value above R10 million.
2. NT subsequently mandated Deloitte & Touche (Deloitte) to investigate 20 selected contracts entered into between PRASA and 18 suppliers. Two suppliers entered into two contracts each with PRASA.
3. We requested all relevant documents from PRASA on 24 February 2016 (and several times thereafter) relating to the appointment of the identified service providers. These included advertisements, attendance registers of briefing sessions, all available minutes of different procurement committees, all correspondence between PRASA and prospective bidders, tenders submitted by all bidders in respect of each appointment, contracts with successful bidders etc.
4. We also requested all payment related information from PRASA (and in some instances appointed service providers), such as invoices, proof that PRASA was satisfied with the rendered services, proof of authorisation of payment by delegated officials etc.
5. PRASA did not provide us with the tenders submitted by any of successful service providers, except the tender of Group Five Construction (Pty) Ltd (Group Five) in respect of the contract awarded to Group Five. Therefore, we were not in a position to independently re-evaluate the tenders service providers submitted to PRASA in respect of the identified contracts. We therefore had to base our findings relating to the appointments on the limited documents received, which in most cases only entailed recommendation and adjudication reports.
6. In most instances, PRASA did not provide us with any or sufficient documents to conclude whether or not all services were in fact rendered in terms of the identified contracts. Despite our requests PRASA did not provide us with the detail personal details of individuals in the end user divisions who were responsible for verifying delivery of services to enable the respective finance divisions to effect payments and/or who authorised and effected payments. We discuss this in more detail below.
7. In addition, in none of the tenders investigated, we physically visited sites to verify if services were rendered. This was not part of our mandate. Furthermore, due to the time that has lapsed since the alleged service delivery and the fact that various services were not tangible, this was not possible in respect of several contracts. We relied on documents and interviews conducted in an endeavour to confirm if services were in fact delivered. Our findings should be considered against this backdrop.
8. We summarise our findings relevant to the 20 contracts in the table below:

9. Table 1: Summary of findings

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
17. 1	18. Bombardier Africa Alliance Consortium (Bombardier) 19. Contract Value 20. R1 288 771 783.00 21.	22. Request for Proposal (RFP) issued and open tender procedure followed.	23. PRASA electronic system reflects payments totalling R427 414 191.40	24. PRASA did not provide supporting documents relating to one payment totalling R43 329 702.28	25. 1) Appointment process 26. From the available documents and interviews conducted, PRASA followed an open tender process in line with legislation and PRASA's SCM procedure. 27. 2) Payments 28. Where we received supporting documentation, it is evident that those payments were in line with contract. PRASA did not provide supporting documents for one payment totalling R43 329 702.28. 29. 3) Services rendered 30. Based on the documents relating to payments, which include payment certificates that PRASA officials and the independent Technical Advisors had to sign as confirmation that services were rendered, it appears that the	31. PRASA should provide the outstanding documents relating to the one payment and ensure such documents are kept in line with applicable regulations. 32.

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
					services were rendered. Mr Johan Edwards from the Signalling Division and Mr Sorin Baltac, Signalling Engineer confirmed the services were delivered.	
33. 2	34. Datacentrix (Pty) Ltd (Datacentrix).	35. RFP issued and open tender procedure followed.	36. Prasa provided an electronic download of all payments made to Datacentrix since 2011. It is not clear from the download which of the payments relate to this contract.	37. No supporting documents received.	<p>38. 1) Appointment process</p> <p>39. From the available documents and interviews conducted, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure.</p> <p>40. Poor needs assessment resulted in an over-payment of approximately R14 000 000.</p> <p>41. Mr Lucky Montana (Mr Montana), the Group Chief Executive Officer (GCEO) approved the overpayment on condition that responsible officials be disciplined for the irregular expenditure.</p> <p>42. Mr Chris Mbatha (Mr Mbatha), the Chief Information Officer at</p>	<p>50. PRASA to provide the outstanding supporting documents relating to payments.</p> <p>51. PRASA Board should consider taking appropriate action against individuals responsible for causing irregular expenditure.</p> <p>52.</p>

