



PRESENTATION TO SCOPA

PROCLAMATION R23 OF 2020

STATE INSTITUTION INVESTIGATIONS

PRESENTED BY ADVOCATE ANDY MOTHIBI



The State's preferred and trusted anti-corruption forensic investigation and litigation agency

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SIU MANDATE

SIU LEGISLATIVE MANDATE

The work of the SIU is primarily governed by the following Acts:

- Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996)
- Criminal Procedure Act, 51 of 1977 (Act 51 of 1977)
- Prevention and Combatting of Corrupt Activities (Act 12 of 2004)

Major Functions

- Investigate corruption, malpractice and maladministration
- Institute civil proceedings

SIU Powers

- Able to subpoena, search and seize evidence, and interrogate witnesses under oath (once a proclamation has been issued)
- Institute civil litigation to recover state funds lost or to prevent future losses

Out of SIU Mandate

- Arrest or prosecute offenders
- Implement disciplinary action
- Works closely with other relevant agencies where its powers fall short in order to ensure consequence management

SIU VISION AND MISSION

VISION

The State's preferred and trusted anti-corruption, forensic investigation and litigation agency

MISSION

We provide forensic investigation and civil litigation services to combat corruption, serious malpractices and maladministration to protect the interest of the State and the public

VALUES

Integrity; Co-operation; Teamwork; Professionalism; Efficiency; Independence
Drive and Passion

SIU OUTCOMES CONSEQUENCE MANAGEMENT



CIVIL LITIGATION

- Institute civil proceedings where there are potential recoveries of assets.
- Apply for preservation orders at an early stage of investigation where there is prima facie evidence.



DISCIPLINARY ACTION REFERRALS TO STATE INSTITUTIONS



PROSECUTION REFERRALS TO THE NPA



REFERRAL TO OTHER REGULATORY AUTHORITIES SUCH AS: SARS FIC

SYSTEMIC RECOMMENDATIONS

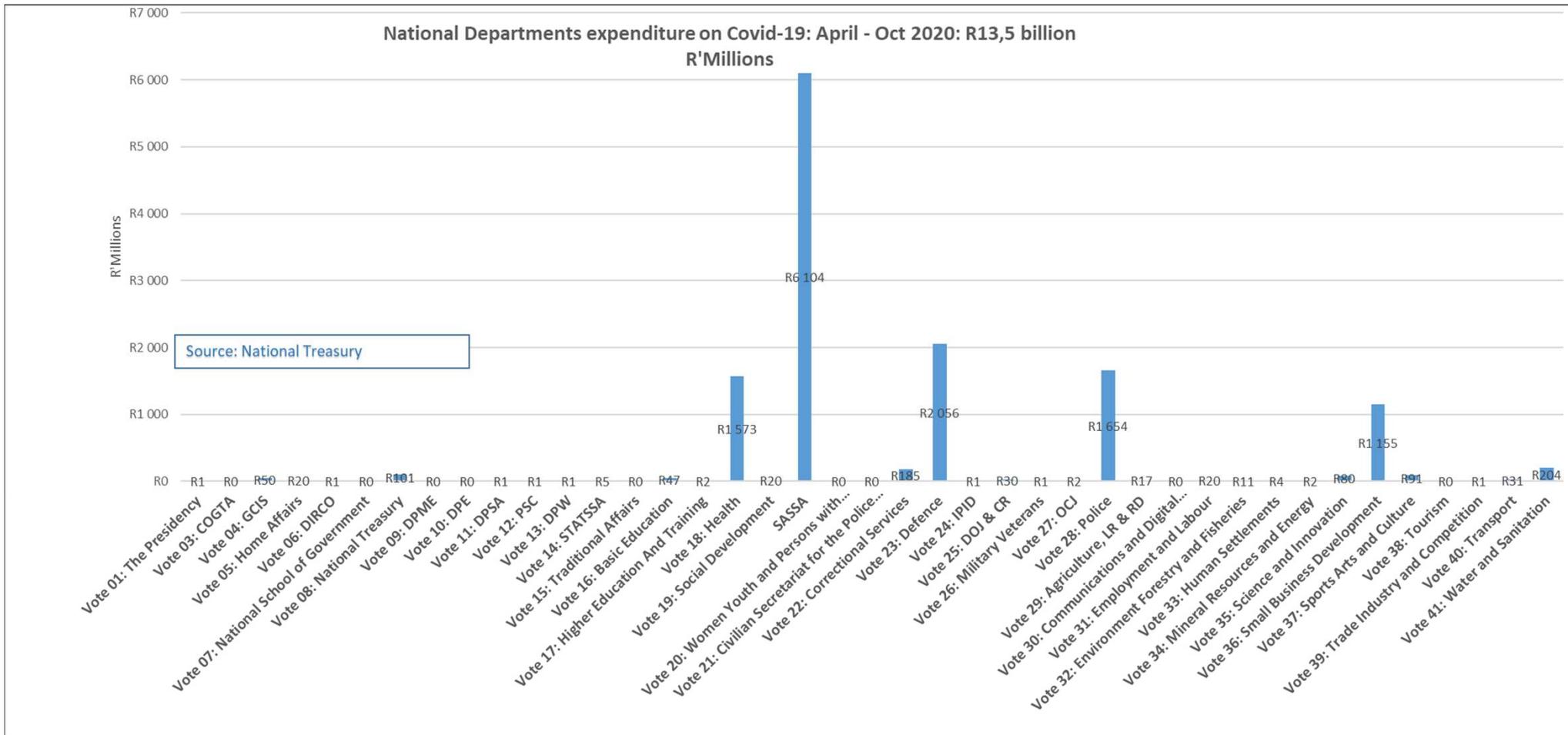
SIU STRATEGIC FOCUS

In order to achieve the SIU Vision and Mission and ultimately to deliver effectively on the SIU's Legislative Mandate, the following key strategic focus areas are emphasized as we execute on our Strategy

