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FACT SHEET NR. 30:

THE DEBARMENT (OR BLACKLISTING) OF INDIVIDUALS AND COMPANIES IN SOUTH AFRICA

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1. Introduction

In November 2024 the National Director of Public Prosecutions, Adv Shamila Batohi, informed the Standing Committee on Public Accounts (SCOPA) that “the country won't be able to prosecute its way out of corruption despite the importance of holding those responsible, also for state capture, accountable”.¹ Prosecutions remain vitally important to prevent and combat corruption, and they must be pursued with a sense of purpose and urgency. She is also correct in that prosecutions alone will not solve the problem and under current circumstances expectations should perhaps be moderate in what the NPA can achieve in the shorter term. Prosecutions take time, are resource intensive and the burden of proof is beyond a reasonable doubt. Prosecutions are, however, not the only mechanism to hold transgressors accountable.

Administrative actions hold promise as they are not as onerous as the burden of proof is on a balance of probabilities; they are also not as resource intensive as a criminal trial to affect accountability and thus more cost effective in producing a sanction. An example of administrative procedures to punish and hold transgressors accountable is from the financial sector where the Reserve Bank Prudential Authority can impose administrative sanctions (e.g. fines) on banks in terms of the Financial Intelligence Centre Act 38 of 2001 for transgressions.

Individuals and companies debarred or blacklisted, are placed on the *Database of Restricted Suppliers* maintained by National Treasury and this is described in more detail below. Debarment has the effect of prohibiting the individual or company listed from doing business with the public sector.

The now-repealed 2017 Preferential Procurement Policy Framework Regulations allowed an organ of state to invite a bidder to make representations if any concerns² arose about a

¹ Dentlinger, ‘Prosecutions Alone Won’t End Corruption, Says NPA’s Batohi’.

² The accounting officer or accounting authority must: Take all reasonable steps to prevent the abuse of the supply chain management system; Investigate all allegations of corruption, improper conduct or non-compliance against an official or other person and, if justified, take the necessary steps; Treasury musty also be informed of such steps taken and criminal matters reported to the police.; Verify, prior to awarding a tender, that the recommended bidder is not prohibited from doing business with the state; Reject a bid from a bidder who is not in good standing with SARS; Reject a bid from a bidder who has committed any corrupt or fraudulent act during the bidding process or the execution of that contract; Cancel a contract of a supplier convicted of fraud and corruption, or if an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier. [National Treasury, “Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999,” sec. 16A(9.1).].

submitted tender.³ These concerns could relate to the bidder's BBBEE status, local production and content requirements, or any other relevant issue. If the organ of state considered the representations and reached an adverse finding, it was required to report this outcome to the National Treasury.

However, the Preferential Procurement Policy Framework Regulations of 2017 were declared unconstitutional and repealed.⁴ It is further noted that the Public Procurement Act 28 of 2024 also provides for debarment, but it is not yet operational. While blacklisting or debarment exists in law, the procedure is not clear, with one procedure repealed and the new one not yet operational.

2. Context

The state, ranging from national government to local authorities, buys or procures goods and services from the private sector and this is provided for in the Constitution.⁵ The manner in which such procurement must be done, is regulated through legislation. The Constitution requires that procurement must be done in a manner that is "fair, equitable, transparent, competitive and cost effective".⁶ The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (the Zondo Commission) investigated public procurement in a fair amount of detail. In its final report it identified a number of abusive practices that would amount to criminal conduct.⁷ The Commission identified the following abuses of the procurement process:

- Pre-tendering phase
 - Procurement of goods/services which are not needed, or not intended to be supplied and duplication of contracts
 - Frivolous use of the deviation policy
 - Confinements
- The Tendering Phase
 - Parcelling
 - Abuse of preferential procurement and "Supplier Development Partners" policies
 - Communication with bidders
 - Retroactive changes to bid criteria
- Post Award

³ National Treasury, *Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations*, sect. 14.

⁴ *Minister of Finance v Afribusiness NPC*.