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					<p>PRASA informed us that according to him, the responsible individuals were not identified and PRASA did not provide us with information to ascertain who the responsible individuals are.</p>	
					<p>43. No action was taken against any officials</p>	
					<p>44.</p>	
					<p>45. 2) Payments</p>	
					<p>46. We could not verify payments as neither Prasa or Datacentix provided supporting documents. Ms Liz Naidoo, CFO of Datacentix committed to provide the information, but we have not received it to date.</p>	
					<p>47. 3) Services rendered</p>	
					<p>48. We note that following the contract with Datacentrix PRASA appointed a new Service Provider and most of the old equipment was replaced. It is therefore not possible to independently verify the equipment delivered to</p>	

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					PRASA by Datacentix.	
53. 3	54. Enterprise Technology Solutions (ETS) 55. Contract Value 56. PRASA did not provide a contract. The letter of appointment from NT reflects a value of R15 611 426.00 (including VAT).	57. Request for Quotation.	58. PRASA electronic system reflects payments totalling R17 628 371.00	59. PRASA provided no supporting documents relating to payments to ETS	49. 60. 1) Appointment process 61. From the available documents and interviews conducted, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure. 62. Although the value exceeded the threshold for quotations as per PRASA SCM policy, proper approval was obtained to issue a RFQ based on a plausible explanation. It appears that the result of an open tender process would have been the same, because PRASA specifically requested service providers accredited by ORACLE for SAP related software. 63. 2) Payments 64. Payments made exceed contract value with R2 016 945.00. This is indicative that the mentioned expenditure	67. PRASA's Accounting (the Board) at the time should be held accountable for contravening section 50(1) (a) of the PFMA in that it failed to ensure reasonable protection of procurement and financial records. 68. We recommend that disciplinary action be considered against Mr Mbatha, the Chief Information Officer for contravening section 57 (1) (c) of the PFMA in that he caused irregular expenditure totalling R2 016 945.00 in his area of responsibility (being

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
					<p>65. 3) Services rendered 66. Although Mr Mbatha indicates that services were rendered, PRASA provided no documents indicating that the services were rendered. From the available documents it appears that the services were required, but we received no documentary evidence indicating that the services were in fact rendered.</p>	<p>69. overpayment of the contract value). PRASA's Accounting Authority should report the irregular expenditure in terms of section 55 (2) (b)(i) of the PFMA</p>
71. 4	<p>72. ETS Emergency Training (ETS Training)</p> <p>73. Contract Value</p> <p>74. Could not verify independently. According to spreadsheet received from NT, the contract</p>	<p>75. PRASA provided no documents relating to the method used to appoint ETS Training</p>	<p>76. PRASA provided no electronic information relating to payments made.</p> <p>77. According to the spreadsheet from NT, PRASA paid a total of R15 155 048.52</p>	<p>78. No documents received.</p>	<p>79. The fact that we could not find any documents relating to payments to this supplier is indicative that the appointment and payments to this supplier might have been irregular</p> <p>80.</p>	<p>81. The Finance division and SCM are the custodians of these documents. Therefore, the Finance division and SCM should be held accountable.</p> <p>82. PRASA's Accounting (the Board) at the time should be held accountable for contravening section 50(1) (a)</p>

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	value is R15 155 048.52					of the PFMA in that it failed to ensure reasonable protection of procurement and financial records.
84. 5	85. Fantique Trade 664 CC (Fantique) 86. Contract Value 87. Could not verify independently. According to spreadsheet received from NT the contract value of contract 4600003172 is R18 696 783.09 and the contract value of contract 4600002943 is	89. PRASA provided no documents relating to the method used to appoint Fantique in respect of both contracts.	90. PRASA electronic system reflect payments totalling R29 568 073.12 91. R15 109 826.25 under contract 4600003172 and R14 459 110.87 under contract 4600002943.	92. Received supporting documents from PRASA, except for one payment totalling R1 762 243.29	93. 1) Appointment process 94. No documents relating to appointment process. The fact that we could not find any documents, is indicative that the appointment might have been irregular. 95. 2) Payments 96. No supporting documents for five payments totalling R1 762 243.29 97. No invoice for one payment totalling R2 775 230.10 98. No evidence that PRASA confirmed work in respect of three payments totalling R8 243 086.00 99. In absence of any documents relating to appointments, we	83. 102. The absence of any documents relating to the procurement process is indicative that all expenditure may be irregular and should accordingly be reported (in terms of section 55 (2) (b)(i) of the PFMA). The Accounting Authority at the time should be held accountable in terms of section 83(2), which states every member is individually and severally liable for financial misconducted in

