OUTA submission to the Standing and Select Committees on Appropriations, 2020

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5 Jun 2020

ORGANISATION UNDOING TAX ABUSE

The Organisation Undoing Tax Abuse is a non-profit, crowd-funded organisation. We aim to hold government to account and ensure the responsible use of tax revenues.

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OVERVIEW

- Primary aim here is to provide the Committees with input on the 2020 Appropriations Bill. The need for disruptive and inclusive economic change is clear.
- The state-centric monopoly in key industries like energy, water and transport has failed due to systemic contravention of the Public Finance Management Act and other legislation governing how tax revenue may be spent.
- There is urgent need to cultivate working-and middle-class growth through targeted public expenditure in a manner that does not constrain investment in the private sector but promotes it.
- Near financial collapse of several State-Owned Entities (SOEs) has been compounded by the economic impact of a nationwide lockdown enforced to limit the spread of the Covid-19 virus.
- This submission's secondary aim is to comment on the pending Supplementary Budget to be tabled later this month in response to the unforeseen expenses demanded by the ripple effects of Covid-19. The submission's themes are aligned with the *Towards an Economic Strategy for South Africa* document published by National Treasury in 2019.

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FOCUS AREAS

- OUTA promotes renewable energy sector growth and more impactful public spending in other labour-intensive sectors that have real potential for growth if supported and secured as in Agriculture, Manufacturing and Tourism sectors.
- In order to increase spending in crucial sectors like Education and Health with a contracting pool of tax revenue, major reductions to spending in lower priority sectors is non-negotiable.
- Redundant and failing SOEs are case in point. Inclusive planning and reforms are needed to avoid ever-increasing taxes by addressing structural and systemic challenges in the public sector that have allowed large scale corruption, financial mismanagement, and waste.
- **Public entities** such as SAA, Transnet, SETAs, Water Boards, Eskom and the Water Trading Entity as well as the Public Investment Corporation and Government Employees Pension Fund are addressed.
- **Sectors-specific** reforms include targeting: energy, transport, communications and digital technologies, water and sanitation, health, basic and higher education.

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MACRO-ECONOMIC POLICY, CONSOLIDATED EXPENDITURE AND COMPENSATION

- Municipal finances and governance structures must be dealt with immediately. The 2020 Appropriations Bill does not provide for structural reforms in local government operations and governance in any detail.
- New spending priorities must be justified by ensuring that it is sensitive to serious structural challenges in the South African economy.
- Removing and/or renewing redundant spending programs which fail to reach targets.
- The transformative potential of public spending has been massively under-utilized by overconcentrating expenditure (which is then inefficiently spent) in sectors such as Energy, Defense, Public Enterprises, Transport, and, to a lesser extent, Water & Sanitation.
- The budget and priority areas of spending must be articulated in a way that ordinary South Africans can understand. It should also more candidly reflect the reality of SOEs and local government challenges.
- Wasteful subsistence, office decorations, event/meeting participation, and travel allowances for senior public officials should be eliminated to set an example for all public officials of lower rank.

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LOCAL GOVERNMENT

- A larger portion of the CoGTA appropriation should be allocated to the Regional and Urban Development and Legislative Support item.
- Municipal liabilities exceed current assets and municipalities are unable to pay off their creditors within the current financial year. It was also found that the repairs and maintenance of most municipalities were well below treasury norms and standards.
- Implement norms and standards to guide and enforce requirements for municipalities' service delivery, infrastructure maintenance and completion of infrastructure development projects. This should improve provincial oversight and accountability measures within local government. Membership fees paid to SALGA should be reviewed.
- Municipalities should fill key positions with verified financial and management expertise immediately. In cooperation with CoGTA, the Committees can withhold appropriations to those municipalities that refuse to do this.
- Provincial governments should provide training, technical support, capacity building workshops, revenue management and financial governance skills to their district and local municipalities.
- Provincial government, in cooperation with AGSA, civil society and the Committees, must enforce consequence measures to ensure that officials are held accountable for poor governance and irregular, fruitless and wasteful spending; and develop revenue recovery plans for municipalities.

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ENERGY

Department of Mineral Resources and Energy: We recommend increased scrutiny of DMRE budget. It is failing to meet targets despite adequate funding for 2018/19 and previous years. There is a misalignment between the expenditure against the allocated budget and the achievement of the planned targets. The post 2015 National Energy Efficiency Strategy has not yet been promulgated after 5 years. Resources must be allocated according to the Integrated Resource Plan (IRP). OUTA recommends that additional resources be moved from grid to non-grid electrification to achieve greater numbers of electrified households in a more cost-effective way.

