

## **PUBLIC SERVICE ACCOUNTABILITY MONITOR SUBMISSION ON THE 2023 APPROPRIATION BILL**

SUBMITTED TO THE SELECT COMMITTEE ON APPROPRIATION, NATIONAL COUNCIL OF PROVINCES

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Submitted by:

**The Public Service Accountability Monitor (PSAM)**

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### **ABOUT THE PUBLIC SERVICE ACCOUNTABILITY MONITOR**

The Public Service Accountability Monitor (PSAM) was established in 1999 and works across six African countries; South Africa, Zimbabwe, Tanzania, Zambia, Malawi and Mozambique. Our aim is to contribute to addressing particular societal problems originating from systemic public resource management (PRM) failures. We acknowledge the complexity of societal problems and that they often interrelate and impact upon the realization of human rights. We also acknowledge the importance of broader institutional and systemic reforms.

The PSAM forms part of the School of Journalism and Media Studies at Rhodes University, Grahamstown, South Africa. PSAM's activities include research, monitoring, advocacy and capacity building. Working throughout Southern Africa, PSAM generates and shares knowledge about social accountability and the monitoring and advocacy tools that can build more open, participatory and accountable government. Social accountability places an explicit duty on members of the executive arm of governments, public officials and private service providers to justify their decisions and performance regarding the manner in which their use of public resources has affected the progressive realisation of socio-economic rights.

## SUBMISSION SUMMARY

Nearly three decades into South Africa's democratic era, much has been achieved in alignment with one of the most progressive bill of rights in the world. However many black people in particular are still without adequate housing or sanitation, access to quality healthcare or education. In addition to weak governance and public administration, misuse of public funds constitutes as serious threat to the progressive realisation of human rights and optimal service delivery. Fighting corruption and enhancing governance and accountability should therefore be the core to realising sustainable and inclusive development and building a capable and developmental state. While we are encouraged by the increased resources allocation to institutions established to prevent and eradicate corruption, provide oversight to procurement, manage the country's finances and support constitutional development, there remain significant funding challenges as highlighted in this submission.

**I. Finding:** A number of challenges are highlighted within the Department of Justice and Constitutional Development (DoJCD), which plays a key oversight role as the department in which several crime and corruption fighting entities are located. These include poor internal controls, slow recruitment leading to persistent vacancies, and poor contract and supply chain management, leading to delays in the procurement of goods and services, and underspending.

**Recommendation:** We would like to encourage the Committee to interrogate this further with sector department to determine what measures are in place to resolve persistent challenges reported in annual reports and performance plans.

**II. Finding:** Increased allocations to the National Prosecuting Authority (NPA) has enabled the institution to fill vacancies and take important steps to rebuild capacity, however, performance has not improved significantly and coordination with other departments remains an issue, resulting in outstanding cases, and low conviction rates. Performance targets appear to have been reduced over the MTEF, which is concerning given the increased budget allocation, as requested.

**Recommendation:** We urge the Committee to review past performance, and targets over the MTEF and seek an explanation from the NPA to understand the reasoning for the reduction, and what measures are in place to improve outcomes to ensure corrective actions are implemented, deter corrupt behaviour through appropriate consequence management and restore public trust.

**III. Finding:** The Special Investigating Unit (SIU) funding model and growing debt from departments and entities under investigation is a threat to the sustainability of the SIU, which has, to date, performed relatively well in its mandate.

**Recommendation:** We urge the Committee to interrogate progress on the review of the SIU funding model to be reviewed and compel Treasury to ensure that the SIU is fully funded and able to deliver on its mandate. Given underspending and poor performance of programmes within DoJCD, it could be preferable to reallocate funds to SIU.

**IV. Finding:** The National Anti-Corruption Advisory Council (NACAC) appears to be funded from Criminal Assets Recovery Account (CARA) and it is unclear how funds are allocated or spent, and it appears that some funds allocated, have not yet been spent. NACAC plays an important role in

supporting further development of the National Anti-Corruption Strategy (NACS) and establishment of a permanent body. The funding arrangements should be transparent, and funds allocated should be used to ensure coordination and implementation of the NACS.

**Recommendation:** We recommend that the NACAC receive adequate funding from the fiscus to ensure sustainability.

**V. Finding:** Given that numerous stakeholders are involved in anti-corruption efforts, and weaknesses or performance challenges in one entity can impact overall outcomes, it is critical that these entities work collaboratively to improve the efficient use of resources and secure better outcomes.

**Recommendation:** We urge the committee to follow up with these entities to find out whether the MoU has been concluded and find out what terms have been agreed, and to determine what role existing and proposed mechanisms will play in ensuring better coordination.

This submission is structured as follows:

1. Introduction
2. Brief overview of key frameworks
3. Performance and resourcing of key institutions and departments
4. Coordination
5. Summary of key findings and recommendations

In past submissions, we have included extensive detail on the impacts and implications of corruption and weak procurement systems. Here we assume that, while the extent of corruption and the cost may still be unknown, the impacts are becoming clear for all to see, from the state of local government, public infrastructure, health and education systems, water services and electricity. It is time to treat the matter with the urgency it requires.

## INTRODUCTION

Corruption poses a significant threat to our democracy and has detrimental effects on various aspects such as service delivery, human and socio-economic development, job creation, public trust in government, and investor confidence. Efforts to fight crime and corruption were a prominent theme in the 2023 Budget Speech. It is encouraging that this year the state followed through on commitments made in 2022 regarding increases in the allocation to key institutions tasked with fighting corruption.

Chapter 14 of the [National Development Plan](#) established the goal for *a South Africa that has zero tolerance for corruption by 2030, recognising that fighting corruption requires an anti-corruption system that is well-resourced, operates freely from political interference and has the support of citizens.*<sup>1</sup>

Extensive research has been produced on the topic of corruption and several plans and strategies have been developed to address the issue. A number of state institutions have been established to ensure compliance with key regulatory frameworks that govern public resource management and aim to prevent corruption, fraud and misuse of public funds.

This submission considers three recent frameworks that have been developed to address current issues around corruption:

- National Anti-Corruption Strategy (NACS)
- Procurement Bill
- Zondo Recommendations

There is increasing recognition of the very close link between corruption and procurement, as highlighted by evidence presented during the State Capture Enquiry and various other cases uncovered by the media, and state monitoring and enforcement agencies.

The NACS process started in 2018 and the draft strategy was published in 2020. The most recent iteration of the Draft public Procurement Bill was published for comment in 2020. After several delays it was recently announced that the Bill has been approved by cabinet and will be tabled in Parliament soon.

The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State. (The 'Zondo Commission') ran from 2018 to 2022, with the final report and recommendations released in June 2022. The president has accepted the report and committed to implementing the recommendations.