⁵ Constitution of the Republic of South Africa, § 217.

⁶ Constitution of the Republic of South Africa, § 217(1).

⁷ Zondo, *Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (Part 1)*, vol. 4.

- Contract variations and expansions.⁸

When individuals and/or companies have engaged in dishonest and/or criminal practices to secure or attempted to secure government contracts, it would be a reasonable and expected response from the state to exclude them from future procurement processes to, firstly, punish wrongful behaviour and, secondly, to protect public funds from such dishonest and criminally inclined companies and individuals. This process of exclusion is referred to as debarment, or colloquially as 'blacklisting'.

It is therefore with good reason a requirement that accounting officers and authorities must verify prior to awarding a contract or tender that a company or associated individuals have not been blacklisted: "Prior to the award of any contract, accounting officers/authorities should ensure that neither the recommended bidder nor any of the directors are listed as companies/directors/persons restricted to do business with the public sector. This *Database of Restricted Suppliers* is managed and maintained by the Office of SCM [Supply Chain Management] within the National Treasury."⁹ It is to prevent that dishonest suppliers continue to do business with the public sector as this will continue to risk further losses of public funds.

3. The problem

The *Database of Restricted Suppliers* includes entries from 2017 onwards and there is a total of 190 entries. A closer inspection of the information highlights that very few organs of government refer matters for inclusion, to the extent that there are no referrals from a number of provinces which seems a highly unlikely situation. Further to note is that there are very few companies and individuals listed given the extent of corruption and procurement irregularities. Four entities are responsible for half of all the referrals, being City of Ekurhuleni Metropolitan Municipality (28.4%), Western Cape: Department of Health (9.5%), City of Cape Town Metropolitan Municipality (7.4%) and Johannesburg Water (4.7%).

Table 1 Referring entities to Database of Restricted Suppliers 2017-2024

Referring government entity	N	% of total
Agriculture - Limpopo	4	2.1
Cape Winelands - WC District Municipality	2	1.1
City of Cape Town Metropolitan Municipality	14	7.4
City of Ekurhuleni Metropolitan Municipality	54	28.4

⁸ Zondo, *Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (Part 1)*, vol. 4: 726-753.

⁹ National Treasury, *Supply Chain Management a Guide for Accounting Officers / Authorities*, 46; National Treasury, *Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999*, sect. 16A9.1(c).

Referring government entity	N	% of total
City of Johannesburg - Joburg Water	5	2.6
Department of Justice and Constitutional Development	3	1.6
Department of Public Works and Infrastructure	4	2.1
Drakenstein - WC Local Municipality	7	3.7
Department of Trade, Industry and Competition	3	1.6
Economic Development, Environmental Affairs and Tourism - Coega Development Corporation	2	1.1
Finance and Accounting Services Sector Education and Training Authority	3	1.6
Health - Free State	4	2.1
Hessequa - WC Local Municipality	2	1.1
Home Affairs - National	2	1.1
Johannesburg Water	9	4.7
Limpopo Department of Agriculture and Rural Development	3	1.6
Media, Information and Communication Technologies Sector Education and Training Authority (MICTSETA)	9	4.7
Midvaal Local Municipality	5	2.6
Modimolle- Mookgophong Local Municipality	2	1.1
National Economic Development and Labour Council	2	1.1
National: Department of Tourism	2	1.1
National Prosecuting Authority (NPA)	2	1.1
Saldanha Bay Local Municipality	2	1.1
Small Enterprise Development Agency (SEDA)	2	1.1
South African Broadcasting Corporation Limited	2	1.1
South African Police Services (SAPS)	4	2.1
South African Revenue Service	1	0.5
South African Weather Service	3	1.6
State Information Technology Agency	6	3.2
Swartland Local Municipality	2	1.1
Theewaterskloof Municipality	1	0.5
Trade, Industry and Competition - National	2	1.1
Western Cape: Department of Health	18	9.5
Witzenberg Local Municipality	4	2.1
TOTAL	190	

