Response to the allegations on the leasing of the NSFAS new premises.

Background:

On 15 February 2023, NSFAS became aware of a letter which was drafted by Mr Bantu Holomisa, MP (President of the United Democratic Movement) which was addressed to the Head of the Directorate for Priority Crime and Investigation and the Head of the Special Investigation Unit of South Africa.

The contents of the letter alluded to allegations of the following:

- 1) Wasteful expenditure on office rentals, for unoccupied rental space.
- 2) Significant increase in rental from the previous lease agreement to the current lease agreement.
- 3) Wasteful expenditure on the fit out of the new leased premises.
- 4) Tender fronting as the owner of the building is overseas, however the tender was awarded to a local based service provider.
- 5) Approval of the lease variation order of R15m
- 6) The request to extend the lease for a further period.

Objective:

The objective of this write up is to primarily respond to the respective allegations, however at the same time, provide detailed context to the matter of the office move, which shall include the previous office space and the need for a new leased premises, the procurement process followed, the negotiations performed in concluding the lease agreement, the need for the lease variation orders, and the utilization of the leased premises to date. This will address the allegations and provide justifiable evidence that the allegations are unfounded and unwarranted.

Information on the previous office leased premises:

NSFAS occupied the previous leased premises, which was located at 10 Brodie Road, Wynberg, Cape Town, for a significant number of years. The initial lease period expired in February 2017. During the 2016 financial year, NSFAS embarked on the tender process for a new office space, however the process was cancelled due to the unaffordability of the bid prices as outlined in the bid proposals received.

It was then at that time, that NSFAS requested a lease extension for a period of five (5) years from National Treasury for approval. The approval had been granted to NSFAS, and thus NSFAS extended the lease in Wynberg for a period commencing 1 March 2017 to 28 February 2022.

The premises as located in Wynberg presented a number of challenges, which is outlined below:

- Location was based in a predominately residential area, which was not central and easily accessible to the public.
- It was not based in the City Centre, which would be easily accessible to the student population and other stakeholders.

- There was limited parking available, and most staff had to park in the nearby roads, of which there a number of incidents of car break-ins/damages.
- The staff did not feel that they were safe as it was situated next to a taxi rank, where a number of robberies occurred, and drug usage was apparent.
- The space planning and layout of the premises was not fit for purpose as staff did not have freedom of movement due to limited space, a lack of meeting rooms, a lack ablution facilities, and outdated ICT infrastructure.

The above factors had a significant impact on the rental value of the premises, and rate per square meter.

The total leased size was equivalent to 3,883 square meters, at a rate per square meter of R141 (VAT included). The premises had a total number of 84 parking bays at a rate per parking bay of R658 (VAT included). As Wynberg is a residential area, and not commercial based, coupled with the fact that the building condition is aged, the rate per square meter was below market value.

The total monthly lease fee had NSFAS stayed at the Wynberg premises is equivalent to R603,000 (VAT included), with an escalation rate of 8.5% per annum.

The procurement process followed for the new leased premises:

As the Wynberg lease was expiring at the end of February 2022, it was imperative that NSFAS follow the principles of section 217 of the Constitution of South Africa, in that a formal procurement process be embarked on to ensure that NSFAS be competitive, transparent and that value for money is achieved. In addition, NSFAS had already sought approval from National Treasury in 2017 for the 5-year lease extension (on the basis of an unsuccessful tender process), and it would not want to seek another extension approval as this would be deemed as poor planning and would be classified as irregular expenditure.

Accordingly, NSFAS resolution was to advertise their property lease requirements to the market through a formal tender process.

In developing the bid specifications, it was imperative to address the challenges and limitations experienced of the Wynberg leased premises. During this time, COVID-19 cases were on the decline, however the importance of social distancing was key, noting that the Wynberg leased premises was not COVID-19 compliant, due to the spacing arrangements.

Accordingly, the specifications focused on the following:

- The increased office space of 8,000 square meters, which shall address the COVID-19 spacing requirements, and address the availability of office space for envisioned redesign of the organizational structure (which was a key initiative by the NSFAS Board).
- The increased number of parking bays to a minimum of 100 to ensure that more staff have access to use their vehicles to travel to work, due to the public transport instability and safety matters.
- Improved access control, ablution facilities, ICT infrastructure, HVAC services, network connectivity, public accessibility, security controlled, amongst others.