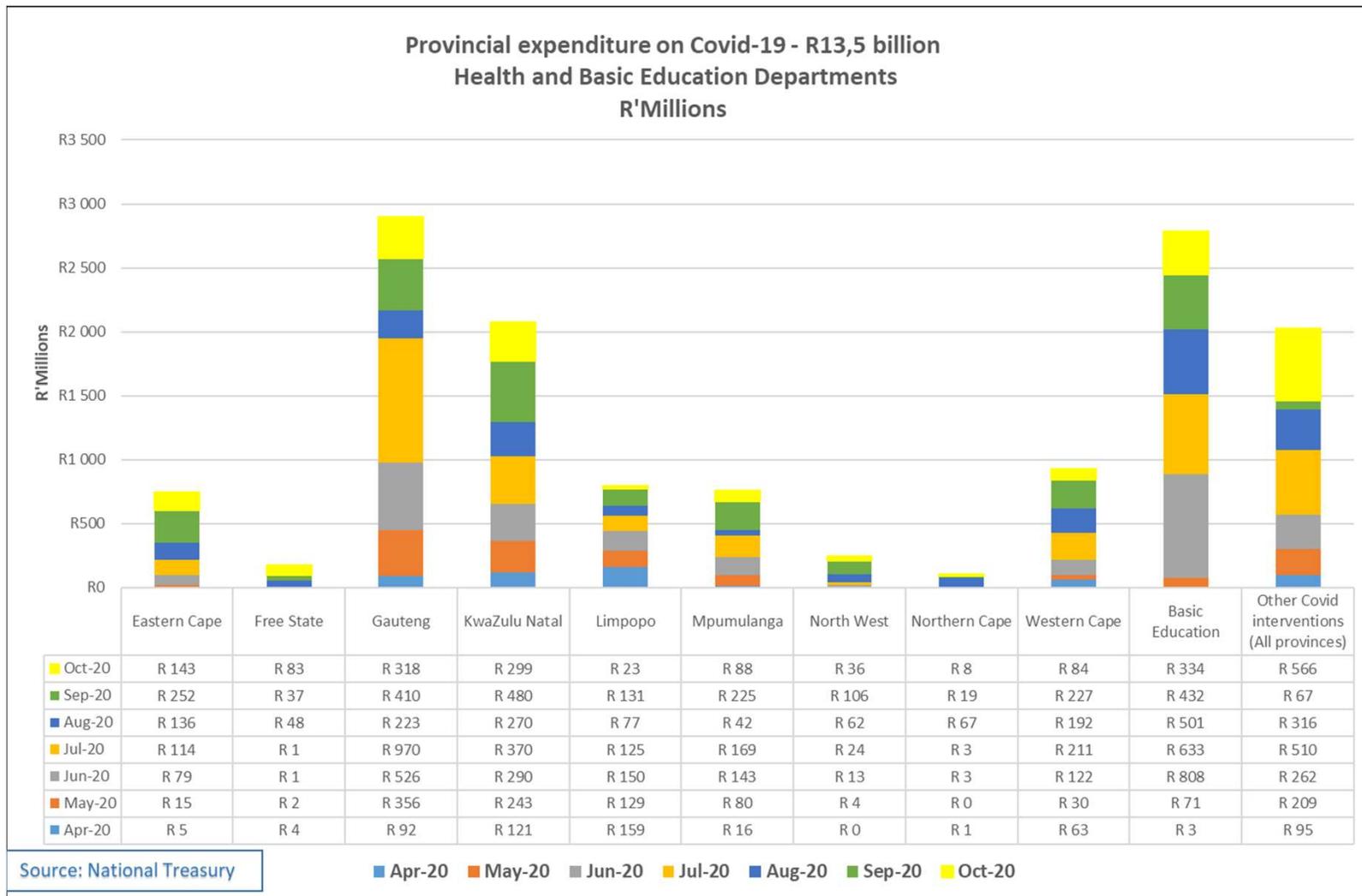
- a) Improved turnaround times of investigations.
- b) Monitoring the implementation of SIU referrals and consequence management.
- c) Implementing measures to accelerate civil litigation. Special Tribunal now in operation.
- d) Reviewing and strengthening the SIU Funding Model.
- e) Monitoring and evaluating the impact of the SIU Objectives.
- f) Implementing targeted prevention and awareness campaigns.
- g) Making systemic recommendations to State institutions to prevent a recurrence of corruption, maladministration and malpractice.
- h) Improving Communications and Stakeholder Relations.
- i) Implementing corruption, maladministration and malpractice data analytics.
- j) Improving on the SIU Governance Framework.
- k) Improving all SIU Operations Enablement Functions.
- l) Introducing a new organizational and individual performance management system.

COVID-19 EXPENDITURE

Covid-19 related spending per National Department April 2020 - October 2020



Covid-19 related spending per Province by Health Departments; as well as Dept of Basic Education, and Other Covid related spending April 2020 – October 2020



LIMITATIONS

- Very limited original documentation was kept by the State institutions relating to the appointment of service providers for the procurement of PPE. Physical searches for documents were conducted to try and find the documents. The SIU managed to obtain some electronic documents and also obtain some documents from the service providers in order to re-create paper trails.
- Destruction of evidence (documentation, hardware devices such as computers and mobile phones).
- Some of the officials at the State institutions worked on a rotational basis so there were delays in collecting the required documents. Some State institutions also had to close their offices because of Covid-19 infections.
- Unavailability of officials who had to sign off affidavits that had been provided.
- Unavailability of officials who had to quarantine or were working from home and did not want to have face to face interviews.
- There was non-co-operation from many of the officials, particularly the officials in the SCM and the Finance departments. This was largely because of their involvement in the irregular procurement process.
- Local politicians' involvement in the administration of municipalities.

- Unavailability of witnesses because of Covid-19, specifically staff that had to be interviewed at hospitals. Witnesses also had to quarantine.
- Witnesses fear victimisation and/or feel unsafe and are hesitant to be interviewed, provide statements and/or evidence.
- Unavailability of staff in the banking industry. Most banks operated with skeleton staff because of Covid-19 which delayed the release of bank records that had been requested.
- Delays with receiving information from SABRIC, the Fusion Hub and the FIC.
- Non-availability of officials to receive and acknowledge our disciplinary referrals because no face to face meetings were allowed at some of the State institutions.
- SIU members were threatened and were intimidated by both officials and service providers.
- The geographical location of State institutions and having to travel extensive distances.

OBSERVATIONS

- It appears that persons in positions of authority within Provincial Government believed that the declaration of a 'national state of disaster' meant that all procurement is automatically now conducted on an 'emergency' basis, and without compliance with any of the normal prescripts regulating public sector procurement, but without realising that even 'emergency' procurement must still be conducted in accordance with certain minimum prescripts to ensure (in as far as possible) that such processes remain fair, equitable, transparent, competitive and cost-effective as prescribed by section 217(1) of the Constitution (e.g. to motivate to the Accounting Officer/Authority of the State institution concerned why it is wholly or partially impractical to invite competitive bids, and have that Accounting Officer/Authority record the reason for such impracticality and approve a SCM Deviation in terms of Regulation 16A6.4 of the Treasury Regulations, which must be reported to the relevant Treasury and the AGSA, etc..
- Various officials of Provincial Government:
 - merely rubber-stamped decision taken by; and/or
 - accepted and gave effect to 'unlawful' instructions from, officials more senior than them, which resulted in a complete break-down of the checks and balances protection normally afforded by the principle of 'segregation of duties' (e.g. the first capture the transaction, the second approves the transaction and the third authorises the transaction etc.). Consequently, officials working within support services processed Commitment Letters, Purchase Orders, Invoices and payments without ensuring compliance with normal SCM prescripts and other control measures.

