Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette No. 10129 *Regulasiekoerant*

Vol. 584 Pretoria, 14 February Februarie 2014 No. 37347

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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 8, 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 Bushbuckridge Local Municipality situated in the Mpumalanga 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 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 Municipality;
(b) improper or unlawful conduct by 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 1 May 2010 and the date of publication of this Proclamation or which took place prior to 1 May 2010 or after the date of publication of this Proclamation, but which 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 Municipality, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Sixth day of February Two thousand and fourteen.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

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SCHEDULE

1. The procurement of goods, works or services by or on behalf of the Municipality in a manner that was—
   (a) not fair, equitable, transparent, competitive or cost-effective;
   (b) contrary to applicable—
      (i) legislation;
      (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasury; or
      (iii) manuals, codes, policies, procedures, prescripts, guidelines, instructions or practices of or applicable to the Municipality.

2. Any undisclosed or unauthorised interests the personnel of the Municipality may have had with regard to —
   (a) contractors, suppliers or service providers bidding for work or doing business with the Municipality; or
   (b) contracts awarded by or on behalf of the Municipality.

3. The misappropriation of funds and the incurrence of wasteful expenditure or expenditure not due, owing or payable by the Municipality in relation to payments made to its contractors, suppliers or service providers.

4. The irregular issuing of motor vehicle licences and registration certificates by the personnel of the Municipality.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 8, 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 aangeleenthede van die Bushbuckridge Plaaslike Munisipaliteit geleë in die Mpumalanga 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;

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DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede 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 aangeleenthede, 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 Munisipaliteit;
(b) onbehoorlike of onregmatige optrede deur 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 1 Mei 2010 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Mei 2010 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 Munisipaliteit gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Sesde dag van Februarie Twee duisend-en-veertien.

J G Zuma
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

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BYLAE

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

2. Enige ongeopenbaarde of ongemagtigde belange wat die Munisipaliteit se personeel moontlik gehad het met betrekking tot —
   (a) kontrakteurs, verskaffers, diensverskaffers wat vir werk gebie het of met die Munisipaliteit besigheid gedoen het; of
   (b) kontrakte wat deur of namens die Munisipaliteit toegeken is.

3. Die wanbesteding van fondse en die oploop van verkwiste uitgawes of uitgawes wat nie opeisbaar, verskuldig of betaalbaar is nie deur die Munisipaliteit ten opsigte van betalings wat gemaak is aan kontrakteurs, verskaffers en diensverskaffers.

4. Die onreëlmatige uitreiking van motorvoertuig lisensies en registrasiesertifikate deur die personeel van die Munisipaliteit.

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Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
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