Although it is evident that implementing Commission findings and proclaiming the Procurement Act are by their nature complex processes, and that due process must be followed, South Africans are becoming increasingly impatient. This brief considers recent resourcing and performance trends for some of the key institutions tasked with implementing some or all aspects of the 3 key anti-corruption frameworks. The difficulty in analysing performance overall is that a number of state actors

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<sup>1</sup> Page 447

collectively contribute to outcomes, and failure in institution can have “knock-on” effects in other areas.

It does not seem that a budget or resourcing plan has been developed as part of implementation plans, making it impossible to compare performance against commitments. From past work in accountability monitoring, and from a review of available documents, we assume the following to be key areas requiring financial resources for implementation:

- Funding allocations for new institutional arrangements including the anti-corruption forum, procurement regulator which will be required for human resources, IT equipment and software, specialised equipment, office accommodation and general operations (travel, stationery, HR, SCM, administration etc).
- Additional funding for existing institutions who have not performed well in the past and will likely be required to undertake additional work in order to implement plans and recommendations. This will include filling vacancies, acquiring new skills, improving systems, upgraded IT equipment and specialised software and equipment.
- Additional funding to finalise the plans and strategies and undertake the necessary processes to finalise, including public education and change management and ensure coordination between stakeholders.

## EXISTING FRAMEWORKS

While there are a number of frameworks including department specific strategies, and anti-corruption strategies for local government and specific departments and entities, this submission focuses on what we consider to be the main current frameworks being pursued to resolved corruption and procurement related issues.

### **National Anti-Corruption Strategy (NACS)**

The National Anti-Corruption Strategy (NACS) is intended to serve as a guide for government, the business sector and civil society organisations, to help coordinate and support their efforts to reduce corruption.

The document currently available online includes extracts from the implementation plan (which includes some detail on key outcomes, activities and key role players), however, the authors of this submission were unable to locate a detailed implementation plan. Considerations for long term arrangements are described in the NACS, which calls for the establishment of an independent, constitutionally entrenched state entity that will report to parliament. It is unclear how this relates to existing institutions or coordinating structures, like the Anti-Corruption Task Team (ACTT).

Since 2000, South African government has adopted a multi-agency model for fighting corruption, with the National Anti-corruption forum (comprised of government, business and CSO, established in 2001) and the Anti-Corruption Task Team, established in 2010, and consisting mostly of law enforcement agencies.

According to the NACS, the ACTT has not functioned properly partly due to the impacts of state capture and the broadened scope of responsibilities, without sufficient resources. The intention is to review and align this to the NACS, but it is not explicitly clear what this means, or how it will be done.

The NACS anticipated that it could take up to two years before a permanent body could be in place and established the National Anti-Corruption Advisory Council. The funding arrangements for the NACAC are not very clear, although there are some details in the SIU budget that indicate that the funding is being sourced from the Criminal Assets Recovery Account (CARA)<sup>2</sup>, distributed and managed by SIU.

### **Zondo Commission recommendations**

A number of recommendations emerged from the Zondo Commission of Enquiry. This submission focuses on 10 key recommendations related to public procurement:

1. Create a National Charter Against Corruption in Public Procurement
2. Establish an independent anti-corruption agency to act as a watchdog in public procurement
3. Legislation to protect whistle blowers must be introduced and be upheld
4. Deferred prosecution agreements should be enacted to encourage collaboration
5. Legislation should enact a body that governs how professionals in public procurement should behave
6. All public procurement entities should adopt and incorporate OECD standards of transparency and data
7. Legislation that dictates duties and responsibilities of how accounting officers act and behave should be amended to remove criminal liability
8. Anti-bribery legislation should be strengthened
9. Cash-for-tenders donations to political parties from the private sector should be outlawed
10. The 10th recommendation combines “better guidance” for public procurement officials, “harmonisation” of legislation and “centralization” of certain aspects of the procurement management.

Many of these align closely with the recommendations of the NACS, and the Procurement Bill, however, it is unclear how or whether the two frameworks have been aligned, although some of the investigating capacity from the Zondo Commission are being absorbed into the NPA.

It could be useful to request that anti-corruption stakeholders make an effort to integrate the Zondo recommendations into the NACS and procurement Bill to improve coordination and move towards simplified frameworks, rather than the existing fragmented systems that are believed to have contributed to escalation of issues.

### **Procurement Bill**

Procurement is inextricably linked to the budget process, as a large portion of the budget allocated to departments, entities and municipalities is channelled through procurement for infrastructure and goods and services required to provide services. This include government buildings, roads, hospitals,

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<sup>2</sup> CARA is a separate account in the National Revenue Fund (NRF) into which monies and property are deposited following a judicial forfeiture or confiscation order.

school textbooks, medicines and medical equipment, professional services amongst others. In 2018, National Treasury estimated that procurement spend was approximately R900 billion, a significant portion of total expenditure. A further report estimated that as much as 40% of expenditure through procurement could be wasted due to overpricing, failure to deliver goods and services, substandard work and other procurement and contract related failures.

The Auditor-General's 2020-21 Public Finance Management Act (PFMA) Audit Outcomes General Report identified and assessed the extent of "Uncompetitive or unfair procurement processes" across 383 national and provincial departments and found,

*Uncompetitive and unfair procurement processes, inadequate contract management, and non-compliance with the legislation that requires auditees to procure certain commodities from local producers remain common. There has also been little action to address the concerns we have raised year after year about contracts being awarded to employees and their families without the necessary declarations of interest being made, and about non-compliance with the legislation that prohibits department employees from doing business with the state.*

This has been evident in PSAM's own monitoring work over the years where underspending and poor performance are often attributed to delays in procurement, failure to deliver goods and services, unavailability of materials and other related matters. Very little appears to have changed, despite various reforms that have been implemented over the years.

The Procurement Bill, introduced in February for public comment has been under deliberation for some time. It was intended to introduce a single regulatory framework for all procurement, to overcome challenges related to the fragmented nature of existing frameworks and regulations. The delays have not been clearly justified, beyond failure to reach consensus on important matters.

A number of limitations in this initial draft were highlighted, some of which are outlined in this [joint submission](#), by Imali Yethu and BJC, alongside numerous submissions from other stakeholders, and while we believe that some of the inputs have been considered and affected amendments, the revised bill has not been shared, and it is unclear when it will be available.

While the PSAM is encouraged by the recent announcement that the Bill has been approved by cabinet there is still some uncertainty regarding the timeline, and content of the current Bill. When it is released, it will be important for National Treasury to share an implementation plan which includes a timeline and budget for the reconfigured system, and in particular the new institutions/entities that will be established.