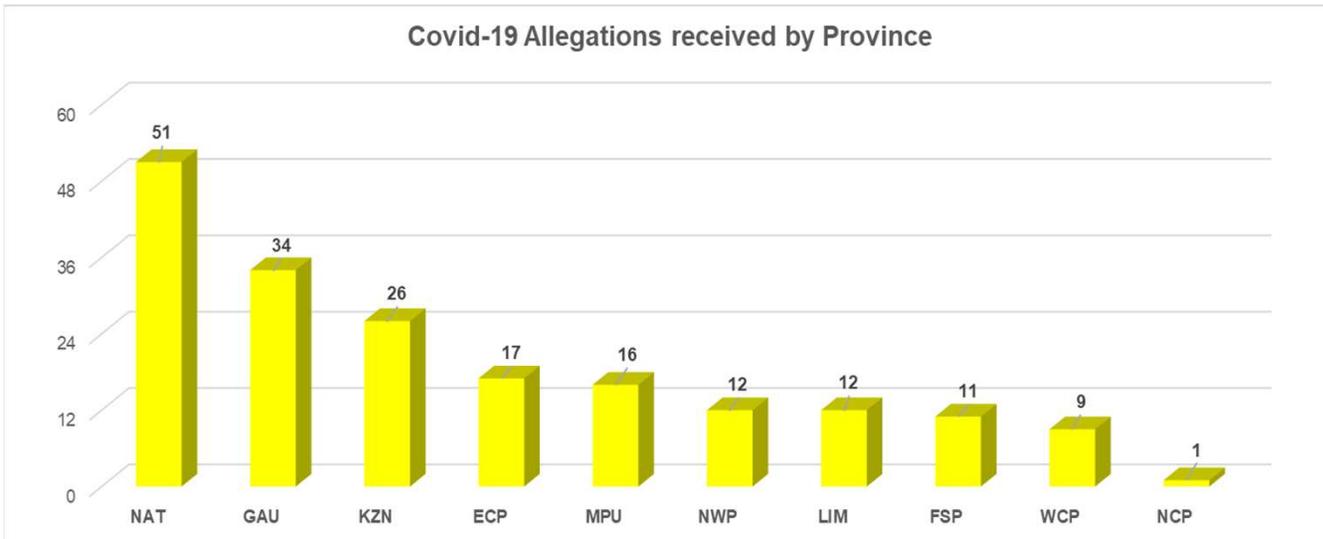
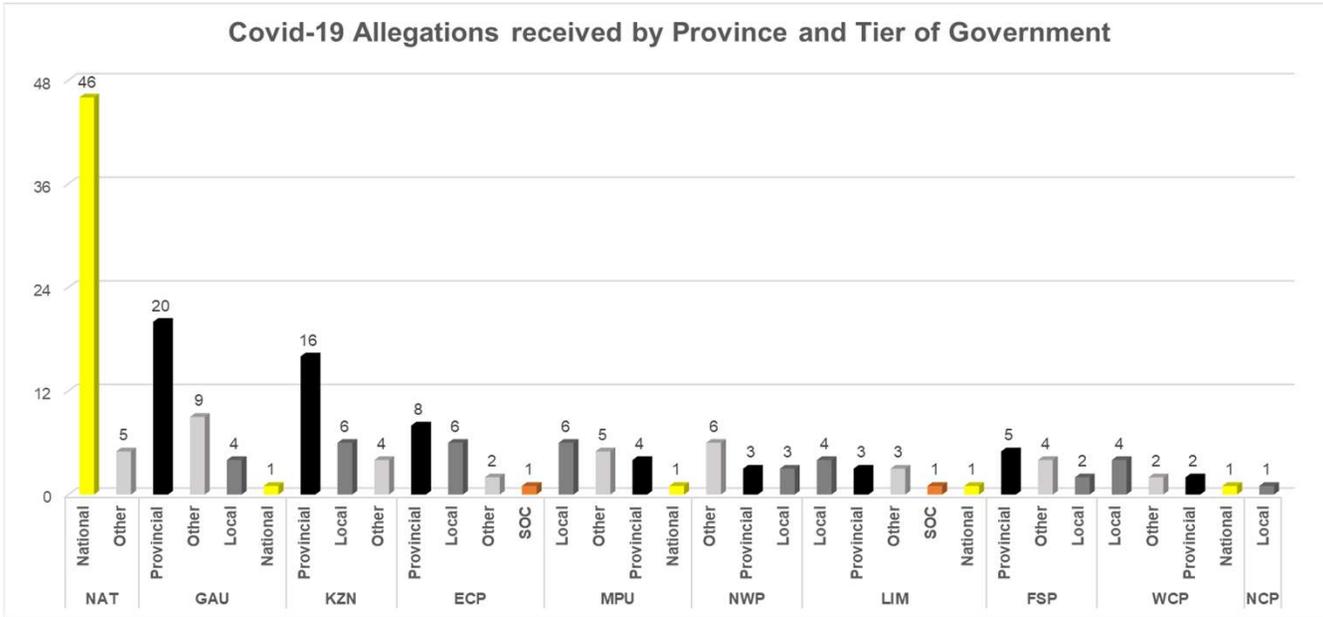
- Furthermore, it appears that certain influential people within Provincial Government do not trust procurement processes undertaken by the National Government (e.g. the procurement processes undertaken by National Treasury to secure Transversal contracts), and hold, in the SIU's respectful considered view, the false, incorrect or unwarranted view that such procurement processes and resulting contracts create monopolies in public sector procurement, which excludes fair opportunity for local, provincial, black empowerment and/or SMMEs (i.e. Small, Medium and Micro Enterprises) suppliers or service providers to compete fairly for such contracts. This perception seemingly resulted in the Provincial Government intentionally:
 - a) avoiding the use of Transversal contracts, as inter alia prescribed by Practice Note 8 of 2019/2020; and
 - b) ignoring the prescripts of Practice Note 3 of 2020/2021, which required from all State institutions to centralize all their procurement within the National Treasury Procurement Team (which comprised of the National Department of Health and the Chief Procurement Officer in National Treasury), as assisted by Business South Africa on a non-profit basis, which resulted in procurement irregularities and grave loss and prejudice to the Provincial Government and the *fiscus*.
- Bearing in mind that the national state of disaster was declared on 15 March 2020, where after PPE procurement commenced in earnest certain service providers were found to have only been registered on the CIPC during February and March 2020 (and thus would and could not have had demonstrable track records).
- Companies awarded contracts were not registered on the CSD.