Nuclear Energy: Department's intended procurement of 2500MW of new nuclear power is premature. The work of the State Capture commission must be completed first and those who have been involved in state capture and corruption at Eskom and other entities held accountable for their actions before embarking on capital projects that imply additional future obligations and sovereign debt. Some NECSA operations are not essential and we question why it has enjoyed increasing budgetary allocations while not fulfilling its accountability obligations. OUTA recommends that the Committees follow up with the Portfolio Committee on MRE to ask whether they are satisfied that there is a turnaround strategy in place to remedy the situation that has led to NECSA's strained financial position and that the issues of maladministration and irregular expenditure are being addressed. Transfers to NECSA operations should be reduced to 2018 levels and that the NECSA board must be directed to look for cost savings and if necessary, to close most of the subsidiaries.

ENERGY

Central Energy Fund: We do not support the CEF proposal that it should get taxpayers' money to compensate it for previous mismanagement. We strongly object to the CEF Chairperson, Monde Mnyande, requesting that a portion of the fuel levy as well as pipeline and carbon taxes / levies should be diverted to the CEF. The current economic situation calls for government to bring in key private equity partners into PetroSA and other CEF subsidiaries.

Eskom: One of the biggest challenges is the cost of electricity: this needs to be addressed urgently, as it affects every industry and sector. We recommend rapid consideration of the Independent System Management Operator Bill, or the Independent Electricity Management Operator Bill by Parliament. Parliament must ensure that Eskom accounts for its financial obligations to DPE and its energy policies to the Portfolio Committee on Mineral Resources and Energy. We recommend that National Treasury engages with the SARS Commissioner about offering tax breaks where putting a solar water heater on your roof, buying a heat pump and/or gas stove will be tax deductible if you do it before February 2021. OUTA also recommends that the DoE installs the solar water geysers on which it has incurred R110 million in fruitless and wasteful expenditure for storage costs during 2018/19.

Public Investment Corporation & the Government Employees Pension Fund: It is noted with concern calls for the utilization of the Government Employees Pension Fund (GEPF) to pay off mounting Eskom debt. OUTA recommends that this symptomatic relief should not be endorsed, but that Eskom should undergo intense operational and debt restructuring as a matter of urgency.

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PUBLIC ENTITIES

- OUTA notes that DPE's oversight activities are mainly funded in programs 2 and 3, namely, (2) State-Owned Companies Governance, Assurance and Performance and (3) Business Enhancement, Transformation and Industrialization. The budget for program 3 grew by a massive 838.6% during the period of 2016/17 to 2019/20. It is now set to decrease at an annual average rate of 67.9%. This is because R56.7 billion was allocated in 2019/20 to settle state-owned companies' debts and provide working capital.
- Spending on infrastructure should be utilized as a counter-cyclical measure to boost the economy and offer jobs in the construction sector, however according to Annexure D of the 2020 National Budget, expenditure on infrastructure has steadily declined since 2008/09.
- The budget review raises concerns that when excluding provisional allocations to Eskom and South African Airways over the medium term, additional "bail-out" allocations will be made over the medium term including R33 billion for Eskom in 2020/21; R9.9 billion for South African Airways (R3.8 billion in 2020/21, R4.3 billion in 2020/21 and R1.8 billion in 2022/23); R576 million for Denel in 2020/21; and R164 million for South African Express Airways in 2020/21.
- Development activities and other infrastructure projects captured in the NDP are not implemented. Skilled public managers with excellent leadership and technical competencies are needed to restore public entities and government departments. The National School of Government can play a role here.

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PUBLIC ENTITIES: SOUTH AFRICAN AIRWAYS

- SAA's losses have been astounding. In 2018/19 it recorded a provisional loss of R4.9 billion and an R5.4 billion loss in 2017/18. It has received extensive recapitalization in the form of bail outs in recent years. In 2017/18, SAA got a bail out of R10 billion and in 2018/19, a bail out of R5 billion. And the bail outs continue. The Budget review highlights that in 2019/20, R5.5 billion was allocated to South African Airways for repayment of debt and working capital. Over the next three years, R9.9 billion is allocated. This is in the form of R3.8 billion in 2020/21, R4.3 billion in 2021/22 and R1.8 billion in 2022/23.
- The political directive that Minister Gordhan has received is to ensure a restructured, viable, streamlined, and competitive national carrier. His second political directive was to try to save as many jobs as possible, and the third is to cut the dependence on the fiscus. These directives are likely at odds with each other. Aviation has been heavily impacted by the COVID-19 pandemic.
- OUTA believes that the pandemic renders it impossible to resurrect a viable airline. We recommend that it should be shut down or, at the very least, partially privatized to ensure that further losses and liabilities are not detrimental to taxpayers.