Based on the earlier version of the Bill, important elements for resourcing could include:

- Establishment of the procurement regulator
- New technologies (software and equipment) to modernise the system
- Changes to procurement units in procuring entities
- Technical advisors and subject experts
- Enhanced systems for infrastructure projects including better feasibility studies and project planning, monitoring

- Procurement tribunal

## PERFORMANCE AND RESOURCING OF KEY INSTITUTIONS AND DEPARTMENTS

This section includes key departments, programmes, and subprogrammes that play a role in anti-corruption efforts or procurement reform, with a particular focus on the SIU and NPA as key enforcement entities, responsible for investigations and prosecutions related to corruption. A brief overview of historical spending and notable performance challenges are included for SAHRC, PPSA, FIC, OCPO and SARS.

The submission does not include all and important stakeholders such as SAPS, local government and other coordinating bodies are excluded for brevity, however a full analysis would be useful.

### **Department of Justice and Constitutional Development (Vote 25)**

The Department of Justice and Constitutional Development plays a critical role in crime addressing crime and corruption through its various programmes. The NPA and SIU which fall within the department play a key role in anti-corruption efforts, while the Public Protector of South Africa (PPSA) and South African Human Rights Commission (SAHRC) play an indirect role, interfacing with communities and providing additional investigative and support services to support human rights and development of the SA constitution.

The PSAM is encouraged by the NPA's acknowledgement of the need for greater autonomy of its functioning in order to address anti-corruption with a more robust mandate. However – with public sector resources constrained and financing models lacking innovation and efficacy for entities such as the SIU and NPA – this pronouncement made in the 2020 – 2025 Strategic Plan of the NPA remains questionable where implementation is concerned:

*“To strengthen its constitutional mandate, the NPA will take steps to become an independent entity within the South African government, detaching from the DoJ&CD's administrative and budget processes. This involves a thorough analysis of the legal framework and proposals for amendments that will be necessary to give effect to this. A key aspect of this work will be assessing the financial and practical implications, and the management thereof.”<sup>3</sup>*

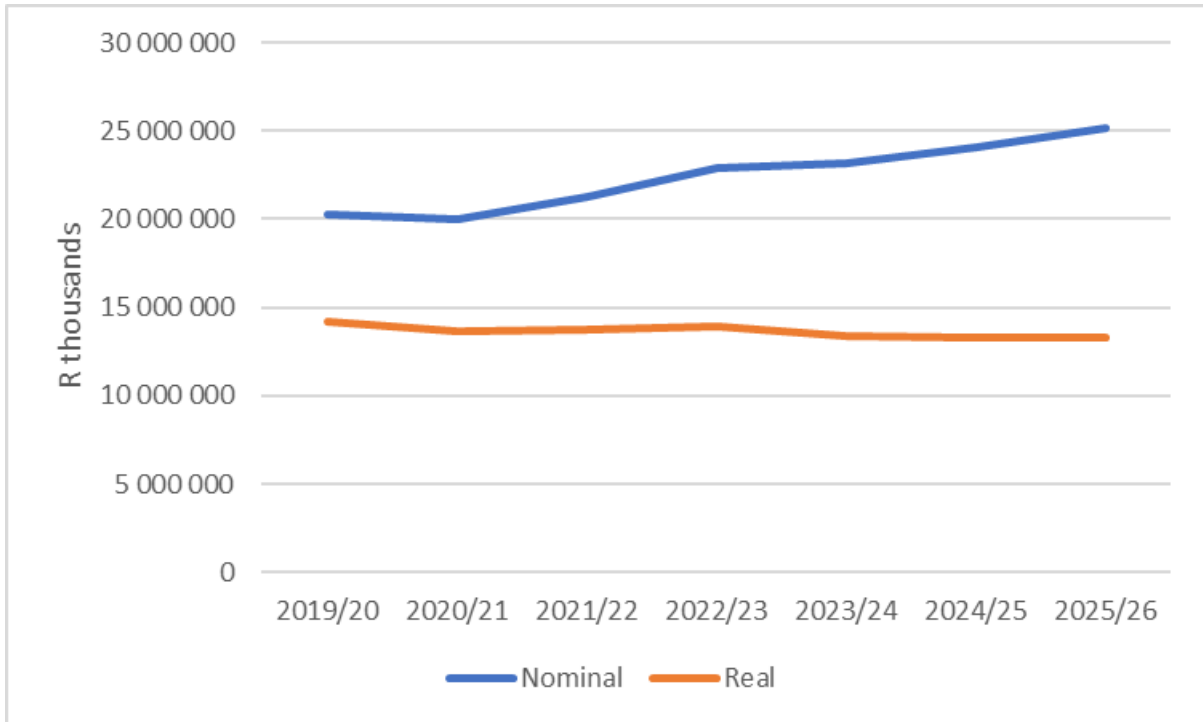
Figure 1 shows the real and nominal expenditure trends from 2019/20- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26 using 2012 as a base year for consistency with other entities which were examined from 2012/13.

**FIGURE 1: DOJCD**

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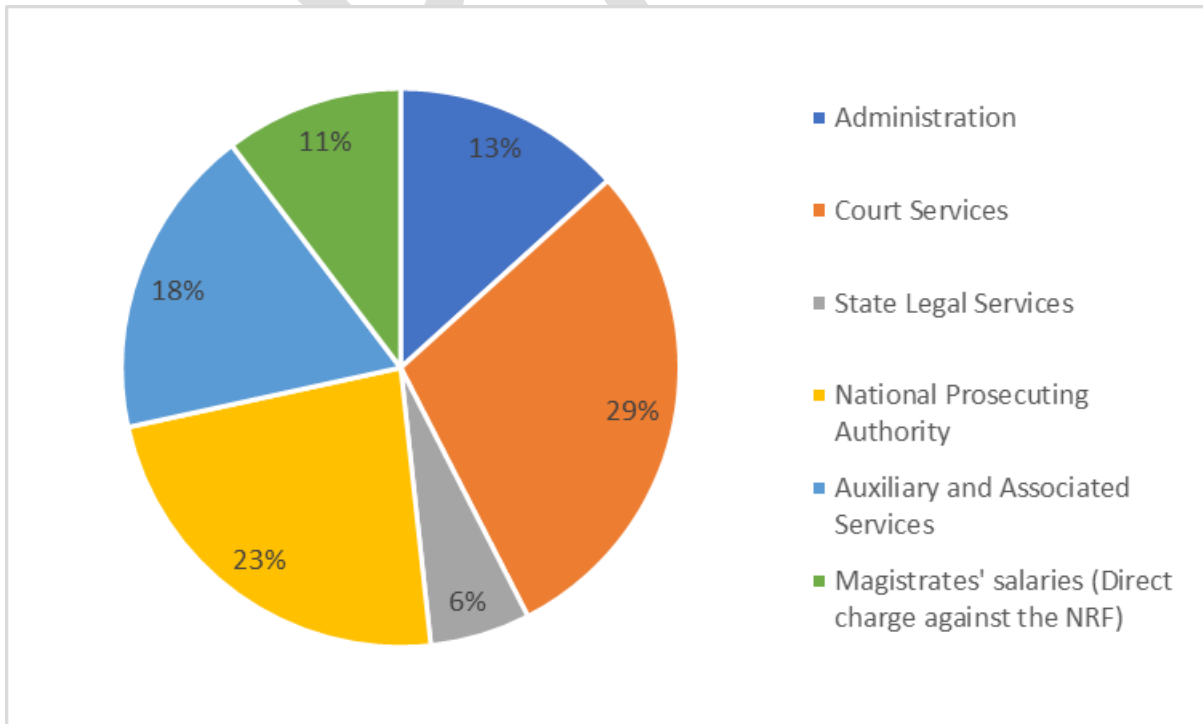