- Certain service providers were already in the de-registration process when they quoted and were awarded contracts (their tax status is being verified as this would have impacted on their registration on the CSD).
- The type of goods supplied were not consistent with the nature of the business registered on the CIPC, i.e. they should not have been requested to quote for the services.
- Product specifications were ignored and products that were not suitable for its intended purposes were purchased and in several instances against the advice of expert opinion on the usefulness of the product.
- Certain companies were awarded BBBEE points as level 1 contributors when they in fact did not qualify.
- Political pressure played a role in the procurement of PPE.
- It appears that the names of the service providers were determined before any SCM process commenced.
- The delivery of substandard and/or PPE that does not comply with the technical specifications contained in the invitation to submit quotations. Furthermore certain PPE were not packed according to predetermined standards.
- There was no attempt to negotiate with suppliers in bringing prices within the thresholds suggested by Treasury. This resulted in overpayment for goods.

- The Departments lack basic control measures that will establish correct product delivery. In several instances we found under delivery of items.
- There appears to be no verification protocols on supplier registration details. This has resulted in several suppliers claiming VAT when they were not registered with SARS as VAT vendors.
- Suppliers using front companies to obtain multiple contracts from a department.
- Cover quoting by officials and suppliers.
- Splitting of bids to meet the quotation and/or delegation threshold.
- Misrepresentation from suppliers by not disclosing their close friendships with officials who were involved in awarding PPE contracts.
- PPE was packaged under a false/forged, cloned label.

CONTRACTS UNDER INVESTIGATION

- As can be seen from the graphs in the next slide, allegations were received from various sources including State institutions.
- The allegations were then registered and assessed against the investigative scope and period of the Proclamation.
- If the allegations were found to fall within the investigative scope and period of the Proclamation, these matters were then referred to the relevant SIU investigation team for investigation.
- Matters were prioritized based on potential outcomes to be realized in the shortest amount of time based on available resources.



Allegations were received in respect of 189 State institutions and entities. The SIU obtained documents in respect of the approved allegations and from that 2 556 PPE contracts awarded for Covid-19 related services were identified for investigation. These contracts were awarded to 1 774 service providers. By value, 26% of these contracts have been finalised, 51% are currently being assessed and 22% have yet to commence.

Summary of Progress to date				
Contracts' Investigation Status	No. of Service Providers	No. of Contracts awarded to service providers	Value of contracts awarded to service providers	Percentage of matters under investigation by value
Finalised	141	164	3 510 461 786	26%
Ongoing	777	1 541	6 847 544 412	51%
Investigation to still commence	856	851	2 976 234 383	22%
Total	1 774	2 556	13 334 240 581	100%

Please note this is as at 25/11/2020

CIVIL LITIGATION

Rand value and number of matters instituted in the Special Tribunal				
Province	Description	Value of outcome	Date instituted	Progress to date
Eastern Cape (ECP)	Department of Health: SIU v Fabkomp (Pty) (Ltd) and Others: (EC04/2020)	R10 148 750	18/09/2020	The cause of action is based on the irregular procurement by the Eastern Cape Department of Health of motorcycles with a “sidecar” to transport patients, which resulted in a process that was not fair, competitive or cost-effective. The matter was heard in the ST and the Eastern Cape DoH was interdicted from making any payments to the supplier and from accepting delivery of any goods from the supplier, pending the finalisation of Review proceedings to challenge the validity of the award and resulting contract. The Review proceedings have been instituted in the ST and the matter will be heard on 22/04/2021.
ECP	The OR Tambo Municipality “Door-to-door” case: (EC06/2020)	R4 899 000	26/10/2020	This matter relates to an investigation into the irregular procurement of an awareness campaign that was conducted in the Eastern Cape. Civil proceedings have been instituted against an entity called Phathilizwi Training in the ST to review and set aside the award and the resulting contract. The matter is not being opposed and will be set down on the unopposed roll in the Special Tribunal.
ECP	The Alinani Trading-matter (EC05/2020)	R2 785 276	30/10/2020	This matter relates to the procurement of PPE for the Department of Education in the Eastern Cape. The SIU successfully applied to the ST to have the bank accounts of the first four Respondents frozen and to interdict the Department from making any further payments to them. The SIU will issue summons to recover losses suffered by the Department.

Rand value and number of matters instituted in the Special Tribunal

Province	Description	Value of outcome	Date instituted	Progress to date
Gauteng (GAU)	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>In this matter a contract to deliver PPE was irregularly awarded by the Gauteng Department of Health, while unit prices were also artificially inflated by between 211% and 542%. Notwithstanding the fact that the Department was aware that the SIU was investigating the contract and the Department had stopped almost all payments in respect of suppliers under investigation by the SIU, on 3/08/2020, the Department made payment of R38 758 155 to the supplier. This had immediate clearance and substantial amounts were moved from the bank account of the supplier to the bank accounts of two other entities, who in turn transferred/paid the funds to at least 36 other entities. On or about 06/08/2020, at the request of the SIU, the FIC implemented a directive to freeze a total of R26 449 526 in the bank accounts of 39 entities. This attachment was only valid for 10 working days. Civil proceedings were instituted in the ST under Case No. GP 07/2020 and it was enrolled for 20/08/2020.</p>

Rand value and number of matters instituted in the Special Tribunal

Province	Description	Value of outcome	Date instituted	Progress to date
GAU	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>On 20/08/2020, the ST granted, inter alia, the following interim orders:</p> <ul style="list-style-type: none"> • The 1st to 39th Respondents were prohibited from dealing with the funds to the value of R26 449 526 that were frozen in their bank accounts; • The implementation of the contract between the Department and the 1st Respondent was suspended and the 1st to 42nd Respondents were interdicted from giving effect thereto; • The 43rd and 44th Respondents (i.e. the GEPF and GPAA) were interdicted from releasing the pension benefits due to the 42nd Respondent (a former Chief Financial Officer of the Department), pending the outcome of a damages claim to be instituted against the 42nd Respondent; • The Department was interdicted from making any further payments to the 1st Respondent. <p>The return date for the interim order was 06/10/2020. A case management meeting was held by the ST on 09/09/2020. The case was opposed by almost all the Respondents.</p>

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Province	Description	Value of outcome	Date instituted	Progress to date
GAU	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>On 06/10/2020, the Special Tribunal postponed the matter to 20 and 21/11/2020, and the interim order was extended to 20/11/2020.</p> <p>Prior to the hearing, the SIU withdrew the Application against:</p> <p>a) the Twenty Sixth Respondent, after it agreed to refund the R2 000 000 that it received from the Third Respondent to the Third Respondent and for that amount to also be attached as part of the funds frozen in the account of the Third Respondent (i.e. the amount frozen in the account of the Third Respondent increased from R9 670.37 to R2 009 670.37); and</p> <p>b) the Thirty Fifth Respondent, because it had never received any payments from Ledla, and the relevant bank had erroneously provided the FIC and the SIU with incorrect information.</p> <p>The matter was heard on 20/11/2020 wherein judgement was reserved. Judgement was then handed down on 10/12/2020.</p>