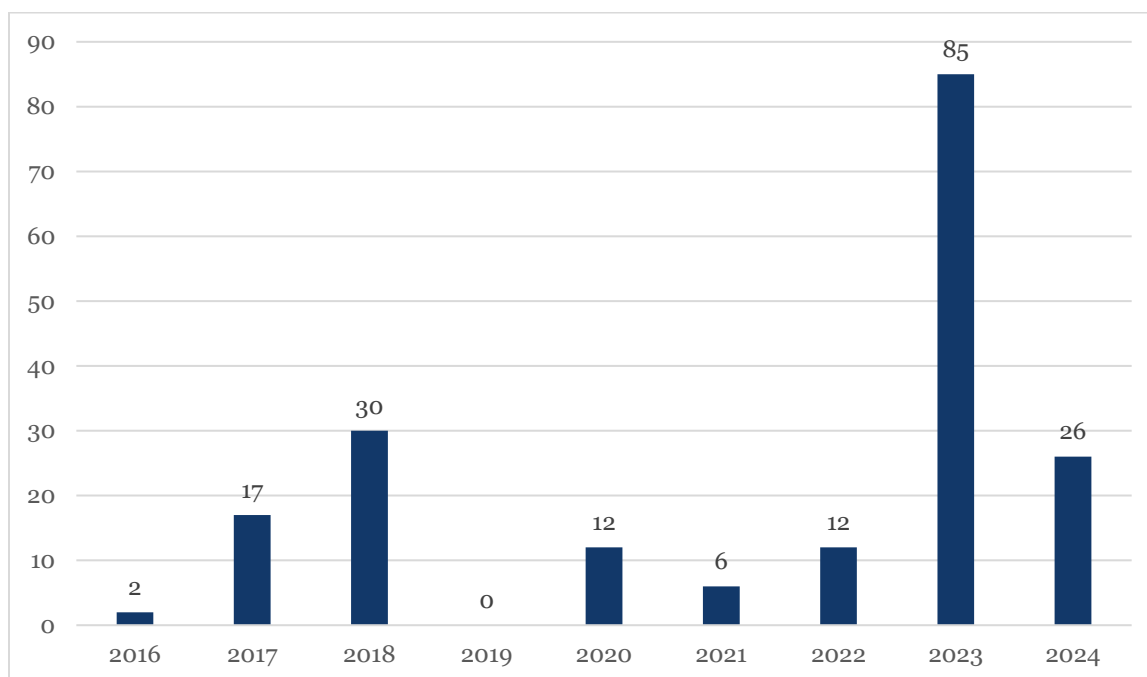
Table 2 presents the provincial distribution of listings. It is noteworthy that from four provinces there have been no listings since 2017; being KZ-Natal, Mpumalanga, Northern Cape and North West.

Table 2 Provincial distribution of debarments

Province	N	%
E-Cape	2	1.1
Free State	4	2.1
Gauteng	73	38.4
KZ-Natal	0	0.0
Limpopo	9	4.7
Mpumalanga	0	0.0
Northern Cape	0	0.0
North West	0	0.0
W-Cape	52	27.4
Nat	50	26.3
TOTAL	190	

Fig. 1 reflects that the frequency of referrals fluctuates, indicating that there are other factors driving referrals and listings, and that it is not a matter-of-course procedure, but rather the exception. If this was the case, the trend would more likely show an increase followed by a decline. However, in 2023 there were 85 new listings compared to the second highest in one year of 30 new listings in 2018; 5 years earlier.

Figure 1 Listings per year on restricted suppliers data base



The reasons for debarment are listed in Table 3 below and for ease of reading these have been ranked from highest to lowest. Nearly a third of listings were for “Submission of fraudulent invoices for goods never received by the department”. The remainder of the reasons are of low frequencies, but in broad terms relate to fraud, non-delivery of services and tender manipulation. The categories are listed as they appear on the National Treasury list and have not been re-grouped.

