

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 52, 2014

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as "the Act"), have been made in respect of the affairs of the Greater Tubatse Local Municipality situated in the Limpopo Province (hereinafter referred to as "the Municipality");

AND WHEREAS the Municipality suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Municipality, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of those matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by officials and employees of the Municipality;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offences referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Municipality; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 11 March 2004 and the date of publication of this Proclamation, or which took place prior to 11 March 2004 or after the date of publication of this Proclamation, but which is relevant to, connected with, incidental to or ancillary to the matters mentioned in the Schedule or which involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including recovery of any losses suffered by the Municipality, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twenty-first day of July Two thousand and fourteen.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The procurement of and contracting for goods, works or services by or on behalf of the Municipality and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective; or
 - (b) contrary to—
 - (i) applicable legislation;
 - (ii) applicable manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality,and related irregular, fruitless or wasteful expenditure incurred by the Municipality.
2. Fruitless and wasteful expenditure incurred by the Municipality through a settlement paid to Phambili Network Skills.
3. The award of contracts by the Municipality to suppliers and service providers in which individuals in the service of the State held interests, contrary to applicable—
 - (a) legislation;
 - (b) manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (c) manuals, codes, guidelines, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality.
4. The failure by the Municipality to collect money due and owing by its debtors in respect of—
 - (a) a cost order made in favour of the Municipality by the North Gauteng High Court; and
 - (b) municipal services rendered.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika***No. 52, 2014****WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleentheid van die Groter Tubatse Plaaslike Munisipaliteit geleë in die Limpopo Provinsie (hierna na verwys as "die Munisipaliteit");

EN AANGESIEN die Munisipaliteit verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentheid in die Bylae vermeld, ten opsigte van die Munisipaliteit, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleentheid, die opdrag van die Spesiale

Ondersoekkeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur beamptes en werknemers van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdrywe bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), in verband met die sake van die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 11 Maart 2004 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 11 Maart 2004 of na die datum van publikasie van hierdie Proklamasie, maar wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekkeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Munisipaliteit gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die Een-en-twintigste dag van Julie Twee duisend-en-veertien.

J G Zuma
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

BYLAE

1. Die aanskaffing van, en kontraktering vir goedere, werke of dienste deur of namens die Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat—
 - (a) nie billik, mededingend, deursigtig, regverdig, of koste-effektief was nie; of
 - (b) strydig was met—
 - (i) toepaslike wetgewing;
 - (ii) toepaslike handleidings, riglyne, praktyknotas of instruksies deur die Nasionale Tesourie uitgevaardig; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Munisipaliteit van toepassing is,

en verwante onreëlmatige, vrugtelose of verkwiste uitgawes deur die Munisipaliteit aangegaan.
2. Vrugtelose en verkwiste uitgawes aangegaan deur die Munisipaliteit deur die skikking wat betaal is aan Phambili Network Skills.
3. Die toekenning van kontrakte deur die Munisipaliteit aan verskaffers en diensverskaffers waarin individue in diens van die Staat belange gehad het, strydig met toepaslike—