The specifications further did not want to limit the prospective bidders to owners only, but as the rental market is understood, rentals are managed by agents, and thus the bid document allowed

for agents acting on behalf of the owners would further be in a position to bid, which upheld the principles of fairness.

Outlined below is the timeline of key events during the tender process:

Date	Activity		
14 July 2021	Approval of the bid specifications by the bid specification committee (BSC).		
23 July 2021	Advertisement of the tender on the NSFAS website and NT E-tender portal		
27 August 2021	Closing date of the tender noting eight (8) bid proposals received		
27 August 2021	Opening tender register uploaded on the NSFAS website		
1 September 2021	Bid evaluation committee (BEC) meeting- evaluation of the bid proposals received		
7 to 8 September	Cita visita narfarmad by DEC		
2021	Site visits performed by BEC		
13 September 2021	BEC recommendation report finalised and signed		
11 October 20221	Bid adjudication committee (BAC) meeting		
19-20 October 2021	Site visits performed by the BAC		
26 October 2021	BAC final meeting and signing of BAC adjudication report		
16 November 2021	Site visit performed by CEO		
29 November 2021	External due diligence report received on procurement process followed		
1 December 2021	Board approval of the tender award to Dynamic SA		
2 December 2021	Letter of award issued and signed by Dynamic SA		

Summary of the evaluation process:

Of the eight (8) bid proposals received, seven (7) bids did not achieve the mandatory requirements of the tender, whereas only (1) did, and thus proceeded to be evaluated on functionality. The bidder (Dynamic SA) who passed the functionality requirements was then further evaluated on the 90/10 Price and BBB-EE evaluation, of which was presented to the NSFAS Board for approval, which was approved on 1 December 2021.

No.	Name of Bidder	Reason for disqualification	
1.	Bidder 1	The bidder did not achieve mandatory requirements 3.4,3.5,3.6 and 3.7 as they did not submit the following: - Municipal certificate for the premises - Fire compliance certificate - Plumbing certificate - Structural certificate of compliance	

No.	Name of Bidder	Reason for disqualification	
2.	Bidder 2	The bidder did not achieve mandatory requirement 3.8 as they did not submit the following:	
		 Evidence of risk insurance schedule covering the entirety of the building. 	
3.	Bidder 3	The bidder did not achieve mandatory requirements 3.2,3.4,3.6,3.8 and 3.9 as they did not submit the following:	
		 Municipal certificate for the premises Building zoning certificate Plumbing certificate Evidence of risk insurance schedule covering the 	
		entirety of the building. - An approved floor plan for a minimum of 8,000 square meters as the building floor plan equated to 4,803 square meters.	
4.	Bidder 4	The bidder did not achieve mandatory requirements 3.2,3.3,3.4,3.5,3.6,3.7,3.8 and 3.9 as they did not submit the following:	
		 Municipal certificate for the premises Building zoning certificate Electrical compliance certificate Fire compliance certificate Plumbing certificate Structural certificate of compliance 	
		 Evidence of risk insurance schedule covering the entirety of the building. An approved floor plan for a minimum of 8,000 square meters 	
5.	Bidder 5	The bidder did not achieve mandatory requirements 3.5 and 3.7 as they did not submit the following:	
		Fire compliance certificateStructural certificate of compliance	
6.	Bidder 6	The bidder did not achieve mandatory requirements 3.2,3.3,3.7 and 3.8 as they did not submit the following:	
		 Building zoning certificate Electrical compliance certificate Structural certificate of compliance Evidence of risk insurance schedule covering the entirety of the building. 	
7.	Bidder 7	During the site inspection performed, the following was identified:	