Table 3 Reasons for debarment

Reason	Freq.	%
Submission of fraudulent invoices for goods never received by the department	62	32.63
Misrepresentation of information	15	7.89
Non-performance	11	5.79
Failure to deliver as per the contractual obligations	10	5.26
Fraud	9	4.74
Fraud and conflict of interest	9	4.74
Fraud and Corruption	9	4.74
Poor performance	9	4.74
Unethical behaviour	6	3.16
Collusive bidding and fronting	5	2.63
Supplier submitted a fraudulent BBEE Certificate	5	2.63
Fraudulent BBEE Certificate	4	2.11
Non - Declaration of Interest	4	2.11
Submission of fraudulent B- BBEE Certificate	4	2.11
Failure to deposit proceeds of the auction	3	1.58
Impropriety	3	1.58
Non-performance and Fraud	3	1.58
Engaged in corrupt and fraudulent practices in competing for a contract	2	1.05
Failure to deliver per contractual obligations	2	1.05
Non-and-Poor performance	2	1.05
Non-delivery	2	1.05
Poor performance overcharging and taking assets of the SEDA: Limpopo.	2	1.05
Submission of Fraudulent Competency Certificate and Sales of Vehicles	2	1.05
Submission of Fraudulent Health Certificate	2	1.05
Submission of Fraudulent Invoices for good never received by the department	2	1.05
Engaged in corrupt and fraudulent practices in competing for SARS contract	1	0.53
Non-performance and poor performance	1	0.53
Submission of Fraudulent Competency Certificate and Sales Contract of Vehicles	1	0.53

Reason	Freq.	%
Total	190	

It is safe to say that the current procedure is severely under-utilised and that dishonest suppliers are very likely continuing to do business with the public sector at great cost to the taxpayer. One may further speculate on the extent of collusion as well as the degree to which accounting officers and authorities are not complying with their mandate and National Treasury requirements noted earlier.

The comprehensive and timely blacklisting of companies and individuals will have a material impact on corruption, tender irregularities and financial losses by ensuring that such individuals and companies are excluded from doing business with the state. Blacklisting will also have a strong deterrent value, on the one hand, and, on the other hand, rebuild trust into the system that has suffered significant losses in confidence from businesses with integrity.¹⁰ This has occurred to the extent that such businesses of integrity are no longer participating in tenders or very reluctant to submit tenders.

4. The current legal framework

The Public Finance Management Act (PFMA) sets out the duties of accounting officers and authorities to ensure proper financial management and the reporting of criminal conduct.¹¹ Treasury regulations issued in terms of the PFMA deal with, amongst others, supply chain management placing a duty on accounting officer to prevent abuse and also to investigate allegations and report transgressions.¹² National Treasury and Provincial Treasuries must also establish mechanisms to deal with matters reported to it relating to supply chain abuse.¹³ The Municipal Finance Management Act sets similar standards in respect of municipal managers as accounting officers.¹⁴ The Municipal Finance Management Act is furthermore supported by regulations governing supply chain management with Reg. 38 addressing measures to combating the abuse of the supply chain management system, similar to the PFMA Regulations noted above.¹⁵ The general requirement is that matters of dishonesty and crime must be reported to National Treasury and provincial treasuries, and the police when criminal.

¹⁰ 'The Impact of Corruption on Businesses in South Africa'.

¹¹ Public Finance Management Act, §§ 38 and 51.

¹² National Treasury, *Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999*, sect. 16.A.9.1.

¹³ National Treasury, *Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999*, sect. 16.A.9.3.

¹⁴ Municipal Finance Management Act, § 62.

¹⁵ Municipal Supply Chain Management Regulations, GN 868.

The now-repealed Preferential Procurement Policy Framework Regulations of 2017 (PPPFR) provided that an organ of state can invite representations if there may be a problem¹⁶ with a tender submitted.¹⁷ This may have been related to the bidder's BBBEE status, local production and content and any other matter. If the representations are entertained and there is an adverse finding, this must be communicated to National Treasury. It is for National Treasury to make the final decision for inclusion on the restricted suppliers register. The PPPFR were, however, declared unconstitutional in the *Afribusiness* case of 2022 and subsequently repealed.¹⁸ The constitutional issue was, however, unrelated to the *Database of Restricted Suppliers*. In early 2023 new regulations¹⁹ were issued to address the matters raised in *Afribusiness* and also included a provision on dealing with misrepresentations in securing a tender, but this was focussed on misrepresentation connected to 'specific goals' in procurement as they relate to race, gender and disability²⁰ and thus a narrower scope than the repealed PPPFR 2017. It is argued that this weakened the current framework.

