

MEDIA RELEASE	South Africa's failed tender system: PSA explores options to approach courts
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The Public Servants Association (PSA) is exploring the option of instituting legal proceedings to challenge the constitutionality and continued operation of South Africa's public tender system.

This step follows years of escalating corruption, financial mismanagement, and systemic failures documented by the Auditor-General (AG), law-enforcement agencies, and parliamentary committees.

The PSA has the obligation to act in defence of public interest, the integrity of public administration, and the protection of workers and citizens who continue to suffer the consequences of widespread procurement failures. Mounting evidence confirms that South Africa's tender system has become synonymous with irregularity, waste, and malpractice. Between 2018 and 2024, national and provincial departments incurred R407 billion in irregular expenditure, with a peak of R177 billion in 2020, largely owing to failures at NSFAS and Transnet. During the same period, government recorded R10.3 billion in fruitless and wasteful expenditure, including payments for services not delivered and penalties from poor contract management. In the latest *Public Finance Management Act (PFMA)* audit cycle (2023/24), the AG reported R38.8 billion in overspending and more than R49.5 billion in irregular expenditure, driven by widespread non-compliance and a persistent "culture of tolerating non-compliance". These figures demonstrate a systemic collapse of procurement governance. The AG further identified 266 material irregularities in 2022/23, amounting to R14.34 billion, including hospitals that were built but never used. Tembisa Hospital and the South African Police Service are typical examples of what the tender system can do to the country and its citizens.

This catalogue of failures confirms that tender processes across spheres of government are deeply compromised. Section 217 of the *Constitution* requires public procurement to be fair, equitable, transparent, competitive, and cost-effective. Evidence shows that the tender system no longer meets any of these standards. Repeated AG reports highlight procurement conducted without competitive bidding, contracts awarded to unqualified suppliers, goods paid for but not delivered, and a "no-consequence culture" where wrongdoers routinely escape accountability.

The PSA maintains that the tender system, in its current form, is irrational, unconstitutional, and contrary to the principles of clean governance.

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