Source: [National Treasury](#), 2023

Figure 2 shows the division of the budget per programme. The NPA receives a relatively large share of the total budget, in alignment with the current objectives of the department. The SIU, PPSA and HSRC fall under “auxiliary services”, programme 5

FIGURE 2: DOJCD BUDGET DIVISION



Source: [National Treasury](#), ENE 2023

The DoJCD also plays an important oversight role for the institutions examined later in the submission. It is concerning to note however, that the department appears to have its own governance and financial management challenges.

The 2021/22 Annual Report highlighted R900 million in irregular expenditure, the majority of which was caused by non-compliance with Supply Chain Management (SCM) regulations. The SIU has been authorised to investigate certain transactions undertaken by the department between 2012/13 and 2018/19.

Further, the department reported total underspending of R630 million in 2021/22. Compensation of employees forms a large share of the total, along with Goods and Services. Payments for Capital Assets (buildings) was allocated R926 million, with a further R169 million added through shifts and virements. The budget for buildings was underspent by R56 million in 2021/22.

While there is mention of severely compromised buildings requiring refurbishment, the large allocation to buildings is questionable, given serious and persistent justice related challenges in the country (in this case, corruption, crime and gender based violence – all priorities for the department). A further argument is that expenditure on buildings can save money on rental payments, and is essential in order to professionalise the service and create a conducive and appealing work environment. It is unclear, to what extent, if at all, this expenditure meets these objectives.

In the same year, facilities management underspent its budget by R54 million. Frequent maintenance can drastically reduce the cost of rebuilding or upgrading dilapidated infrastructure.

The key institutions analysed below tended to perform better than other programmes and sub-programmes, in terms of spending and performance.

Underspending in programme 5 (where SIU, PPSA and HSRC are located) of R21 million was all attributed to the Justice Modernisation sub-programme, and related to the budget for computer services.

In almost all instances, underspending on goods & services (and capital expenditure) is attributed to delayed pin procurement, and similarly almost all instances of underspending on Compensation of Employees was attributed to delayed recruitment.

The annual reports for the entities do not seem to include the same level of detail on expenditure trends.

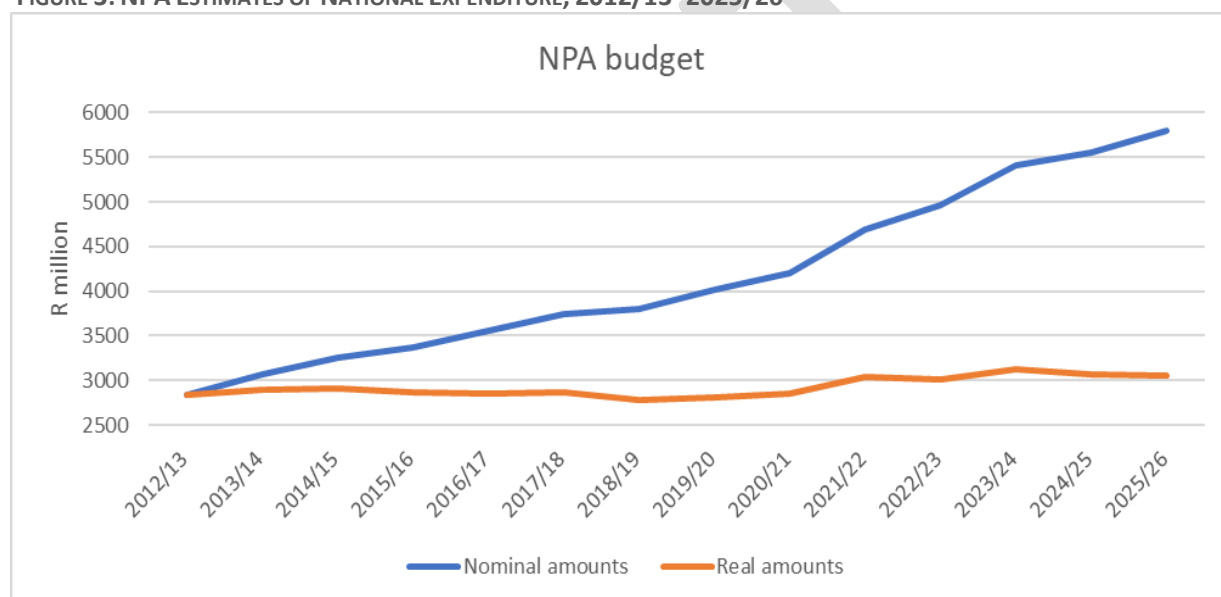
### **National Prosecuting Authority**

The National Prosecuting Authority (NPA) plays a critical role in the State's efforts to address corruption by ensuring that state capture fraud or corruption matters recommended for prosecution are enrolled in court rolls. The NPA must be adequately capacitated by ensuring that additional permanent staff with specialised skills and experience are hired, and current existing employees trained. The NPA plans strengthen its capacity to prosecute allegations of crime and corruption by

recruiting aspirant prosecutors in units such as asset forfeiture, sexual offences and priority crimes litigation, among other things.

Figure 3 shows the real and nominal expenditure trends from 2012/13- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26. Although the NPA budget has increased over the period, its real value has remained relatively flat, in slow decline up until 2018/2019, increasing thereafter at a real growth rate of 1.4%. This does allow for higher than inflation increases, which enables the department to expand its performance slightly, but possibly not to the degree required to drastically ramp up performance to meet growing demand for prosecutions emerging from the Zondo Commission recommendations, and increasing investigations initiated by whistle blowers, or identified by state institutions.

**FIGURE 3: NPA ESTIMATES OF NATIONAL EXPENDITURE, 2012/13- 2025/26**



Source: [National Treasury](#), ENE 2012- 2023

As a result of additional funding received from the fiscus in 2019, the NPA was able to fill a number of vacancies. In the 2021/22 year the NPA reported that additional capacity had been created in Specialised Commercial Crime Unit and the Investigative Directorate to respond to the surge in corruption in the country as well as preparing for the Zondo Commission reports resulting in a total permanent establishment growth of 467, of which 299 are prosecutorial positions. Further, short-term interventions to increase capacity in other units resulted in 645 contract appointments, of which 533 were prosecutorial positions.