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
88.	R23 502 69 1.21				<p>conclude that both appointments may be irregular and totality of expenditure by PRASA may also be irregular expenditure.</p> <p>100. 3) Services rendered</p> <p>101. Based on the documents relating to payments, which include documents that PRASA officials had to sign as confirmation that service was rendered it appears that the services may have been rendered (except for three payments totalling R8 243 086.00). We cannot comment on services relating to the five payments where we received no supporting documents totalling R1 762 243.29.</p>	<p>that it contravened section 50 (1) (a) of the PFMA in that it failed to ensure reasonable protection of procurement records.</p> <p>103. In addition, the SCM division should be held accountable as the custodians of procurement related documents.</p> <p>104. We further recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt Activities Act, No 12 of 2004 (PRECCA)</p>
105. 6	106. Group Five 107. Contract Value	109. Request for Proposal (RFP) issued	110. PRASA electronic system reflects payments	112. PRASA provided all supporting documents	<p>113. 1) Appointment process</p> <p>114. From the available</p>	120. No further action required.

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108.	R66 357 660.00 (including VAT)	and open tender procedure followed	111. totalling R66 357 660.99		documents and interviews conducted, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure. 115. 2) Payments 116. All payments appear to be in line with contract and the RFP. 117. 3) Services rendered 118. Based on the documents relating to payments, which include payment certificates that PRASA officials had to sign as confirmation that services were rendered it appears that the services may have been rendered. PRASA provided photographs of the deliverables 119.	
121. 7	122. Internet Solutions (Pty) Ltd (Internet Solutions) 123. Contact Value 124. R24 855 56	125. RFP issued and open tender procedure followed.	126. PRASA electronic system reflects payments totalling R23 593 029.76 127.	128. No payment documents were received.	129. 1) Appointment process 130. From the available documents and interviews conducted, it appears that PRASA followed an appointment process in line with legislation and PRASA's	137. PRASA's Accounting Authority at the time should be held accountable for contravening section 50(1) (a) of the PFMA in that it failed to

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	8.98 (including VAT)				<p>SCM procedure.</p> <p>131. 2) Payments</p> <p>132. The absence of any supporting documents relating to payments, is indicative that all expenditure totalling R23 593 029.76 incurred by PRASA may have been irregular expenditure.</p> <p>133. 3) Services rendered</p> <p>134. Although Mr Chris Mbatha indicates that services were rendered, PRASA provided no documents indicating that services were rendered.</p> <p>135.</p> <p>136.</p>	<p>ensure reasonable protection of procurement and financial records.</p> <p>138. PRASA's Accounting Authority should report the irregular expenditure in terms of section 55 (2) (b)(i) of the PFMA</p> <p>139. We further recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt Activities Act, No 12 of 2004 (PRECCA)</p> <p>140.</p>
141. 8	142. Lufthansa Consulting GmbH (Lufthansa) 143. Contract	145. Confinement process as per paragraph 11.3.7 of PRASA 2009	146. PRASA electronic system reflect payments totalling R15 000 000.	147. PRASA provided supporting documents relating to all payments.	<p>148. 1)Appointment process</p> <p>149. Initially PRASA intended to appoint Lufthansa on a confined basis in terms</p>	158. The responsible persons (Dr Phungula, the former Chief Procurement Officer and