National Treasury Regulations describing duties and procedures in dealing with abuse of the supply chain management system and addressing supply chain management irregularities are specific in setting out the duties of accounting officers and accounting authorities. The accounting officer or accounting authority must:

- Take all reasonable steps to prevent the abuse of the supply chain management system
- Investigate all allegations of corruption, improper conduct or non-compliance against an official or other person and, if justified, take the necessary steps; Treasury must also be informed of such steps taken and criminal matters reported to the police.
- Verify, prior to awarding a tender, that the recommended bidder is not prohibited from doing business with the state (*Emphasis added*)

¹⁶ The accounting officer or accounting authority must: Take all reasonable steps to prevent the abuse of the supply chain management system; Investigate all allegations of corruption, improper conduct or non-compliance against an official or other person and, if justified, take the necessary steps; Treasury must also be informed of such steps taken and criminal matters reported to the police.; Verify, prior to awarding a tender, that the recommended bidder is not prohibited from doing business with the state; Reject a bid from a bidder who is not in good standing with SARS; Reject a bid from a bidder who has committed any corrupt or fraudulent act during the bidding process or the execution of that contract; Cancel a contract of a supplier convicted of fraud and corruption, or if an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier. [National Treasury, "Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999," sec. 16A(9.1).].

¹⁷ National Treasury, *Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations*, sect. 14.

¹⁸ *Minister of Finance v Afribusiness NPC*.

¹⁹ Preferential Procurement Regulations, 2022, GN 2721 of 4 November 2022 (Government Gazette No. 47452).

²⁰ "specific goals" means specific goals as contemplated in section 2 (1) (d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

- Reject a bid from a bidder who is not in good standing with SARS
- Reject a bid from a bidder who has committed any corrupt or fraudulent act during the bidding process or the execution of that contract
- Cancel a contract of a supplier convicted of fraud and corruption, or if an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.²¹

The decision by National Treasury to restrict a supplier is covered by the Promotion of Administrative Justice Act (PAJA).²² The requirements and guidelines in the Treasury Regulations are clear and enables an accounting officer or accounting authority to fulfil their duties to see to the proper utilisation of public funds.

In summary, the fairly straightforward mechanism in the 2017 PPPFR were unfortunately lost as a result of the *Afribusiness* case and replaced with a somewhat diluted provision. What remains is not specific and precise enough to ensure that accounting officers and authorities diligently and consistently refer matters for inclusion in the Register of Restricted Suppliers. The low volume and erratic frequency in referrals attest to problems in the current dispensation.

5. Recent developments

5.1 A lack of progress

In March 2022 the Special Investigating Unit (SIU) reported to the Standing Committee on Public Accounts (SCOPA) that the Unit has referred some 506 cases to provincial and national departments for action with a view to have them blacklisted.²³ The existing 190 entries reflect that the current mechanism and legal framework are not effective and that perhaps only a fraction of the 506 cases the SIU referred have to date been blacklisted.

In September 2025 SCOPA again received a briefing from the SIU, as well as the Presidency.²⁴ Mr Jonathan Timm, Director in the Presidency, briefed the Committee on, amongst other issues, the processing of SIU reports. He reported that with reference to supplier restrictions, 467 companies and individuals were identified, but only one had been placed on National Treasury's Restricted Suppliers Register. Committee members were expectedly shocked. At least two structural and well-known problems were identified in the discussions. Firstly, the Chairperson [Mr S Zibi (Rise Mzansi)] sought clarity if there was a directive from the Presidency or from Cabinet that explicitly

²¹ National Treasury, *Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities Issued in Terms of the Public Finance Management Act, 1999*, sect. 16A(9.1).