In 2022, the NPA indicated that a further R1.2 billion would be required over the MTEF.<sup>4</sup> It is encouraging to see that the 2023 Budget has allocated R1.3 billion to the NPA, in line with their request. This is indicative of recognition of the importance of implementing the Zondo recommendations, and holding corrupt individuals to account.

<sup>4</sup> [NPA Annual Report, 2021/22](#)

There are some further promising developments in the NPA that could see improved outcomes in the future. The Investigative Directorate, established in 2019 has made significant progress towards establishing itself as a sub programme within the NPA. The ID needs to be established as SA's leading and permanent anti-corruption capacity, under the NPA Act. Not just a Proclamation as is currently the case.

Despite the progress to date, which appeared to have helped to improve trust in the NPA, the outcome of recent State Capture cases may indicate that the NPA has not yet made the necessary improvements to effectively prosecute corruption cases and it will be important to monitor performance going forward to ensure that additional funds allocated to the NPA are used effectively, and that continuous improvement is observed. Performance should be examined carefully, taking into consideration the limitations of existing measures, usually conviction rates, which fail to incorporate cases that are not enrolled. Performance should also be measured against the additional resources allocated, rather than simply comparing year on year changes.

### **Special Investigating Unit**

The primary mandate of the SIU is to investigate serious allegations of corruption, malpractice and maladministration in the administration of State institutions, State assets and public money as well as any conduct which may seriously harm the interests of the public, and to recover any financial losses suffered by State institutions through civil litigation. The SIU receives only a portion of its funding from the fiscus, while the rest is made up of revenue from charges to departments and entities for investigations. There are frequent references to the SIU Act that determines that 60% of the budget come from state transfers, PSAM could not find the specific provisions that define funding arrangements. Recent reports suggest that debt owed to SIU had reached, almost R1 billion, including R71 million owed by the DoJCD.<sup>5</sup>

According to the [2022/23 Annual Performance plan](#),

*There is a natural conflict of interests between the SIU and the State institutions particularly those that are being investigated by the SIU. Over the years, the SIU has struggled to receive payment from some of the State institutions that were investigated, and these issues complicate the relationships between the SIU and its targeted clients. The challenge of recovering debt occurs because of the current funding model that is used by the SIU; as a resolution for this concern, the SIU has been engaging with National Treasury to explore alternative funding models.*

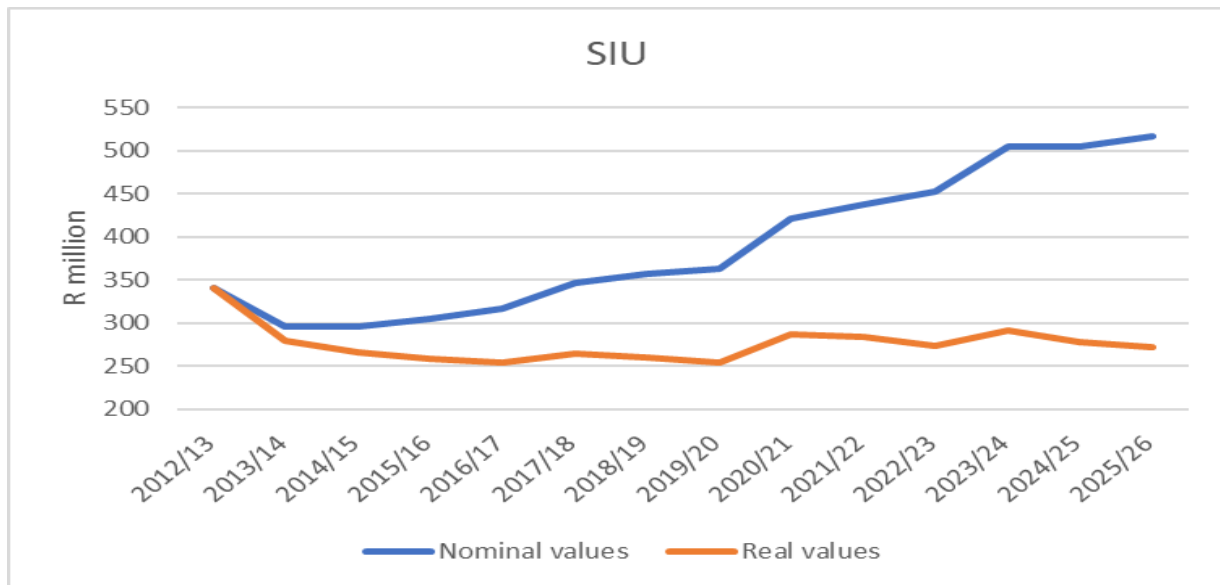
Figure 4 shows the real and nominal expenditure trends from 2012/13- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26. The SIU has a much smaller budget than the NPA. Expenditure declined dramatically between 2012/13 and 2013/14 and steadily after that, remaining relatively unchanged (in real terms) up until 2019/20. Additional funds were allocated in 2019/20 and 2022/23 resulting in real increases in the years, with gradual decline thereafter. Reliable and consistent budget allocations enable departments to plan effectively to deliver on their mandates.

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<sup>5</sup> <https://ewn.co.za/2023/02/08/siu-owed-almost-r1bn-by-state-departments-and-public-institutions>

Declining real allocation and spending places pressure on the procurement of critical goods and services, as well as the ability to pay competitive rates to attract talent.

FIGURE 4: SPECIAL INVESTIGATING UNIT



Source: [National Treasury](#), ENE 2012- 2023

Despite ongoing funding and financial challenges, the SIU appears to have performed well. According to the SIU Annual report 2021/22 (the most recent available), the entity achieved 100% of its APP targets, increased from 75% in 2020/21. This included almost R6 billion in potential cash and/or assets recovered, more than R6 billion in potential loss prevented, 469 referrals for disciplinary action against officials and/or executives, 570 cases referred to relevant prosecuting authority and 28 135 investigations closed under a published proclamation.

For PPE investigations specifically, this included more than R140 billion in contracts under investigation, R2 billion in civil litigation, 151 disciplinary and executive actions, 286 NPA referrals, more than R170 million in contracts set aside.

Other commendable achievements included attaining its 6th clean audit, and extending its footprint, opening of its Northern Cape office.

However, the department has still not been able to fill its MTEF headcount, with a vacancy rate of 18% reported in Q4 of 2021/22. This comprises both core (4% of vacancies) and support (34% of vacancies) across all salary bands, including top management (15% of vacancies) and senior management (14% of vacancies).