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144.	Value R15 million (including VAT)	SCM Policy.			<p>of clause 11.3.7 of its SCM Policy.</p> <p>150. Due to an apparent non-response from Lufthansa, PRASA Rail embarked on a competitive process of appointing a Service Provider.</p> <p>151. Before this process could be finalised, Mr Montana approved the appointment of Lufthansa on a confined basis and in doing so disregarded the competitive process that was undertaken.</p> <p>152. The confinement process in the circumstances were not warranted and not in line with section 217 of the Constitution, the PFMA and PRASA SCM Policy. We conclude that the appointment was irregular.</p> <p>153. 2)Payments</p> <p>154. Although all payments were in line with contract, all expenditure totalling R15 000 000 should be classified as irregular expenditure as a consequence of the</p>	<p>159. We recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt Activities Act, No 12 of 2004 (PRECCA)</p>

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
					irregular appointment. 155. 3) Services rendered	
					156. From our review of documents and interviews conducted, it appears that Lufthansa provided the services as per the contractual agreement.	
					157.	
160. 9	161. Marble Arch Trading CC (Marble Arch) 162. Contract value	165. Due to limited documents relating to the appointment, it is not clear which methods were used to appoint this service provider	166. PRASA electronic system reflects payments totalling R58 997 221.93 in respect of Gauteng Northern and Southern regions.	168. PRASA provided supporting documents relating to payments for services rendered in Gauteng North totalling R4 129 057.31. PRASA provided no supporting documents for payments totalling R54 868 164	169. 1) Appointment process	177. All expenditure should be classified as irregular expenditure and reported accordingly (in terms of section 55 (2) (b)(i) of the PFMA) and PRASA's The Accounting Authority at the time should be held accountable in terms of section 83(2) for contravening section 50 (1) and 51 of the PFMA in that it failed to ensure proper protection of procurement and
	163. Only received an unsigned contract for R1 522 573.08.		167.		170. Insufficient documents relating to appointment process. The absence of documents, is indicative that all appointments of Marble Arch may have been irregular. PRASA provided two appointment letters to Marble Arch, but the amounts as per the appointment letters differs significantly from the amount of payments to Marble Arch. This justify an inference that PRASA appointed Marble Arch on more than two contracts.	
	164. According to the spreadsheet from NT, the contact value is reflected as R37 942 604.91				171. 2) Payments	
					172. PRASA provided 53 invoices from Marble	

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					<p>Arch for services in Gauteng Northern Region totalling R4 129 057.31.</p> <p>173. No supporting documents for payments totalling R54 868 164. All expenditure totalling R58 997 221.93 may have been irregular.</p> <p>174. 3) Services rendered</p> <p>175. Based on the limited documents relating to payments, which include invoices signed off by unknown PRASA officials, it appears that services totalling R4 129 057.31 in respect of Gauteng Northern region may have been rendered.</p> <p>176. PRASA provided no evidence that services totalling R54 868 164 were rendered, which is further indicative of irregular expenditure.</p>	<p>178. We further recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt Activities Act, No 12 of 2004 (PRECCA)</p>
179. 10	<p>180. Mtiya Dynamics (Pty) Ltd (Mtiya)</p> <p>181. Contact value</p> <p>182. R14 894 76 1.20</p>	183. RFP issued and open tender procedure followed	184. PRASA electronic system reflects payments totalling R12 899 888.73	185. PRASA provided supporting document for all payments as per PRASA's system	<p>186. 1) Appointment process</p> <p>187. From the available documents, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure.</p>	192. No further action required

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	(including VAT)				<p>188. 2) Payments</p> <p>189. As per our review of supporting document, the payments to Mtiya were in accordance with contract</p> <p>190. 3) Services rendered</p> <p>191. Based on the documents relating to payments, which include invoices signed off by unknown PRASA officials, it appears that the services may have been rendered</p>	
193. 11	<p>194. PMSA (Pty) Ltd (PMSA)</p> <p>195. Contract value</p> <p>196. Four contracts with cumulative value of R20 077 200 (including VAT). PRASA extended the initial contract on three occasions.</p> <p>197. The fourth contract's validity</p>	198. RFP issued and open tender procedure followed. However, PRASA provided limited documents relating to the procurement process followed	199. PRASA electronic system reflects payments totalling R16 592 398.80 (as in May 2016)	200. PRASA did not provide any supporting document relating to payments	<p>201. 1) Appointment process</p> <p>202. The limited information received by PRASA on the procurement process, is indicative that the process followed to appoint PMSA may be irregular</p> <p>203. 2) Payments</p> <p>204. The absence of supporting documents relating to payments, is indicative that the expenditure totalling R16 592 398.80 may be irregular</p> <p>205. 3) Services rendered</p> <p>206. In the absence of any</p>	<p>207. Further extensions of contracts may expose PRASA to risk and would not be in the spirit of the Constitution and PRASA's SCM Policy.</p> <p>208. The Board of PRASA should take appropriate action to mitigate and to ensure proper controls are put in place to avoid a similar occurrence.</p>