No.	Name of Bidder	Reason for disqualification	
		The building offered has three (3) floors, each with a floor size of 2,844 square meters, which totals 8.532 square meters. The 1st floor is <u>currently occupied by the landlord</u> as a call centre and is currently set up as such. The bidder indicated at the site visit that the 2nd and 3rd floors are not occupied and are readily available This equates to 5,688 square meters.	
		The 1st floor is currently occupied by the landlord but would be made available to NSFAS as it was part of the bid proposal. This 1st floor however would not be readily available by 1 December 2021 as per the bid document requirements as the bidder would require a minimum period of three (3) months to find an alternative premise, relocate and then white box the floor.	
		This was not informed to the BEC during the site visit conducted by the BEC, but only informed at the BAC site visit. The fit out of this 1st floor would then only commence after the completion of the three (3) months. In addition, it was stated by the bidder that it would be impossible to commence the fit out of the 2nd and 3rd floor in December and January and accordingly the fit out would most likely only commence in mid-January 2022. Accordingly, the bidder was disqualified as it did not meet the minimum tender requirements of 8,000 square meters available.	

The key highlights of the proposal of Dynamic SA, in addition to them achieving the tender conditions were as follows:

Location:

The building is located at 4 Christiaan Barnard Street, City Centre, Cape Town. The building is located within proximity to all public transport facilities such as the city taxi rank, train station and bus station which links to all areas of Cape Town. There are retail stores and other amenities within proximity, and a Seattle Coffee on the ground floor of the building. The building is located next to Christiaan Barnard Hospital.

Accessibility and size

The building offered has 21 floors, with the proposal being offered of the 16^{th,} 17th, 18th,19th and 21st floor, which totals 8,381 square meters. All five floors are similar in nature and set up with an average floor space of 1,677 square meters.

The first 12 floors are currently parking bays as there are over 600 parking bays available. The entire building is 21,000 square meters in size. The 22nd, 23rd and 24th floor is apartment space, while floors 13, 14 and 15 are currently occupied by an audit firm KPMG. Additional office space can be provided on the ground floor for a student walk-in-centre, if required.

The building has five (5) compliant lifts alongside each other. There is only one (1) male and one (1) female bathroom. Each bathroom however has adequate ablution facilities. The building is in currently in an excellent condition with no notable defects identified. The building is new, as it was built in 2015. All five (5) floors included in the bid proposal is currently white boxed, therefore it is readily available for the fit out to commence. It will thus alleviate any time pressure as the white-boxing process has already been completed.

Parking:

Dynamic SA can offer over 150 single bay parking bays in an access-controlled basement. Additional parking can be made available on request.

Security:

The building has 24*7 physical security guards on site, and NSFAS will not be required to contract additional security which will be a cost saving in this regard. CCTV surveillance systems are in place to monitor all entrance and exist points. A building access control system has already been installed.

Network and connectivity:

The existing infrastructure is DFA with complete fibre requirements achieved. This achieves NSFAS requirements.

Other key points:

The building has compliant 800KVA generator in place. It currently has HVAC (aircon) installations, and has the required fire alarms, heat, and smoke detectors.

The rental escalation per annum is 7%. The early occupational rental for December 2021 and January 2022 is free of charge, which is a cost advantage for NSFAS. Dynamic SA indicated that should NSFAS not be ready for the commencement of the relocation from December 2021, this would be fine, and no cost shall be billed to NSFAS. In addition, a conference centre is currently being constructed in the same road whereby NSFAS can have access to for any hosting of conferences.

The Dynamic SA achieved the minimum 80% score for the site visit inspection as per the tender document requirements and proceeded to be evaluated for Price and BBB-EE on the 90/10 principle in terms of the PPPFA 2017 regulations. The Dynamic SA is a level 1 BBB-EE contributor and scored 10 points for BBB-EE and 90 points for price, thereby totaling 100 out of 100.

A space planning report was received from the appointed experts which confirmed that the property achieves the tender requirements from a space planning and building layout perspective.