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PUBLIC ENTITIES: TRANSNET

- OUTA notes that the viability of Transnet's National Ports Authority is being assessed over the MTEF. Transnet's new CEO, Portia Derby, has a tough task on her hands to ensure that clean governance becomes the order of the day at Transnet.
- To date, none of the companies that won the tenders delivered locomotives to Transnet on time and in accordance with the delivery schedule, even though Transnet paid in advance. OUTA has seen evidence that for every payment made to China South Rail, Salim Essa's company Tequesta received a kickback of about 20% of the payment. These kickbacks are billions of rand and must be recovered by the authorities.
- OUTA has submitted a comprehensive report with evidence to the Commission of Inquiry into State Capture and the Hawks to assist them with their investigations into the long and destructive looting of taxpayers' money.
- This committee should also leverage its authority in passing budgets to ensure that consequences follow the breach of fiduciary duties in major SOEs like Transnet before approving additional and ordinary appropriations through the Department of Transport.

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PUBLIC ENTITIES: SECTOR EDUCATION TRAINING AUTHORITIES

- In the 2020 Appropriation Bill, R13.8 billion is allocated to Technical and Vocational Education and Training.
- Despite departmental relocation of the SETAs, governance and financial performance in these public entities have not improved.
- OUTA's investigations suggest that proper procurement procedures have not been adhered to and that hollow service agreements have been entered into at the expense of taxpayers with virtually no benefit for students in some of these entities.
- We recommend that the committee flags appropriations to the Department of Higher Education in cooperation with the Portfolio Committee on Higher Education and Training and jointly demands feedback on remedial actions.

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PUBLIC ENTITIES: WATER BOARDS AND THE WATER TRADING ENTITY

- The Water Infrastructure Development program is the largest spending area in the budget. Transfers and subsidies increase at an average annual rate of 4.8%, from R8.9 billion in 2018/19 to R10.3 billion in 2021/22.
- This demands better regulation and oversight of capital expenditure in the water sector than we have seen thus far. A Parliamentary inquiry into fraud and corruption in the former DWS has been left undone, while the new Minister of Human Settlement, Water & Sanitation has appointed a legal team to pick up the pieces.
- We recommend that this committee pays close attention to developments in this space because many municipalities and water boards have proven to be financially unsustainable. OUTA recommends an Independent Water Regulator that would be better positioned to perform financial oversight in cooperation with Parliament.

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CONCLUSION ON PUBLIC ENTITIES

- Parliament should call for a report back on implementation of the recommendations of the SOE Entity review;
- Legislative changes are needed such as amendments to the Companies Act, an overarching State-Owned Companies Act (or the long-awaited Government Shareholder Management Bill from DPE) and fast-tracked Public Procurement Bill tabled in Parliament. These should be put through a public engagement process and passed soon;
- Government should assess which entities are unnecessary and can be shut down, amalgamated into others or whose operations / function can be replaced by similar organs of state;
- Auditor General to audit major public entities which are currently not audited by the AGSA;
- Public entities that are essential should sell off non-core assets or pursue alternative cash injections to government guarantees and bailouts.

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CONCLUSION ON PUBLIC ENTITIES CONTINUED

- Equity partners to be sought for certain public entities;
- Publicly visible prosecution to tackle corruption and state capture;
- Board members alleged to have been involved in financial misconduct should be given their day in court, declared delinquent if evidence demands it and should not serve in positions of power where there are fiduciary duties;
- All board appointments must be transparent and preceded by a rigorous due diligence process including probity checks; and
- Institutions and persons mandated with oversight roles and who have failed to perform these oversight roles should face consequences. It is unacceptable that the checks and balances constantly fail.

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TRANSPORT

- OUTA recommends more impactful spending (by local and provincial government) on public transport alternatives such as bicycle lanes, subsidized and well-regulated midi- and mini-bus networks, as well as properly maintained and managed passenger rail networks as these could alleviate the costs of commuting to work for those who live far removed from both informal and formal productive activities.
- Regarding e-Tolls, OUTA's contention remains that it is unfair to triple tax motorists in Gauteng who make daily use of the GFIP, in the form of fuel levies, Personal Income Tax and other taxes which contribute to the finance government transfers to SANRAL, and e-tolls.
- Metrorail receives more than R5 billion through the 2020 Appropriations Bill under the stewardship of Prasa. R3.6 billion is earmarked for the 'Rolling stock fleet renewal program' under the same entity. The Competition Commission has recommended that the Metrorail system be unbundled from PRASA.
- The Road Accident Fund's expenditure must be reviewed as we move into the Road Accident Benefit Scheme system once it is enacted. This entity is fast becoming an unsustainable liability to the fiscus.