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Province	Description	Value of outcome	Date instituted	Progress to date
GAU	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>On 10/12/2020 the matter was heard and the ST:</p> <ul style="list-style-type: none"> a) Reviewed and set aside the R139 million contract that was concluded between the Department and Ledla; b) Extended its interim order made on 20/08/2020 to interdict the GEPP from paying out the pension benefits due to a former Chief Financial Officer of the Department until the finalisation of the action proceedings that the SIU instituted against that former CFO in which the SIU seeks to hold the former CFO and one other liable for losses and damages allegedly suffered by the Department; c) Confirmed the interim orders that were granted against the First Respondent, the Second Respondent, the Thirteenth Respondent and the Fourteenth Respondent, and the ST declared the funds held in their bank accounts (i.e. a total amount of approximately R16 661 065.23) forfeit to the State;

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Province	Description	Value of outcome	Date instituted	Progress to date
GAU	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>d) Discharged the interim orders that were granted against the Fifth Respondent, the Twelfth Respondent, the Twenty Second Respondent, the Twenty Eight Respondent, the Thirty First Respondent and the Thirty Seventh Respondent, and the funds held in their bank accounts (i.e. a total amount of approximately R173 944.74) were released; and</p> <p>Ordered the SIU to obtain an independent audit report in respect of the remaining Respondents who may have sold PPE directly or indirectly to Ledla to quantify the loss suffered by the Department in having paid more for PPE than the maximum prices prescribed by National Treasury and to submit that report to the ST no later than 22/01/2021, where after the ST will consider making supplementary orders, and the interim order of 20/08/2020 was extended to 26/01/2021, and later again extended to 02/02/2021 and again to 04/02/2021.</p>

Rand value and number of matters instituted in the Special Tribunal				
Province	Description	Value of outcome	Date instituted	Progress to date
GAU	The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)	R139 000 000	06/08/2020	<p>On 04/02/2021, the ST declared that a further total amount of approximately R7.4 million must be forfeited to the State, which was frozen in the bank accounts of 20 entities. This brings the total of the money to be forfeited to the State in this case to approximately R24 million.</p> <p>The instruction I have given is to oppose the two Applications for Leave to Appeal and the one Notice of Appeal received thus far, and to executed those parts of the ST orders that are not affected by the appeal proceedings and to recover the money and to pay those monies back to the State - Gauteng DoH.</p>
GAU	SIU v Kabelo Mantsu Lehloenya, Professor Mkhululi Lukhele and MEC for Gauteng Health (GP11/2020)	R43 532 709	11/09/2020	<p>In the Ledla matter, the ST interdicted the 43rd and 44th Respondents (i.e. the GEPP and GPAA) from releasing the pension benefits due to Ms Lehloenya (i.e. the 42nd Respondent, who is a former CFO of the Department), pending the outcome of a damages claim to be instituted against her.</p>

Rand value and number of matters instituted in the Special Tribunal				
Province	Description	Value of outcome	Date instituted	Progress to date
GAU	SIU v Kabelo Mantsu Lehloenya, Professor Mkhululi Lukhele and MEC for Gauteng Health (GP11/2020)	R43 532 709	11/09/2020	On 11/09/2020, the SIU issued Summons in the ST under Case No. GP11/2020 against Ms Lehloenya (1st Defendant), Professor Lukhele (a former Head of Department for the Department) (Second Defendant) and the MEC for Gauteng Health (3rd Defendant – who represents the Department as an interested party and against whom no relief is sought) in which the SIU seeks to recover losses suffered by the Department in the total amount of R43 532 709. Both Defendants are defending the civil case. The matter has been sent down for hearing from 01/06/2021 to 18/06/2021

Rand value and number of matters instituted in the Special Tribunal				
Province	Description	Value of outcome	Date instituted	Progress to date
KwaZulu-Natal (KZN)	Department of Social Development: Rosette Investments (KN01/2020); Gibela (KN02/2020); LNA Communications (KN03/2020); Zain Brothers (KN04/2020)	R4 899 000 R4 899 000 R3 960 000 R4 800 000	25/10/2020 25/10/2020 25/10/2020 25/10/2020	This matter relates to the irregular procurement of blankets for the Department of Social Development in KZN. The investigation revealed that in fact less blankets were distributed than the Department had in its stores prior to embarking on the procurement process. Civil proceedings have been instituted against the suppliers in the ST to review and set aside the award and the resulting contracts to the value of R18.5 million, and to recover losses suffered by the Department.
National	National Department of Public Works and Infrastructure: The SIU v Caledon River Properties (Pty) (Ltd) and Others Beitbridge Border matter: (GP12/20 and LP01/2020)	R40 800 000	18/11/2020	This matter relates to the procurement process of a service provider/contractor for the erection of a fence along the SA border with Zimbabwe, near Beitbridge. The SIU investigation found evidence that the procurement process was irregular. The contract has a value of R40 million. The SIU instituted civil proceedings in the ST for an order to “freeze” the bank account of the First and Second Respondents, alternatively for the Respondents to provide bank guarantees of R21 819 878 (Magwa Construction) and R1 843 004 (Profteam CC).

Rand value and number of matters instituted in the Special Tribunal				
Province	Description	Value of outcome	Date instituted	Progress to date
National	National Department of Public Works and Infrastructure: The SIU v Caledon River Properties (Pty) (Ltd) and Others Beitbridge Border matter: (GP12/20 and LP01/2020)	R40 800 000	18/11/2020	The initial application was withdrawn by agreement between the parties, an undertaking not to make any further payments was obtained from the Department and a fresh application was launched in the ST on 18/11/2020. In the application the SIU seeks to set aside the contract. The initial application was withdrawn by agreement between the parties, an undertaking not to make any further payments was obtained from the Department and a fresh application was launched in the ST on 18/11/2020. In the application the SIU seeks to set aside the contract. The respondents raised points in law, challenging the jurisdiction of the ST to grant the relief sought by the SIU. The hearing was held on 26/01/2021 and the judgement was reserved.
	Total value	R259 624 735		
As at 4 February 2021 there are 15 enrolled in the Special Tribunal to the contact value of R365 million				

DOMESTIC PROMINENT INFLUENTIAL PERSONS AND THEIR IMMEDIATE FAMILY

- There is a general public outcry about the involvement of domestic prominent influential persons (as defined in the Financial Intelligence Centre Act, Act 38 of 2001 (“FICA”)) and their immediate family (as defined in FICA), benefitting from PPE procurement by State Institutions.
- Currently such involvement does not necessarily render the awarding of contracts to such people, or entities that they are involved in, unlawful and such contracts must be scrutinized for compliance with the principles of section 217(1) of our Constitution and the PFMA and the MFMA.
- The need exists for considering additional safeguards for situations where State Institutions contract with persons in these categories.
- FICA currently regulates the conclusion of contracts between “accountable institutions” and domestic prominent influential persons and their immediate family, but the schedule listing “accountable institutions” does not include State Institutions, such as national, provincial, or municipal entities, or even State Owned Entities.
- In addition, FICA only envisages remedial action through “administrative sanctions”.
- FICA also does not create a statutory offence if its provisions are not complied with.