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	date was 15 October 2016				supporting documents relating to payments, we cannot comment on whether PMSA rendered services to PRASA.	<p>209. PRASA's Accounting Authority at the time should be held accountable for contravening section 50(1) (a) of the PFMA in that it failed to ensure reasonable protection of procurement and financial records. The Accounting Authority should report the irregular expenditure in terms of section 55 (2) (b)(i) of the PFMA</p> <p>210. We further recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt Activities Act, No 12 of 2004 (PRECCA)</p>

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						211.
212. 12	213. PricewaterhouseCoopers (PWC) 214. Contract value 215. R12 864 284 (including VAT)	216. Confinement as per paragraph 12.3.8 of PRASA 2014 SCM Policy	217. PRASA electronic system reflects payments totalling R12 715 694.80	218. PRASA provided supporting documents for all payments as per PRASA's system	<p>219. 1) Appointment process</p> <p>220. The confinement process (nominated appointment) in circumstances is justifiable.</p> <p>221. 2) Payments</p> <p>222. All payments made were in line with the contract.</p> <p>223.</p> <p>224. 3) Services rendered</p> <p>225. Based on the documents relating to payments signed off by Mr Mlungisi Tenza, former PRASA Head of Asset Management and PWC's deliverable, it appears services were rendered</p> <p>226.</p>	<p>227. No further action required</p> <p>228.</p>
229. 13	230. Sizwe Africa IT Group (Sizwe) 231. Contract	233. RFP issued and open tender procedure followed.	234. PRASA provided us with a spreadsheet indicating payments	235. PRASA did not provide any supporting documents relating to payments.	<p>237. 1) Appointment process</p> <p>238. From the available documents, it appears</p>	247. No further action required

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	Value					
232.	R20 115 048.52		totalling R48 716 585.73. We ascertained that the information PRASA provided relates to payments in respect of the contract under review and other contracts which are not part of our mandate.	236. Sizwe provided supporting documents relevant to the contract totalling R16 052 056.07. The contract is still in place	that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure. 239. 2) Payments 240. Payments made to Sizwe in terms of the contract under review are in line with the contract. 241. 3) Services rendered 242. Based on the documents relating to payments, it appears services were rendered. 243. 244. 245. 246.	
248. 14	249. Sobela Engineering (Pty) Ltd (changed name to Railway Cellular (Pty) Ltd on 31 October 2014 (Rail Cell) 250. Contract Value 251. R11 700 00	252. Unsolicited bid as per paragraph 12.3.5 of PRASA 2014 Policy	253. PRASA electronic system reflects payments totalling R11 699 573.33	254. No supporting documents provided relating to payments	255. 1) Appointment process 256. Unsolicited bid used to appointment service provider. The process not warranted in the circumstances 257. We conclude that appointment was irregular. 258. 2) Payments 259. We conclude all expenditure incurred was irregular expenditure	262. Dr Phungula and Mr Montana were ultimately responsible for Rail Cell's appointment and both these individuals resigned. 263. PRASA's Accounting Authority at the time should be held accountable for contravening

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	0 (including VAT)				totalling R11 699 573.33 260. 3) Services rendered 261. PRASA provided no evidence that services were rendered.	section 50(1) (a) of the PFMA in that it failed to ensure reasonable protection of financial records. 264. The Accounting Authority, should ensure that proper controls have been put in place to avoid a similar occurrence. 265. PRASA's Accounting Authority should report the irregular expenditure in terms of section 55 (2) (b)(i) of the PFMA 266. We further recommend that this matter be reported to the South African Police Service (SAPS) in terms of section 34 of the Prevention and Combatting of Corrupt