The Dynamic SA pricing was as follows:

- A rate per square meter of R198.95 (VAT included), escalating at 7% per annum.
- A rate of R2,012.50 (VAT included) for a single bay escalating at 7% per annum.
- A maximum square meter premises of 8,381 square meters, with NSFAS having the option to reduce these requirements, which in turn will reduce the total fit out costs.
- The following maximum costs:

No.	Description	Dynamic SA costing
1.	Total early discounted occupational rental – December 2021 and January 2022	Free
2.	Total rental (including parking bays) 1 February 2022 to 31 January 2024 (2-year lease)	R48,916,789.76
3.	Total rental (including parking bays) 1 February 2024 to 31 January 2027 (renewable period) (3-year additional period lease)	R86,980,645.56
4.	Tenant fit out costs	R18,384,912.00
Total bid price (VAT included) for five-year lease		R154,282,347.32

The Dynamic SA had estimated that the complete fit out costs for all five (5) floors is R25,833,600 (VAT included). Their contribution (the tenant installation allowance) to this is R7,448,688 (VAT included) which is equivalent to five (5) months rental. This results in a total of R18,384,912 (VAT included) that NSFAS would be responsible for, as per the table above.

A benchmarking exercise was performed to determine whether the rate per square meter proposed by Dynamic SA is reasonable, of which the outcome is outlined in the table below:

No.	Building details	Rate per sqm (noting that the Dynamic SA rate is R198,95)	Comments
2.	4 Adderley Street, Foreshore, Town (within proximity to Dynamic SA)	R200,00	The rate per square meter approximates Dynamic SA-accept as reasonable
3.	1 Thibault – Thibault building- Town	R170,00	The rate per square meter is 16% less than Dynamic SA. The reason for this is that the Dynamic SA building is new (constructed in 2015) and NSFAS shall be the first tenants on the 5 floors, and its next to Christiaan Barnard Hospital and the My City bus stop.
4.	Clock Tower- Waterfront	R240,00	This building is 21% more expensive than Dynamic SA, mainly due to location, being the Waterfront.

Conclusion on procurement process followed:

The procurement process followed was compliant with the PFMA, National Treasury instruction notes, procurement regulations and the NSFAS SCM policy.

An independent review of the procurement process was performed by an external audit firm prior to the awarding of the contract, of which no findings were identified.

The Auditor- General of South Africa (AGSA) had concluded their audit of this tender, and found it be compliant in all aspects.

The Board in their deliberations on the tender process followed and the eventual award of the tender applied themselves, and indicated to management that the rental fees must be supported by budget availability (which was subsequently presented to the Board which indicated budget for this project). The Board further indicated that management must negotiate the lease escalation fee downwards and proceed to award the tender for the full fixed 5-year period, as opposed to the two (2) years, renewable for a further three (3) years.

The post award negotiations:

Subsequent to the awarding of the tender, but prior to the finalization of the lease agreement, NSFAS entered into negotiations with Dynamic SA, of which the outcome is below:

- The reduction in the lease escalation fee from 7% to 6.5%.

The lease variations:

Following the award of the tender, NSFAS engaged the Dynamic SA extensively, which focused on space planning requirements, ICT infrastructure requirements, building services, network connectivity, and furniture. Dynamic SA then provided a detailed budget breakdown as to how the estimated fit costs would be sent.

Based on the feedback received from Dynamic SA, and understanding of the building requirements, it was clearly evident that the initial estimated fit out costs would not be sufficient. It is at this stage, that the need for the increased fit out cost expenditure would be required through a lease variation process, which was approved by the NSFAS Board.

This is explained in detail below:

NSFAS awarded the Provision of office lease premises tender, for a period of five (5) years (SCMN015/2021) to Dynamic SA, following the NSFAS Board approval on 1 December 2021 as follows:

No.	Description	Dynamic SA costing
1.	Total early discounted occupational rental – December 2021 and January 2022	Free

No.	Description	Dynamic SA costing
2.	Total rental (including parking bays) 1 February 2022 to 31 January 2024 (2-year lease)	R48,916,789.76
3.	Total rental (including parking bays) 1 February 2024 to 31 January 2027 (renewable period)	R86,980,645.56
	(3-year additional period lease)	
4.	Tenant fit out costs	R18,384,912.00
Total bid price (VAT included) for five-year lease		R154,282,347.32

Included in the above table are the estimated fit out costs of R18,384,912 (VAT included) that NSFAS would be responsible for. Over and above this figure, the landlord proposed in their bid submission that their tenant installation allowance (their contribution to the fit-out costs) is R7,448,688 (VAT included).