²² Promotion of Administrative Justice Act, § 3.

²³ Parliamentary Monitoring Group, *Blacklisting of Companies*.

²⁴ Parliamentary Monitoring Group, *SIU Reports Follow-up; Vetting of SCM Officials*.

required accounting officers to act within a specific timeframe once referrals had been made. The Deputy Minister in the Presidency, Mr Itiseng Kenneth Morolong, replied that while the Public Procurement Act sets a framework, enforcement has been weak. New regulations, developed with National Treasury, aim to strengthen supplier debarments. These will shift responsibility from departmental accounting officers to Treasury itself. This should ensure more consistent and effective enforcement. Shortcomings in the legal framework would naturally have an impact, but the lack of action in addressing such shortcomings perpetuates known risks. Secondly, Adv Mothibi (SIU) highlighted a systemic challenge: SIU recommendations lack legal force, leading to non-implementation of referrals such as disciplinary action and blacklisting. He warned that inaction by Treasury or municipalities would not be accepted without scrutiny. Citing a case where a municipality refused to act but could not justify its decision, he argued that such arbitrary discretion must be curbed. Shortcomings in the legal framework coupled with the ability of government entities (i.e. accounting officers) to effectively ignore SIU recommendations for actions appear to have left blacklisting as a discretionary sanctioning measure rather than a systemic and compulsory one.

5.2 Auditor-General

In recent years the Auditor-General of South Africa (AGSA) has released annual reports on material irregularities relating to national provincial and local government.²⁵ Of particular interest in the definition of material irregularities is the focus on procurement and payment (which is one of seven focus areas). Procurement and payment are also the areas where the bulk of problems were identified (see Table 3 above). This refers to three sub-issues

- non-compliance in procurement processes; overpricing and the appointed supply not delivering;
- uneconomical procurement;
- payment for services or goods that are not received or of poor quality or not meeting the specifications or were delivered to ineligible beneficiaries.

5.3 Public Procurement Act

The Public Procurement Act 28 of 2024 aims to substantially restructure public procurement and section 15 of the act refers to the debarment of suppliers and sets out a procedure that is similar to the 2017 PPPFR (see *Appendix 1*). The Act also establishes the Public Procurement Office (PPO), an entity in National Treasury.²⁶ Of particular importance here is section 5 (1) which describes the functions of the PPO. Of particular relevance here is section 5(1)(f) which reads: “promote the use of technology and innovation and learning towards modernisation of the public procurement system” and at section 5(1)(i) which reads: “create, maintain and publish one or more databases to facilitate the implementation of this Act”. There is thus a clear articulation

²⁵ Auditor General of South Africa, *Material Irregularities in National and Provincial Government 2022*.

²⁶ Public Procurement Act, § 4.

that technology needs to be employed to detect transgressors and support the appropriate actions. The Act also sets out in clear terms the duties of the accounting officer in respect of measures to be taken to prevent the abuse of the procurement system and cross refers to section 15 noting that the accounting officer or authority must verify that a bidder is not on the listed of debarred suppliers.²⁷

While the Public Procurement Act does present some very promising provisions, and has been assented to by the President, it is yet to become operational. This does present some challenges but nonetheless it does indicate the direction of future developments and it would be wise to plan accordingly.

5.4 Central Supplier Database

Many municipalities and government departments are adopting e-procurement portals to manage bids and supplier data online. For example, the City of Cape Town has an e-Procurement portal for advertising requests for quotes and tenders, and for allowing suppliers to submit bids and update their information digitally. Such systems, if integrated with National Treasury's databases, can automatically flag blacklisted entities. The National Treasury's CSD, launched in 2015, is a cornerstone of this integration. The CSD is a centralized online register of all businesses eligible to do business with government. It was designed with built-in linkages to various verification databases, including the Register for Tender Defaulters and the Database of Restricted Suppliers. In practice, this means that when an organ of state conducts due diligence on a vendor's CSD profile, they can see if that supplier has been debarred by any government entity. The CSD also verifies tax compliance (with SARS), business registration status (with CIPC), and other risk indicators in real time. By making these checks automated, technology reduces the chance of human oversight failing to spot a banned supplier. However, for this to work, the blacklist must be up to date – which circles back to the need for accounting officers to promptly inform Treasury of any restriction orders.