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						Activities Act, No 12 of 2004 (PRECCA)
						267.
						268.
						269.
						270.
271. 15	272. Softfinity Consulting (Pty) Ltd (Softfinity) 273. Contract value 274. R35 039 04 0.00 (including VAT) 275.	276. RFP issued and open tender procedure followed	277. PRASA electronic system reflects payments totalling R18 670 734.18	278. PRASA provided supporting documents for the total of R18 670 734.18 (including VAT)	279. 1) Appointment process 280. From the available documents, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure. 281. 2) Payments 282. Payments in line with contract. Supporting documents for payments did not indicate concerns/irregularities. 283. 3) Services rendered 284. Based on the documents relating to payments, such as approved time sheets and an interview with Mr Imraan Khan, General Manager: Enterprise Architecture it appears services were rendered.	285. PRASA should expedite an application for condonation relating to the finding of an irregularity in the appointment process by the Auditor General of South Africa.

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286. 16	287. Take Note 368 CC (Take Note) 288. Contract Value 289. Initial contract for R18 000 000.00 (including VAT). 290. Addendum to initial contract for R4 104 000.00 (including VAT) Total value of R22 104 000.00 (including VAT)	291. Confinement (nominated process) as per paragraph 12.2.8 of the 2014 SCM Policy.	292. PRASA electronic system reflects payments totalling R20 400 000.00	293. Yes, invoices received from Take Note. Total of invoices is R21 300 000 (including VAT). 294. No supporting documents received from PRASA.	295. 1) Appointment process 296. In circumstances the confinement process justifiable an in line with PRASA SCM Policy. 297. 2) Payments 298. Payments in line with contract. Supporting documents for payments did not indicate concerns/irregularities. 299. 3) Services rendered 300. Based on the documents relating to payments and documents received from Take Note, it appears that services were rendered.	301. Should PRASA endeavour to continue with similar security services in future, PRASA should follow an open tender process 302. No further action required 303.
304. 17	305. Thales Mziya Consortium (Thales) 306. Contract value 307. R 1 864 771 512.08 (including VAT)	308. Request for Proposal (RFP) issued and open tender procedure followed	309. PRASA electronic system reflects payments totalling R379 508 301.25	310. PRASA provided supporting documents for the total of R379 508 301.25 (including VAT)	311. 1) Appointment process 312. From the available documents, it appears that PRASA followed an appointment process in line with legislation and PRASA's SCM procedure. 313. 2) Payments 314. Payments in line with contract. Supporting	317. No further action required

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
					documents for payments did not indicate concerns/irregularities.	
					315. 3) Services rendered	
					316. Based on the documents relating to payments and an interview with Mr Sorin Baltac (Mr Baltac), Signalling Engineer at PRASA, it appears that services were rendered	
318. 18	319. Worldwatch Trading 169 (Worldwatch)	324. No documents received.	325. PRASA electronic system reflects payments totalling R6 785 030.34	326. PRASA did not provide any supporting documents relating to payments to this service provider. The absence of any documents relating to payments is indicative that the expenditure may have been irregular.	327. 1)Appointment process	336. Mr Montana approved all extensions of security contract and Mr Montana resigned.
	320. Contract Value				328. No documents relating to appointment process. The absence of any documents relating to the initial appointment and extensions of contract is questionable. This is indicative that the appointment and extension of contracts may have been irregular	337. NT should consider verifying payments to this entity through forensic analysis of PRASA's payment data. If payment is confirmed to have been made, then it would be irregular and/or fraudulent, because there is no evidence to support
	321. PRASA did not provide any contract(s) with this service provider.				329.	
	322. According to the information from NT the contract with number 460000582 5 was for R12 125 67				330. 2)Payments	
					331. The absence of any documents relating to payments, is indicative that all payments to this service provider may be irregular. The irregular expenditure based on payments as per PRASA's	