LEGISLATIVE CHANGES RECOMMENDED

- The SIU recommends that legislative amendments be considered to provide for safeguards when State Institutions are to contract with domestic prominent influential persons and their immediate family, as well as entities in which they have an interest, or are beneficial owners of.
- All State Institutions should be bound by such safeguards.
- It is not suggested that the mere fact that someone falls in this category would render the contract unlawful, but it should be a prerequisite of all supply chain management processes that a disclosure must be made that a potential service provider falls within the category set out above.
- Failure to make such a disclosure must be unlawful and should constitute a statutory cause of action to attack the validity of the process.
- Intentional non-compliance with such a prescript, should be a criminal offence.

STEPS TAKEN / ACTUAL OUTCOMES

Number of referrals made for Disciplinary Action against officials				
Entity	No of referrals	Date referred	Level of Official	Progress to date
Free State (FSP) Provincial Treasury	1	09/11/2020	Senior Management	The SIU is currently assisting the Provincial Treasury with this matter
GAU Department of Health	1	18/09/2020	Middle Management	The SIU met with the evidence leaders appointed in the matter. The matter is set down to be heard on 15/03/2021
GAU Department of Health	1	18/09/2020	Senior Management	The SIU met with the evidence leaders appointed on the matter. The disciplinary hearing was scheduled to be heard on 11 to 15/01/2021, but it was postponed following an application by the Senior Manager for further information. The new date for the disciplinary hearing is 1 to 5/02/2021. The SIU will follow up on the outcome of the hearing
GAU Department of Health	2	23/09/2020 25/09/2020	Senior Management	The official resigned from the Department on or about 03/10/2020
GAU Department of Health	1	10/11/2020	Spokesperson of the President	The SIU was informed that the Office of the President is reviewing the evidence submitted and will be taking relevant steps
KZN Department of Education	6	05/11/2020	Senior Management Middle Management	The SIU has been in contact with the Department. Although the Department is at various stages of actioning the recommendations none of the matters have been finalised to date. The SIU will follow up on the outcome of the hearings.
Sekhukhune District Municipality	5	30/09/2020	Senior Management Middle Management	4 of the officials are on suspension pending finalisation of the disciplinary process. 1 official resigned before being served with a letter of suspension. The disciplinary process is delayed due to Covid-19 infections within the Municipality. The SIU will follow up on the outcome of the hearings
Mpumalanga (MPU) Department of Health	2	29/10/2020	Senior Management Middle Management	The HoD has informed the SIU that the referrals have been sent to their lawyers for review and a decision on the way forward. The SIU will follow up on the outcome of the hearings
North West Department of Education	2	30/09/2020 13/11/2020	Middle Management Administrative Clerk	Proceedings in respect of 1 referral were scheduled to begin on 18/12/2020 but have been postponed to a date to be announced later. Proceedings in respect of the other referral have not yet started and the SIU is awaiting a response from the Department
Ratlou Local Municipality	2	06/10/2020	Senior Management Middle Management	The SIU held a meeting on 28/01/2021 with the newly appointed Administrator and she undertook to fast track the process
JB Marks Local Municipality	2	08/10/2020	Senior Management	A law firm was appointed to deal with one of the disciplinary referrals. The SIU consulted with the law firm on 19/11/2020 and the second meeting will be scheduled around February before the hearing can continue. The newly appointed MEC of COGHSTA is following up on the other disciplinary referral

Number of referrals made to the National Prosecuting Authority				
Entity	No of referrals	Date referred	Level of Official	Progress to date
ECP Department of Health	2	12/11/2020	Senior Management	The offence is corruption. A criminal case (CAS 08/09/2020) is under investigation by the Hawks and the SIU is collaborating with the NPA and the DPCI (Hawks). An NPA Prosecutor was assigned to this matter
OR Tambo District Municipality	3	13/11/2020	Senior Management 1 Entity and the Director	The offence is fraud and contravention of section 61(1) and section 173 of the MFMA (financial misconduct). A criminal case is already under investigation by the Hawks (CAS 64/07/2020). The Hawks arrested the Director of the service provider and 1 of the Senior Managers. The criminal case was remanded until 15/02/2021. An NPA Prosecutor was assigned to this matter
FSP State Provincial Treasury	6	30/09/2020 12/11/2020	Senior Management 1 Entity and the CEO	The offence is fraud. Criminal cases were registered at Parkroad Police Station and are currently being investigated by the Directorate Priority Crime Investigations under CAS 933/11/2020 (SCMQ608 & 609/20/21) and CAS 665/10/2020 (SCMQ3/2020). A prosecutor has been assigned to the matters and are currently consulting the SIU investigator
GAU Department of Health	2	22/09/2020 25/09/2020	Senior Management	The offence is financial misconduct in terms of Section 86(1) of the PFMA. A criminal Case was opened with reference Johannesburg CAS 484/12/2020. The matters are under investigation by the SAPS
GAU Department of Health	2	23/10/2020	1 Entity and the Director	The offence is fraud. A criminal case was opened with reference Johannesburg CAS 360/12/2020. The matters are under investigation by the SAPS
KZN Department of Social Development	1	08/10/2020	Senior Management	The offence is financial misconduct. A prosecutor has since been assigned and briefed by the SIU
KZN Department of Education	9	15/10/2020 20/10/2020 27/10/2020	3 Entities, their Directors and Managers	The offence is fraud, alternatively forgery and uttering. A prosecutor has since been assigned and the SIU has met with the NPA and DPCI for a briefing on this matter. The SIU is providing ongoing support to the prosecuting team
Sekhukhune District Municipality	2	30/09/2020	Middle Management	The offence is fraud and financial misconduct. The NPA has assigned a prosecutor and a criminal case was opened with CAS 33/07/2020
National DPWI	7	28/09/2020	2 Entities, their Directors and Project Managers	The offence is fraud. The NPA has appointed a prosecutor
Ratlou Local Municipality	1	08/10/2020	Senior Management	The offence is financial misconduct. The matter was referred back to SIU to finalise queries that were raised by the NPA. The SIU has finalised the queries and sent the documents back on 03/02/2021
JB Marks Local Municipality	1	14/10/2020	Senior Management	The offence is financial misconduct. The matter is still under review by the NPA
Western Cape Department of Environment, Forestry and Fisheries	2	08/10/2020	1 Entity and the Director	The offence is fraud, alternatively forgery and uttering. A criminal case was opened at Pretoria Central under CAS 26/11/2020