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COMMUNICATION AND DIGITAL TECHNOLOGIES

- Expenditure in this sector must be fundamentally adjusted by prioritizing innovative and transformative public-private partnerships that, for example, support SMMEs start-ups and accommodate enterprises in informal settlements as opposed to suppressing growth in the private sector.
- The cost of data must be addressed even further – taking into account the need and limitations of indigent people.
- Of the R3.4 billion allocated to the department in the 2020 Appropriations Bill, R1.75 billion goes to ICT Enterprise and Public Entity Oversight. R1.27 billion goes to ICT Infrastructure Development and Support, which should be more.
- This underdeveloped sector requires a much larger proportion of total revenue at government's disposal. Extremely high costs of compensation in redundant or bloated departments like Defense should be reprioritized for purposes like this.
- We note the broadband rollout (SA Connect) infrastructure development initiative to be implemented by the Department of Telecommunications and Postal Services that will cost R80 billion according to Annexure D of the 2020 National Budget. The detailed combination of government, private sector and multilateral finance to be used to pay for this important program over the medium term must be made public to ensure participation and effective implementation.

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WATER AND SANITATION

- R13.8 billion of the total appropriation is earmarked for Water Infrastructure Development. The Department's budget for such projects seems erratic, with numbers for spending changing each year and no clarity on why projects have stalled.
- As is applicable to all other tentative sectoral policy shifts – OUTA calls for a simultaneous reform of accountability mechanisms that will see a greater connection between beneficiaries of public sector expenditure and those responsible for its execution.
- OUTA has been campaigning for an Independent Water Regulator (IWR) to improve the universal provision and use of this precious resource and therefore supports the call for such a regulator and for a comprehensive management strategy for investment in water resource development, bulk water supply, and wastewater management.
- As per the 2020 Appropriations Bill, the Water Trading Entity receives almost R2.5 billion for 2020/21 - with 80% of that amount going to "Acid Mine Drainage and other capital projects".
- OUTA would like to highlight that these are additional costs on top of the massive cost overruns and procurement irregularities associated with Medupi. Trans-Caledon Tunnel Authority received a qualified audit in 2018/19. This does not bode well. We urge the committees to impress upon the National Treasury that contingent liabilities must be managed better as a fiscal risk. Ideally only entities receiving clean audits should be provided with fresh loan guarantees.

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HEALTH

- Expenses on general health services are being neglected due to a need to prioritize the stabilization of SOEs as well as emergency funding for Covid-19, the latter being beyond the scope of this submission.
- While OUTA notes that an additional R20 billion has been allocated to the DoH through the stimulus package, we are concerned that even this may not be sufficient to bolster the public health system to deal with the onslaught that the modelling on Covid-19 infection rates warn to expect. We are also concerned that people with co-morbidities are being neglected during this time.
- We urge the Committees to impress upon the National Treasury that key vacancies and staff shortages in the public health system need to be filled and an appropriate balance be struck between the compensation and goods & services budgets of the department.
- We also note that National Health Insurance (NHI) will need to be implemented more slowly due to affordability. We fully support the principle of Universal Health Coverage and think that it is important to strengthen the primary healthcare system as proposed. OUTA is, however, concerned about the governance arrangements proposed for the NHI Fund in the National Health Insurance Bill that has been tabled. This will require strict oversight mechanisms and transparency to avoid misappropriation and inadequate administration of funds.

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BASIC AND HIGHER EDUCATION

- OUTA agrees with the educational life-cycle approach to public education since it faces the reality of our current school system's dismal failure to educate every South African child and give them a real chance at independence and prosperity.
- We also support the idea of greater collaboration between the private sector and higher education institutions to decrease youth unemployment. The public schooling system requires well-trained and well-paid teachers.
- Regarding higher education reforms, OUTA has noted with great concern the abuse of finances by Sector Education and Training Authorities (SETAs) that are controlled and operated by the government.
- According to the 2019 Annual Report of the Department of Basic Education, Irregular, Fruitless and Wasteful expenditure amounted to R1.8 billion. Although the Auditor-General qualified the DBE financial report, it was stated that the DBE failed to include all the irregular expenditure incurred from not following the requisite supply chain requirements.
- While the National Treasury is having to make tough choices about spending levels, we highlight the fact that the quality of South Africa's basic education is linked to the country's ability to be globally competitive on an economic level.

Thank You.

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