10. #	11. Service Provider	12. Method of appointment	13. PRASA electronic information received and cumulative total of payments	14. Supporting documents relating to payments received	15. Findings	16. Recommendations
323.	0.68				<p>system amounts to R6 785 030.34. In our view, Mr Matakata as the Chief Security Officer is responsible to ensure that all matters related to security are dealt with in accordance with prescribed processes. We are of the view that Mr Matakata may have contravened section 57(1)(c) of the PFMA in that he failed to take effective steps to prevent irregular expenditure in his area of responsibility.</p> <p>332.</p> <p>333. 3) Services rendered</p> <p>334. PRASA provided no evidence that services were rendered.</p> <p>335.</p>	<p>otherwise.</p> <p>338. The Board of PRASA, as the Accounting Authority, should ensure that proper controls have been put in place to avoid a similar occurrence.</p> <p>339. The irregular expenditure should be reported as such in terms of section 55(2)(b)(i) of the PFMA</p> <p>340.</p> <p>341. PRASA in collaboration with NT to consider disciplinary action against Mr Matakata in that he contravened section 57(1)(c) of the PFMA.</p> <p>342. We recommend that the matter be reported to the SAPS in terms of section</p>

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						34 of PRECCA.

343.

344. It is a concern that PRASA appointed several service providers via deviations from the prescribed process (confinement / unsolicited bids). It is disconcerting that we encountered difficulties to obtain proper documents dealing with the reason(s) for the deviations from normal prescribed procedure. The method of procuring services through deviations should be discouraged, as it creates an environment susceptible to abuse. We agree with the concern expressed by the Public Protector in this respect.
345. Such practices undermine fair competition, and result in a negative impact on quality and cost effective pricing.
346. The Board is PRASA's accounting authority and sections 50 and 51 of the PFMA apply. We take cognisance of the concerns raised by the Public Protector relating to the frequent deviations from an open procurement process and agree with the Public Protector that there was an abuse of the procurement process which is supposed to be fair, equitable, transparent, competitive and cost effective as enshrined in the Constitution, the PFMA and PRASA's SCM policy of 2009 and 2014 respectively. PRASA's Board is overall accountable for the proper operation and administration of the organisation.
347. Numerous appointments happened via deviations. Mr Montana and Dr Phungula (the former Chief Procurement Officer) appear to have been involved in all such appointments we investigated.
348. Mr Montana and Dr Phungula was senior employees of PRASA. As senior employees in management, both Dr Phungula and Mr Montana was in a relationship of trust vis-a-vis PRASA, and it was accordingly expected of them to act in the best interests of PRASA. This entails that they should display honesty and diligence in the exercise of their duties and responsibilities. In our view, both Mr Montana and Dr Phungula actions (specifically to appoint Lufthansa) constituted a breach of their duty to act diligently and in the best interests of PRASA. In our view, both Mr Montana and Dr Phungula acted negligently.
349. In terms of section 34 of the Prevention and Combating of Corrupt Activities Act, No 12 of 2004 (PRECCA) any person who holds a position of authority and who knows or ought reasonably to have known or suspected that another has committed an offence of corruption, or fraud or theft involving R100 000.00 or more, is obliged to report such knowledge or suspicion or cause it to be reported to the South African Police Services (SAPS).
350. It is noteworthy that in terms of section 34 of PRECCA, there is a reporting duty in circumstances where a person 'ought to have known or suspected' that an offence has been or might have been committed. The frequency of appointments via deviations and the absence of documents relating to appointments of and payments to service providers is questionable. In our view, the only reasonable inference that can be made in the circumstances is that the documents are not at PRASA's disposal and/or that PRASA is not willing to provide these documents. The fact that the appointments covered in this report occurred under the auspices of Mr Montana as GCEO and Dr Phungula as CPO is alarming - considering the frequency thereof.
351. Although we found no direct evidence to indicate that Mr Montana, Dr Phunula or any other individual unduly benefitted from these transactions, the frequency of these appointments via deviations and the lack of documents cannot be ignored. Given their respective positions and

considering what a reasonable person in their respective positions ought to have known, we are of the view that a reasonable suspicion exists that unknown PRASA officials might have committed fraud or corruption. In lieu of this aspect, we are of the view that PRASA (in collaboration with NT) should report these matters to the SAPS in terms of section 34 of PRECCA.

352.