In summary the estimated full fit out cost as per the bid submission that was accepted and awarded thereon, is as follows:

No.	Responsible party	Total estimated fit out costs (VAT included)
1.	NSFAS contribution	R18,384,912.00
2.	Dynamic SA (Landlord) (TI allowance) contribution	R7,448,688.00
Total estimated fit out costs		R25,833.600.00

It must be noted that NSFAS negotiated a reduced annual rental escalation rate from 7% to 6.5%, and the savings thereof would be used to provide space for the NSFAS walk-in-centre, hence the total bid price remained the same.

After the acceptance of the tender award by Dynamic SA, NSFAS had multiple engagements with the landlord, which included the following, but not limited to:

- 1) Finalization of the space planning across all five (5) floors within the building.
- 2) Finalization of the space planning and layout of the NSFAS walk-in-centre on ground floor of the building.
- 3) Evaluation and assessment of the materials proposed for the interior.
- 4) Receipt and assessment of the full bill of quantities that comprise activities such as construction, building services, IT infrastructure, furniture, and fittings.

The fit-out costs as per the bid submission was an estimation, however an accurate quantum could only be established once the space planning and the linked bill of quantities was done in full, which incorporated the following:

- The structure, layout, and design of the respective floors, including the office requirements (offices, meeting rooms, training rooms, board rooms, server rooms, storage rooms, kitchens, bathrooms, allowance for people with disabilities, walk-in-centre, bathrooms, and kitchens, etc.).
- ICT infrastructure requirements such as, but not limited to data and network cabling, patches and points, server room infrastructure requirements, security access control and CCTV cameras, AV solutions and SOC.
- Building service requirements such as, but not limited to fire compliance, electrical connections and UPS and HVAC.
- Equipment requirements such as, but not limited to office furniture, joinery, signage, appliances, canteen requirements.
- Construction requirements such as, but not limited to plumbing, exterior window treatment, flooring, painting, doors, glass partitioning, dry walling, general partitioning.

As outlined above, the total combined (landlord and tenant) fit out costs is R25,833.600 (VAT included). Although Dynamic SA was the only acceptable tender, and hence the successful bidder, these costs were compared to the other bidders who were disqualified for not achieving the tender requirements, whereby it was noted that these fit out cost ranges were similar in nature.

It would then be reasonable to conclude that all bidders generally did not fully cater for a full fit out solution and was estimated (which is understood given the above reasoning), although this was required by NSFAS by including the line item in the pricing schedule "fit out costs".

The advertised bid document did state that the full fit out must be performed by the successful bidder and that NSFAS will reimburse the provider.

"The landlord must be willing to undertake all refurbishments on behalf of NSFAS. NSFAS will reimburse the landlord for all costs negotiated less any tenant installation allowance provided. The refurbishments will form part of the final lease agreement signed."

Accordingly, this is not a scope variation, but rather a price variation.

Upon receipt of the full bill of quantities in the recent engagements, the landlord proposed an additional fit out cost in the region which were higher than the final amount of R23.1 million which was negotiated based on what is permissible in terms of the legislative prescripts, detailed below.

The new fit out cost split is as follows:

No.	Responsible party	Total estimated fit out costs (VAT included)
1.	NSFAS initial contribution (as per bid award)	R18,384,912.00
2.	NSFAS additional contribution	R23,140,539.88
3.	Dynamic SA (Landlord) (TI allowance) contribution as per bid award	R10,898,688.00
Total final fit out costs		R52,424,139.88

The original fit out costs of R18,384,912 (VAT included) and additional R23,140,539.88 (VAT included) is summarized as follows:

No.	Description	Initial fit out costs as per bid submission (VAT included) for NSFAS account	Total additional fit out costs (VAT included) for NSFAS account
1.	Construction and plumbing	R15,590,874.72	R2,794,710.64
2.	Building services	R10,242,725.28	R1,836,038.95
3.	IT infrastructure	R0.00	R5,504,607.13
4.	Furniture	R0.00	R12,934,746.69
5.	Finishes and joinery	R0.00	R3,520,436.47
6.	Less: Landlord contribution	(R7,448,688.00)	(R3,450,000.00)
Total		R18,384,912.00	R23,140,539.88

The specifications of the categories of the fit out was thoroughly assessed, which resulted in NSFAS opting for only key requirements. This together with the assessment of the samples received of the key fit out items resulted in NSFAS opting for items that achieve longevity and an acceptable quality level. The proposed space intends on achieving the following:

- A professional design and structural layout which incorporates the required social distancing elements.
- A consistent themed office equipment with related furniture and fittings which is in a good condition.
- Full access control with the necessary security features, including a cyber security (SOC) area setup.
- The required ICT infrastructure and server facilities.