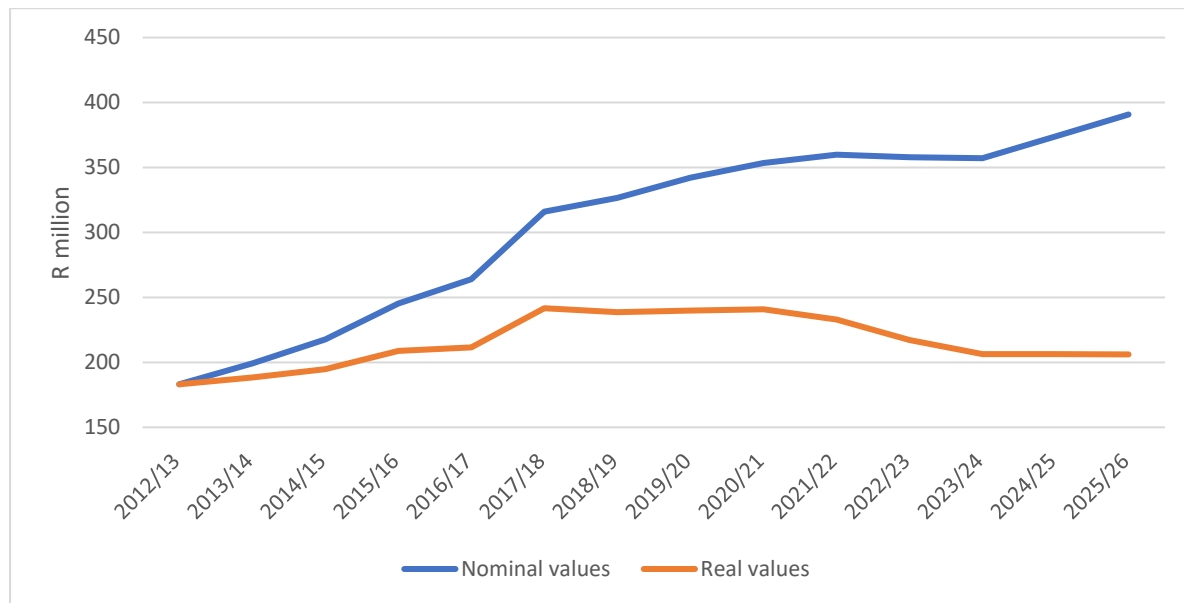
### The Public Protector of South Africa (PPSA)

The PPSA and SAHRC also play a role in addressing maladministration, and act as a point of contact for citizens to report fraud and corruption, and maladministration that impacts service delivery.

The PPSA is an administrative oversight body, with the power to investigate, report on and remedy improper conduct in all state affairs. The PPSA receives reports from any person who has a complaint of corruption that involves government departments, agencies or officials who violate their ethical codes or codes of conduct.

Figure 5 shows the real and nominal expenditure trends from 2012/13- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26.

**FIGURE 5: PUBLIC PROTECTOR OF SOUTH AFRICA**



Source: [National Treasury](#), ENE 2012- 2023

From the figure above, allocations to the PPSA were increasing in real terms until reaching a peak in 2017/18, where real allocation were maintained, before decreasing in 2020/21. Allocations are maintained through the MTEF however, given poor performance of the entity in recent years, it is unclear how the situation will improve. It will be important to understand what the entity has planned to turnaround performance and ensure that it delivers on its mandate to serve the citizens of South Africa.

While the PPSA receives a relatively small budget of around R350 million in 2023/24, it is concerning to note that it was recently revealed that only 2% of remedial actions recommended were implemented, based on reports on 15 concluded investigations into complaints for the third quarter of 2022/23, despite the fact that these recommendations are supposed to be binding.

The AGSA reports have also revealed frustration at the low levels of implementation of recommendations. This severely undermines the functioning of these Chapter 9 Institutions and brings accountability of the state into question. Increasing budgets for key institutions will not likely yield improved outcomes if there is no political will to implement the findings and recommendations that emerge from the work being undertaken.

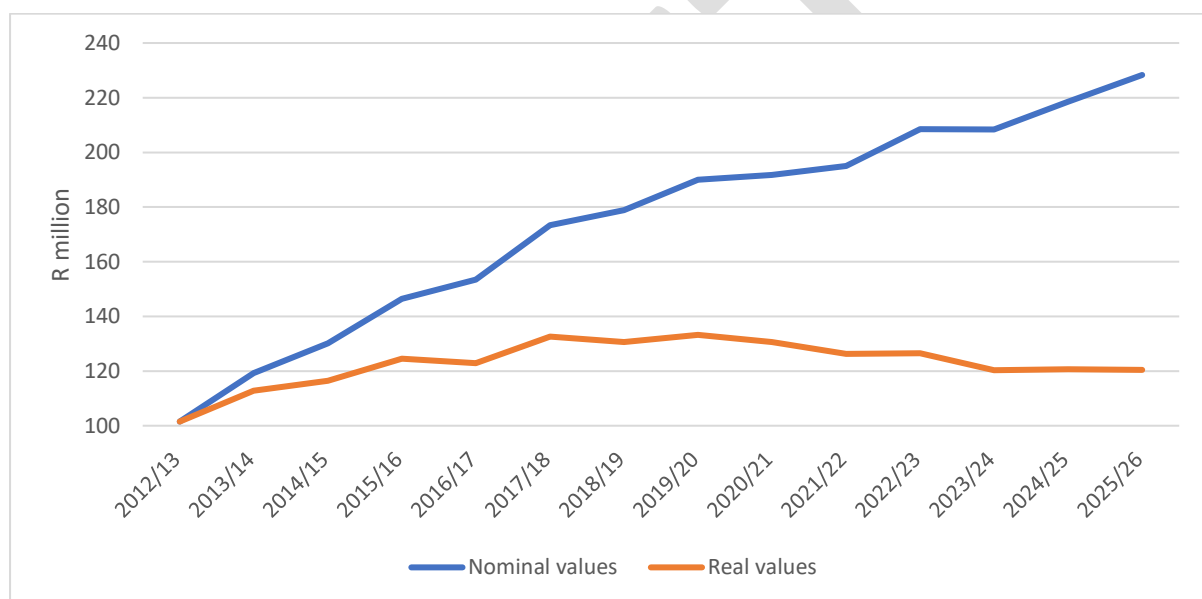
### The South African Human Rights Commission (SAHRC)

The Human Rights Commission is the national institution established to support constitutional democracy. The commission is mandated to investigate and report on human rights, and advise the government on matters related to the promotion, protection and realisation of human rights.

The SAHRC has conducted research on the link between corruption and human rights and has provided protection to whistle blowers and provided additional monitoring of disaster funds in Kwa-Zulu natal following the devastating floods in April 2022.

Figure 6 shows the real and nominal expenditure trends from 2012/13- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26.