Number of referrals made for Executive and/or Administrative Action				
Entity	No of referrals	Date referred	Level of Official	Progress to date
GAU Department of Health	1	18/09/2020	Former MEC	according to the SIU's investigation failed to fulfil his obligations to comply with the Constitution; with his general oversight responsibilities in respect of the Department which contributed thereto that the Department failed to comply with the prescripts of the Constitution, and his obligations in terms of the PFMA. The MEC has since been discharged. On 23/10/2020, the former MEC filed an urgent application in the High Court of South Africa (Gauteng Division, Pretoria) under Case No. 555372/2020 to review and set aside the SIU referrals as being unlawful, unconstitutional and therefore invalid. The SIU opposed the application. The matter was set down for hearing on 21/01/2021 before the full bench of the High Court and on the same day judgment was reserved
JB Marks Local Municipality	1	12/11/2020	Office bearer	The disciplinary referral was made in respect of the awarding of a donation to an entity. The newly appointed MEC of COGHSTA is following up on this matter and will update the SIU on the outcome

Rand value of potential cash and/or assets to be recovered			
Description	Value	Description	Amount repaid
GAU Department of Health	R116,622,500	Recommendations were made to withhold payments to 5 service providers. The Department have confirmed that no further payments will be made pending the finalization of the SIU investigations and civil proceedings	
GAU Department of Health	R26,000,000	The Special Tribunal granted an order to freeze funds in the bank accounts of 39 service providers	
GAU Department of Health	R247,500	1 AoD was signed. The service provider was contracted to supply surgical masks and the value of the contract is R7 256 606. The AOD was signed because of an overpayment in respect of Vat that was made on one invoice submitted	
KZN Department of Education	R1,201,542	3 AoDs were signed for the under-delivery of goods supplied and for overcharging the Department for VAT. 3 service providers were contracted to supply PPE with a cumulative contract value of R15 129 064.40. 1 AoD at a value of R176 191 is being repaid in monthly installments and to date R44 047.80 has been repaid. The other 2 AoDs totaling R1 025 351 have been repaid in full	R1,069,399
KZN Department of Social Development	R2,040,000	Recommendation was made to withhold payment to 1 service provider. The Department have confirmed that no further payments will be made pending the conclusion of the litigation process that the SIU has instituted	
KZN Department of Social Development	R276,450	1 AoD was signed for charging the Department VAT while they were not registered as VAT vendors. The service provider was contracted to supply PPE and the value of the two contracts was R2 570 174	
MPU Department of Social Development	R76,090	1 AoD was signed because the service providers inflated the price of the PPE that was procured. The AoD signed was based on the fact that the investigation revealed there was a difference between what was supposed to be charged and what they actually charged. The debtor is making monthly repayments and so far R15 000 has been repaid	R15,000
MPU Department of Health	R150,800	2 AoDs were signed based on the fact that the investigation revealed the service providers inflated the price of stationery that was procured with the PPE. The AoDs signed were for the difference they were supposed to charge and what they actually charged. Both these AoDs have been repaid in full	R150,800
North West Department of Health	R19,592	2 AoDs were signed based on the fact that the investigation revealed the service providers were paid VAT by the Department but were not registered VAT vendors. Both these AoDs have been repaid in full	R19,592
Matzikama Local Municipality	R80,000	A recommendation was made to withhold payment to 1 service provider. The Department have confirmed that no further payments will be made pending the finalization of the SIU investigations	

UPDATE ON OUTCOMES FROM:

The SIU v Ledla Structural Development (Pty) Ltd and 43 Others: (GP07/2020)

- **Actual value of cash recovered:** On 10 December 2020 the matter was heard and the Special Tribunal confirmed the interim orders that were granted against the 1st Respondent, the 2nd Respondent, the 13th Respondent and the 14th Respondent, and also declared the funds held in their bank accounts (approximately R16 661 065.23) be forfeited to the State; On 4 February 2021, the Special Tribunal declared approximately R7.4 million held in bank accounts of 20 companies and entities also be forfeited to the State. The total value of cash recovered is **R24 061 065**.
- **Contracts set aside:** On 10 December 2020 the matter was heard and the Special Tribunal reviewed and set aside the **R139 million contract** that was concluded between the Department and Ledla.
- **Value of potential loss prevented (actual savings):** On 10 December 2020 the matter was heard and the Special Tribunal reviewed and set aside the R139 million contract that was concluded between the Department and Ledla. A total **R100 million** was yet to be paid to Ledla Structural Development.

UIF SECONDMENT

- The SIU received allegations relating to the payment of the Temporary Employment Relief Scheme (TERS) paid by the Unemployment Insurance Fund (“UIF”). However these matters fall outside the mandate of the Proclamation. A secondment agreement was entered into between the Department and the SIU. The secondment came to an end on 15 December 2020.
- During the secondment, the secondment team worked closely with the SAPS and the Hawks. A total of 75 criminal cases have been opened and are currently under investigation.
- Information obtained from the secondment was subsequently used to prepare a motivation for a proclamation. The motivation has been submitted to the DoJ. The SIU awaits the President's decision regarding the proposed investigation, which, if proclaimed, will allow the SIU to conduct an in-depth forensic investigation into the lawfulness of such payments with a view to recovering undue payments.

MATTERS FINALISED

GAUTENG PROVINCE

- **GAU Department of Health:** Allegations were received on 5 June 2020 in respect of the irregular procurement of and contracting for the supply of:
 - E-Recruitment software
 - Radiography material
 - PPE related goods and services
 - Computer equipment and
 - Warehousing services
- 8 Service providers were appointed.
- Contracts to the value of R1 121 797 were awarded to 4 of the service providers, and the remaining 4 did not do business with the Department

GAUTENG PROVINCE (cont)

- **Department of Education:** an allegation was received on 1 September 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. The allegation was against 1 service provider but the SIU investigation found that the service provider did not do business with the Department.
- **South West TVET College:** an allegation was received on 1 September 2020 in respect of the irregular appointment of service providers to relatives and friends at the College by the principal. The SIU investigation found that no PPE was procured by the College.
- **City of Johannesburg:** an allegation was received on 1 September 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. The allegation referred to contracts valued at R18 million but the service provider did not enter into contracts with the Department.

NATIONAL DEPARTMENTS

- **NAT Department of Public Works and Infrastructure:** the matter was referred to the SIU on 27 April 2020 and was investigated under a secondment agreement. A contractor and a principal agent were appointed to erect a border fence of 40 kilometres between South African and Zimbabwe (Beitbridge). The value of the 2 contracts awarded was R40 435 915.
- **South African National Defence Force:** an allegation was received on 1 September 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services and collusion. The allegation referred to contracts valued at R1.3 billion but the service provider did not enter into contracts with the Department.