By utilizing the landlord and their appointed contractors to provide the full fit out requirements, time efficiency would be achieved.

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The fit out of the ICT infrastructure is specialized in nature, and therefore would require more than one (1) tender as a single provider would not be able to provide access control, network setup, cabling, server room build, and various other ICT related equipment. In addition, additional tenders would be required for furniture, office equipment, joinery, and similar items.

The average procurement process (timeframe from specifications drafting to award) timeframe ranges between three (3) to four (4) months, and over and above this would be timeframes for the ordering, delivery, set up and configuration, along with project management activities, which may add up to over two (2) months, dependent on stock availability.

The above alternative approach would result in the office move being delayed, considering that the previous lease expired on 28 February 2022. The tender requirements do state all refurbishments must be carried out by the successful service provider.

The contract extensions (variations) were concluded in accordance with Note 3 of 2016/2017 and NT instruction note 3 of 2021/2022 and approved by the NSFAS Board.

The fit-out cost per square meter equates to R4,900 per square meter which is acceptable. A high-level analysis was performed which indicated that the average fit out cost per square meter within the Cape Town CBD area is in excess of R6,000 per square meter. Most recent developments in the private sector ranges between R10,000 and R15,000 per square meter.

Other important points:

NSFAS can confidently state that there has been no wasteful expenditure, as all fit out cost expenditure has been paid for valid goods delivered, which is supported by a detailed breakdown of where the costs have been spent. The costs spent have been capitalized as these are now assets for the organisation, which are presented in the NSFAS annual financial statements, which are subject to audit.

It must be noted that the Board approved the new organisational structure, which was used as the basis for the space planning and layout of the office. This new headcount totaled 425 employees. The current occupied staff is 342. The office space is currently set up and designed to fully occupy all 425 staff, and accordingly once the vacancies have been filled, the staff will be provided with the necessary office space to perform their job functions.

NSFAS must further state that the Wynberg lease expired on 28 February 2022, and NSFAS commenced occupying the premises in a staggered manner, from February 2022 onwards. There was great urgency on the side of NSFAS for the new office space to be readily available, and this had to be balanced with a return to office strategy.

As with any fit-out project, there will be delays, in relation to building services, procurement of the required items, which was out of the control of NSFAS due to various reasons (such as ETA on deliveries due to lack of supply). Accordingly, NSFAS had a strategy whereby of the five (5) floors, that staff will return as each floor fit out is ready and complete and fit for purpose. There was not a moment when no construction was occurring, and NSFAS made every effort to ensure that these are monitored and had regular progress meetings with the Dynamic SA and the landlord.

The landlord arranged with the Rockefeller hotel for the CEO and other executives to temporarily occupy space for free. It must be reiterated that NSFAS paid no monies for this space.

The 1st of the five (5) floors was ready during March 2022, and all executives and senior managers occupied this space, as NSFAS wanted the staff back at offices.

It is acknowledged that NSFAS paid full rental from March 2022 onwards, however not all five (5) floors were ready for occupancy at this time, however NSFAS is bound by the contractual obligations of the lease and for months that was paid where no occupancy was taken, extensive work has been performed on these floors to complete the fit out of the floors. Accordingly, no wasteful expenditure was incurred.

The lease tender was subjected to audit by the Auditor-General of South Africa, of which no audit findings were identified, and it was found to be compliant in all aspects.

As part of the SIU investigation, the SIU have requested all documentation pertaining to this tender and contract, of which has been submitted to them, and NSFAS has had engagements with them on this matter, and remains fully committed and displays full co-operation with them,

Conclusion:

In conclusion, the property lease tender was compliant in all aspects. NSFAS followed a procurement process for the appointment of Dynamic SA and all monies paid are linked to actual deliverables. In the view of NSFAS, the allegations made by Mr Bantu Holomisa are unfound and unwarranted.