FIGURE 6: SA HUMAN RIGHTS COMMISSION



Source: [National Treasury](#), ENE 2012- 2023

The SAHRC budget allocations have followed a similar trajectory to PPSA with increasing allocations up until 2017/18, declining thereafter. It is encouraging that the decline is arrested and levels are maintained over the MTEF, however it is concerning that in a time when the services of the SAHRC are needed the most, the budget is less than it was, and it will be difficult to improve performance if existing challenges cannot be resolved.

The SAHRC reported in March 2022 that it had seen a rise in the number of complaints it received, encouragingly, it also reports an increase hearings, inquiries and improved success in securing redress for complainants.”<sup>6</sup>

The annual report highlighted a number of challenges experienced by the commission and commitments to address these, particularly around performance reporting and adequate preparation for audits. Only 61% of performance targets were met in 2021/22. The low achievement rate can be

<sup>6</sup> <https://www.sahrc.org.za/index.php/sahrc-media/news/item/3052-sa-human-rights-commission-notes-rise-in-complaints>

ascribed to various challenges such as delays in procurement processes, misinterpretation of the performance indicators, and capacity constraints.

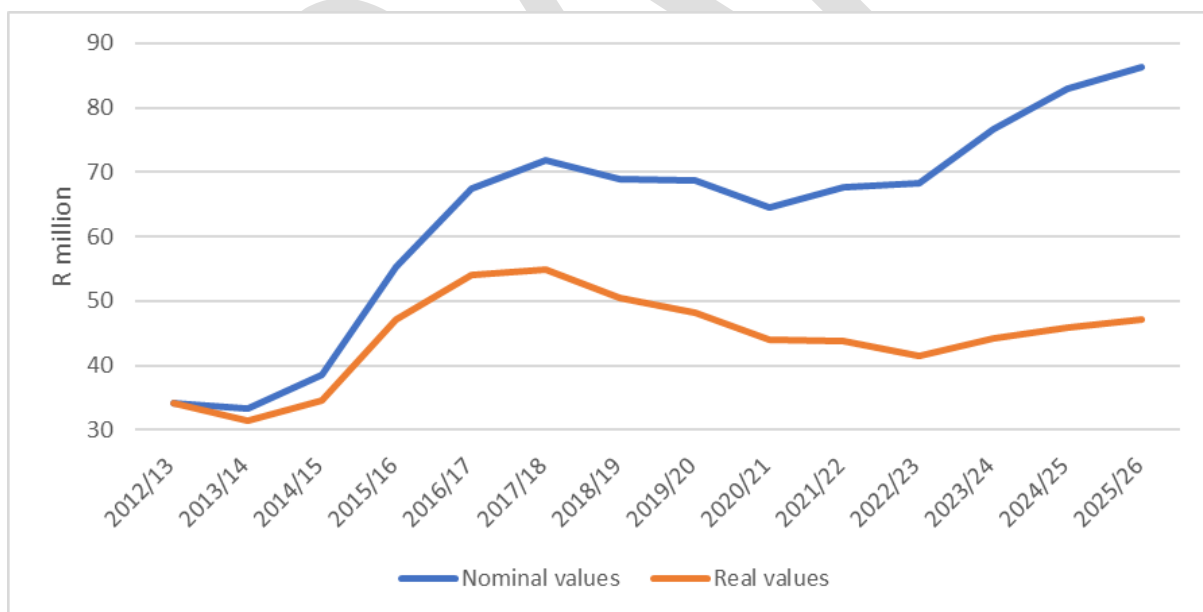
Although the Commission spends an average of 95% of its budgets in recent years, there are still challenges relating to underspending.

### The Office of the Chief Procurement Officer (OCPO)

The OCPO is part of the National Treasury and falls under Vote 8 of the ENE. The OCPO has been focused on modernising the South African procurement system. The office is not directly involved in procurement, but manages procurement reforms, maintains the procurement system and oversees the way in which government departments and entities do government with the private sector. The OCPO maintains various databases including detailed information on procurement transactions. Efforts to make procurement information more accessible, and processes more transparent are underway and we would like to encourage the Committee to continue to support these efforts, as it is evident that civil society monitoring of procurement can assist with the detection and prevention of maladministration in procurement.

Figure 7 shows the real and nominal expenditure trends from 2012/13- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26.

FIGURE 7: THE OFFICE OF THE CHIEF PROCUREMENT OFFICER (OCPO)



Source: [National Treasury](#), ENE 2012- 2023

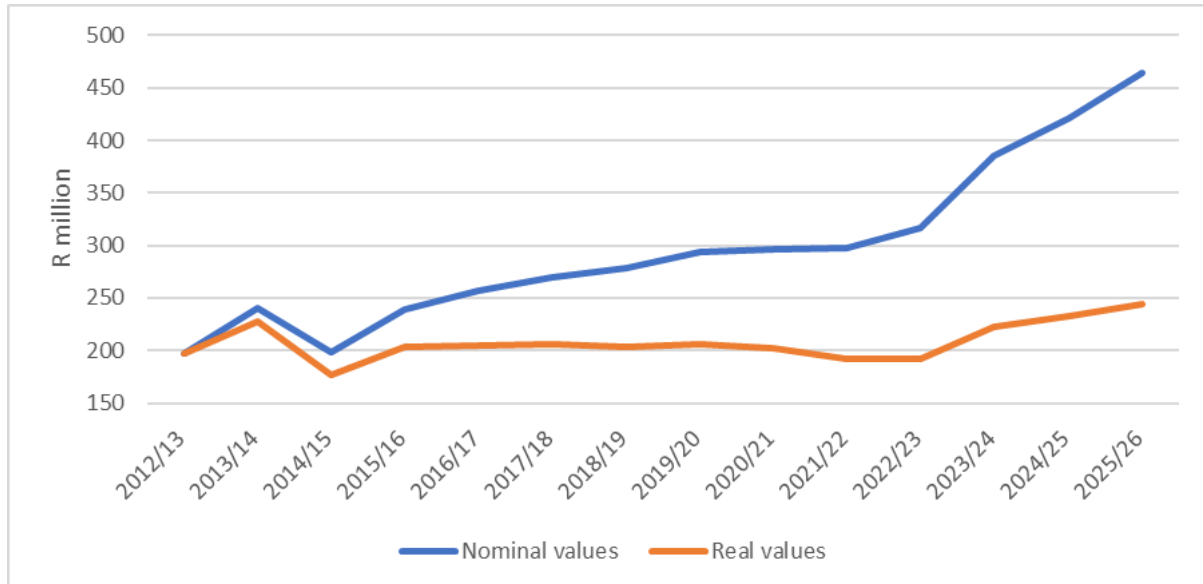
The OCPO receives a small share of the budget, but its allocation has grown quite significantly in real and nominal terms. From 2013/14 to 2016/17 the budget rose substantially before declining steadily. The 2023 appropriation represents a turning point with steady increase over the MTEF, which should help to support improvements to the procurement system, in line with the Zondo Recommendations and Procurement Bill.