EASTERN CAPE PROVINCE

- **Department of Health:** an allegation was received on 23 June 2020 in respect of the irregular procurement of 100 motorbikes to be used as mobile ambulances/clinics. 1 service provider was awarded a contract to the value of R10.1 million.
- **OR Tambo District Municipality:** an allegation was received on 6 July 2020 in respect of the irregular procurement process for a Covid-19 Door to Door campaign. 1 service provider was awarded a contract to the value of R4.8 million.
- **Amatole Water Board:** an allegation was received on 24 July 2020 in respect of the irregular procurement process for the distribution and installation of water tanks. 36 service providers were awarded contracts to the value of R53.7 million.
- **Nelson Mandela Metropolitan Municipality:** an allegation was received on 26 August 2020 in respect of the irregular procurement process for infrastructure projects. 1 service provider was awarded a contract to the value of R24.6 million.

EASTERN CAPE PROVINCE

- **Department of Public Works and Infrastructure:** an allegation was received on 24 August 2020 in of fraud and fronting in respect of the renovations of four buildings at the Dora Nginza Hospital at a cost of R33 million. No irregularities were found and the service provider had complied with all tender conditions.
- **Department of Public Works and Infrastructure:** an allegation was received on 31 August 2020 in respect of a contract for the supply of PPE goods and services that was awarded to a deceased person. The SIU found that the newspaper has incorrectly referred to the deceased person's company as having received the tender in question and that no tender had in fact been awarded.

FREE STATE PROVINCE

- **Provincial Treasury:** allegations were received on 5 August 2020 and 17 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services.
- 7 service providers received contracts to the value of R26.8 million.
- In 4 of the matters it was alleged that contracts were awarded because of the service providers' close relationship with a domestic prominent influential person, however these allegations were unfounded.

KWAZULU-NATAL PROVINCE

- **Department of Education:** an allegation was received on 30 July 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 18 service providers received contracts to the value of R6.5 million.
- **Department of Education:** an allegation was received on 20 September 2020 in respect of the irregular procurement process for the supply, delivery and installation of water tanks. It was alleged that 41 000 water tanks were procured at a cost of R28 000 per tank. The total cost was therefore R1 148 000 000. The matter has been referred to the SIU National Team because the procurement was centralized under the National Disaster Water Command Centre.
- **Department of Social Development:** an allegation was received on 30 July 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 16 service providers received contracts to the value of R21.2 million.
- **Department of Social Development:** an allegation was received on 30 July 2020 in respect of the irregular procurement of 48 000 blankets. 4 service providers received contracts to the value of R22.4 million.

LIMPOPO PROVINCE

- **Sekhukhune District Municipality:** an allegation was received on 9 July 2020 in respect of the irregular procurement of services for boreholes and water supply. 8 service providers received contracts to the value of R26.3 million. The municipality secured an interim order on 21 July 2020 from the Limpopo High Court to set aside their appointment letters.
- **Department of Health:** an allegation was received on 19 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 1 service provider received a contract to the value of R16 million. The SIU investigation found no irregularities and the service providers was licensed by SAHPRA to supply medical devices.

MPUMULANGA PROVINCE

- **Provincial Treasury:** the allegations emanate from a media report dated 19 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 7 service providers received contracts to the value of R555 813. The SIU investigation found no contraventions of Treasury regulations of the PFMA, that proper procurement processes had been followed and that prices had not been inflated.
- **MPU Parks and Tourism Agency:** the allegations emanate from a media report dated 19 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 4 service provider received contracts to the value of R61 980. The SIU investigation found no contraventions of Treasury regulations of the PFMA and that proper procurement processes had been followed.
- **Office of the Premier:** The SIU conducted a desktop analysis in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 7 service provider received contracts to the value of R113 079. The SIU investigation found no contraventions of Treasury regulations of the PFMA and that proper procurement processes had been followed

NORTHERN CAPE PROVINCE

- **South African Police Services:** an allegation was received on 30 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services.
- It was alleged that 1 service provider received a contract to the value of R13 million because of the service providers' close relationship with a domestic prominent influential person.
- The service provider failed to supply the PPE and SAPS cancelled the contract and no payments were made.

NORTH WEST PROVINCE

- **JB Marks Local Municipality:** an allegation was received on 14 August 2020 in respect of a donation that was made for the disaster hunger relief. The value of the donation was R1.2 million.
- **JB Marks Local Municipality:** an allegation was received on 14 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 3 service providers received contracts to the value of R3.2 million. In all 3 matters the State Attorney has been instructed and counsel briefed to initiate proceedings for setting aside the contracts.
- **Ratlou Local Municipality:** an allegation was received on 17 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 3 service providers received contracts to the value of R79 133. In 1 matter the SIU investigation found that the supplier had not overcharged the Municipality.
- **Department of Health:** an allegation was received on 18 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. It was alleged that 2 service providers received contracts to the value of R8.5 million. The SIU investigation found 1 service provider did not tender for any PPE contracts and there were no irregularities with the procurement process in respect of the contract awarded to the other service provider.
- **Ramotshere Moilwa Local Municipality:** an allegation was received on 22 September 2020 in respect of food parcel contributions for person gain. The SIU was unable to substantiate the allegation because the whistleblower failed to provide any information in support of the allegation. As such, the SIU was not in a position to conclude a proper assessment of the matter against the jurisdictional requirements of section 2(2) of the Act as read with the terms of reference for Proclamation R23 of 2020.

WESTERN CAPE PROVINCE

- **Department of Health:** an allegation was received on 6 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 1 service provider received a contract to the value of R9.9 million. The SIU investigation found no irregularities but recommendations were made to inform them of systemic weaknesses that had been identified.
- **Department of Environmental Affairs and Development and Planning:** an allegation was received on 13 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 1 service provider received a contract to the value of R8 910. The SIU investigation found no irregularities.
- **Office of the Premier:** an allegation was received on 13 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 1 service provider received a contract to the value of R216 000. The SIU investigation found no irregularities.
- **Department of Education:** an allegation was received on 13 August 2020 in respect of the irregular procurement of and contracting for the supply of PPE related goods and services. 1 service provider received a contract to the value of R73.7 million. The SIU investigation found no irregularities.

CONCLUSION

- While the investigations are still underway and we continue to submit reports to the President, we continue to execute on the outcomes and follow up on the referrals to ensure that there is consequence management. We are focusing on ensuring that there is accountability at all levels of the administration including executive authority accountability.
- Our collaboration and cooperation with other agencies in the Fusion Centre has proved valuable.
- The NPA has provided prosecutors to guide criminal investigations and will prioritize consideration to the matters referred.
- The ST has proved to be of critical importance speed up the civil litigation instituted by the SIU. We will take all steps necessary to ensure that losses suffered due to irregularities, corruption and maladministration are recovered and returned to the state.



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