

- (a) wetgewing;
 - (b) handleidings, riglyne, praktyknotas of instruksies deur die Nasionale Tesourie uitgevaardig; of
 - (c) handleidings, kodes, riglyne, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Munisipaliteit van toepassing is.
4. Die versuim van die Munisipaliteit om gelde wat opeisbaar en verskuldig in te vorder van sy skuldenaars ten opsigte van—
- (a) 'n kostebevel wat ten gunste van die Munisipaliteit gemaak is deur die Noord-Gauteng Hoë Hof; en
 - (b) munisipale dienste wat gelewer was.

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 53, 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 State Information and Technology Agency (Pty) Ltd (hereinafter referred to as "SITA");

AND WHEREAS the SITA potentially 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 SITA, 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 the 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 SITA;
- (b) improper or unlawful conduct by officials or employees of the SITA;
- (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 SITA; 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 8 September 2012 and the date of publication of this Proclamation or which took place prior to 8 September 2012 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or 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 SITA, 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:

T M Masutha
MINISTER OF THE CABINET

SCHEDULE

Payments which were made by SITA to IBM SA (Pty) Ltd, in terms of an agreement dated 30 April 2013, concluded between IBM SA (Pty) Ltd and the SITA -

- (a) in a manner that was—
- (i) not fair, competitive, transparent, equitable or cost-effective;
 - (ii) contrary to—
 - (aa) applicable legislation;
 - (bb) applicable manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the SITA,
 and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SITA; or
- (b) which were conducted or facilitated by or through the improper intervention of officials or employees of the SITA.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 53, 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 Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleentheid van die Staatsinligtingstegnologie-agentskap (Edms) Bpk. (hierna na verwys as "die SITA");

EN AANGESIEN die SITA moontlike 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 SITA, 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 die aangeleentheid, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die SITA;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die SITA;
- (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 1994), en welke misdrywe gepleeg is in verband met die sake van die SITA ; 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 8 September 2012 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 8 September 2012 of na die datum van publikasie van hierdie Proklamasie, 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 Ondersoekeenheid 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 SITA 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:

T M Masutha
Minister van die Kabinet

BYLAE

Betalings wat gemaak is deur SITA aan IBM SA (Edms) Bpk, ingevolge 'n ooreenkoms gedateer 30 April 2013, wat aangegaan was tussen IBM SA (Edms) Bpk en die SITA—

- (a) op 'n wyse wat—
 - (i) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
 - (ii) strydig was met—
 - (aa) toepaslike wetgewing;
 - (bb) toepaslike handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of
 - (cc) handleidings, beleid, prosedures, voorskrifte of praktyke van, of wat op die SITA van toepassing is,
- en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes deur die SITA opgeloo; of
- (b) wat gedoen of gefasiliteer was deur die onbehoorlike tussenkoms van beamptes of werknemers van die SITA.