### The Financial Intelligence Centre

The links between corruption in procurement, and money laundering and terrorist financing, brought to light in the recent FATF report and subsequent grey listing of South Africa mean that FIC will be important in the fight against organised crime, and corruption.

FIGURE 5: THE FINANCIAL INTELLIGENCE CENTRE



Source: [National Treasury](#), ENE 2012- 2023

The increased allocation to the FIC appears to be largely in response to the FATF report, and improved financial intelligence monitoring capacity is likely to have a positive impact on investigations of financial crimes that involve state corruption.

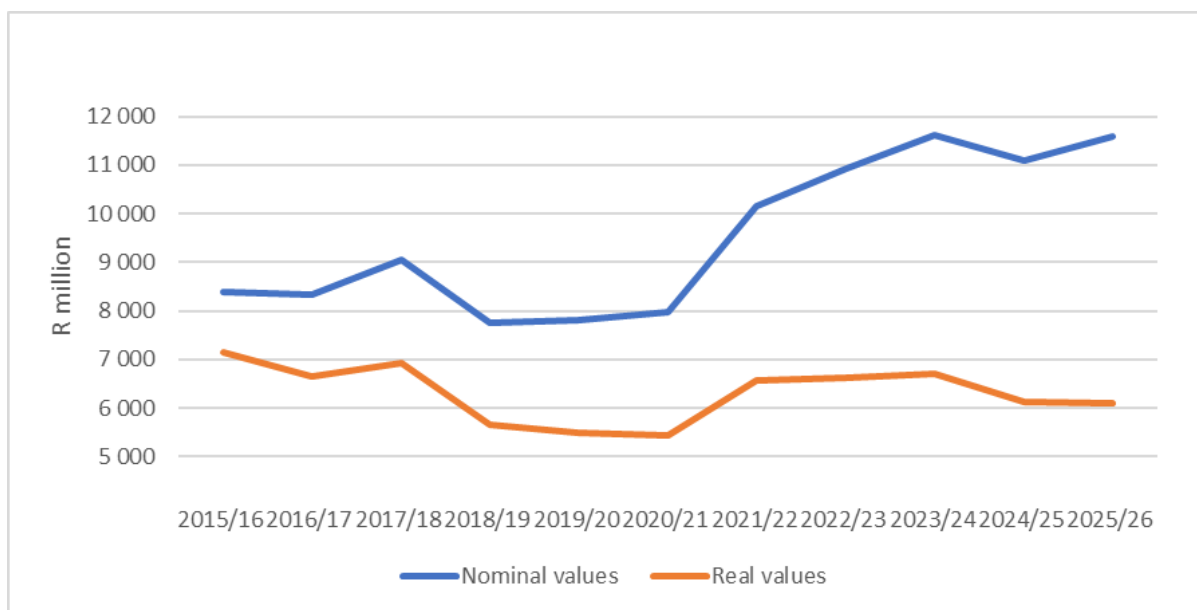
### The South African Revenue Service

SARS also plays a role in the Criminal Justice System. SARS is empowered through its legislation to conduct criminal investigation into tax offences. Once the criminal investigation of the alleged tax offence is finalised, the matter is referred to the South African Police Service to give effect to entering the Criminal Justice System. The evidence collected is presented to the National Prosecuting Authority to make a determination on whether the entity should be charged with a crime and prosecuted.

SARS has recently included a new performance indicator for NPA referrals.

Figure 6 shows the real and nominal expenditure trends for SARS operations from 2015/16- 2021/22 and Estimates of National Expenditure over the MTEF from 2022/23-2025/26. Estimates for the period from 2012/13-2014/15 were not available.

FIGURE 6: SOUTH AFRICAN REVENUE SERVICES (SARS)



Source: ENE 2012-2023

Expenditure for SARS Operations have not been consistent over the analysis period. While we have not analysed the impacts of changes in allocations over time on corruption, or revenue collection, there does appear to have been a positive impact of increased funding in recent years, coinciding with improved collections, which have had a positive overall impact on the budget. The slight decline in real terms in the outer years of the MTEF may be cause for concern and we hope that the decline can be arrested in the next 2 years.

## COORDINATION

It is recognised that several stakeholders, and institutions are involved in anti-corruption and procurement reform efforts. There is also a close link between corruption and weak procurement systems, particularly where the state spends a large proportion of its budget in procuring goods and services from the private sector.

Good coordination between the strategies and stakeholders is key to optimal resource use, and improved outcomes.

The NACS has mapped out the various stakeholders involved in implementation of the strategy. There are existing coordination mechanisms, such as the ACTT and proposals for new ones, including those identified in the NACS and Procurement Bill. It will be important to ensure review and alignment with existing bodies and clear coordination between different mechanisms to ensure success, and accountability.

The NPA and SIU in early 2022 appeared before SCOPA after revelations about the low number of referrals from SIU that were successfully prosecuted. The NPA report indicated that,<sup>7</sup>

<sup>7</sup> <https://pmg.org.za/committee-meeting/34322/>

There were currently 1 098 referrals under investigation by the DPCI. Of these, 253 were declined to prosecute, 41 were on court rolls, there were 41 guilty pleas, 23 other accused were in court, eight warrants of arrest had been authorised, and two matters were with the NPA for decision. The bulk of the matters was still under investigation.

The NPA cited resource and capacity constraints, as well as poor coordination with other stakeholders, such as Directorate for Priority Crime Investigation (the Hawks) and SAPS.

The meeting report indicates that Memorandum of Understanding (MOU) was proposed between the NPA, the SIU, the Hawks and the SAPS to improve coordination, however to date, no such agreement has been published and no further information can be found.

## CONCLUSION

Fighting corruption and enhancing accountability should be the core to realising sustainable and inclusive development and building a capable and developmental state. Despite numerous commitments to reforms and action, very little appears to have changed. The pace at which investigations are initiated concluded, remains unacceptably slow and conviction rates remain low, compared with the number of individuals implicated in corruption.

While we are encouraged by the increased resources allocation to institutions established to prevent and eradicate corruption, provide oversight to procurement, manage the country's finances and support constitutional development, there remain significant funding challenges as highlighted in this submission.

Additional resources should translate into improved performance, if poor performance in the past is attributed to insufficient resources. Better coordination between stakeholders is required, along with clear resourcing and implementation plans to improve resource efficiency, enhance public trust in key oversight and enforcement entities and improve outcomes.

We acknowledge, however, that funding alone cannot resolve the failures of government, across departments and entities, or in the criminal justice system, which itself has been hollowed out by state capture. Radical improvements in state capabilities as envisioned in the National Development Plan are desperately needed.