6. Concluding remarks

Prosecutions and convictions remain the most effective deterrent against corruption, but it is also resource intensive and the burden of proof is beyond a reasonable doubt. The current state of the NPA should also temper expectations on what can be achieved by means of prosecutions and convictions. Identifying and debarring offending suppliers will over time reduce the demand for prosecutions. A well-designed and diligently implemented blacklisting system is likely to have

²⁷ Public Procurement Act, § 26(1)(d).

a significant impact on improving service delivery; preventing fruitless and wasteful expenditure, and responding effectively to the recommendations of the Zondo Commission. The main advantage is that there is already a mechanism established in law, but the challenge is to ensure its utilisation in a consistent and diligent manner. The Public Procurement Act once operational will present further impetus for implementation. This will, nonetheless, require a closer examination of what the obstacles are at present in local government, for example, to enable the effective utilisation of debarment.

The underutilisation of the debarment mechanism stems from at least two reasons. The first is that the provisions in the now-repealed PPPFR (2017) were relatively new and may not have received the necessary promotion and publicity at operational level. The high-level corruption cases exposed in recent years and also investigated by the Zondo Commission may also have overshadowed the lower value cases prevalent in especially local governments. Secondly, regulations for the Public Procurement Act are still in development, as noted by the Deputy Minister in the Presidency in September 2025, and that this will, until promulgated, limit the use of blacklisting. Third, oversight agencies, such as Parliament, may not have been sufficiently knowledgeable on the debarment procedure and thus not having the knowledge to hold government entities to account in this regard. One must, however, not forget that the Zondo Commission sharply criticised Parliament for its failure to hold the executive to account. Fourth, as noted by Adv Mothibi, the SIU's recommendations are not enforceable and it must be assumed that this has had a substantial impact on the utilisation of debarment as well as other actions recommended by the SIU.

At national level, Parliament has an important role to fulfil to see that those entities reporting to it comply with the PPPFR, National Treasury Regulations and of the Public Procurement Act when it becomes operational. Parliament is also in the position to follow up on recommendations to government entities by the SIU as well as the Auditor-General regarding the Department of suppliers. At local government level greater transparency is required to enable in particular the civil society structures to monitor procurement and see that accounting officers and authorities comply with the referral-for-debarment requirements.

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Appendix 1

15. (1) Before issuing a debarment order in terms of this section, a procuring institution must provide the bidder, supplier or any of the directors, members, trustees or partners of that bidder or supplier (herein called “the affected person”) with a notice of the intention to debar.

(2) The notice must—

(a) indicate the reason for the intended issuing of a debarment order; and

(b) invite the affected person to provide reasons, within 10 days, why the debarment order should not be issued.

(3) A procuring institution must issue a debarment order against a bidder or supplier and may issue a debarment order against any of the directors, members, trustees or partners of that bidder or supplier, if the bidder or supplier—

(a) provided false information in a bid or any other document submitted to a procuring institution in connection with a procurement process or contract;

(b) provided false information for purposes of registration in a database as envisaged in this Act;

(c) connived to interfere with the participation of other bidders;

(d) has been convicted of an offence involving corruption, fraud, collusion or coercion, price fixing or breach of confidentiality relating to procurement by a procuring institution;

(e) has not performed a material contractual obligation not due to circumstances beyond the control of the supplier; (f) has been convicted of an offence relating to—

(i) obtaining or attempting to obtain a contract or subcontract; or

(ii) business or professional activities;

(g) attempted, or conspired with, aided, abetted, induced or incited another person to contravene a provision of this Act; or

(h) contravened a provision of this Act.

