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**PROCLAMATIONS • PROKLAMASIES**

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**PROCLAMATION NO. R. 59 OF 2016**

**by the  
PRESIDENT of the REPUBLIC of SOUTH AFRICA**

**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 Sekhukhune District Municipality and the Elias Motsoaledi Local Municipality (hereinafter referred to as "the Municipalities");

AND WHEREAS the Municipalities 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 Municipalities, 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 Municipalities;
- (b) improper or unlawful conduct by the councillors, officials or employees of the Municipalities;
- (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) offence 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 Municipalities; 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 July 2011 and the date of publication of this Proclamation or which took place prior to 1 July 2011 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 the recovery of any losses suffered by the Municipalities, 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 Eighteenth day of August Two thousand and sixteen.

**J G Zuma**  
**President**

By Order of the President-in-Cabinet:

**T M Masutha**  
**Minister of the Cabinet**

#### **SCHEDULE**

1. The procurement of, or contracting for goods, works or services by or on behalf of the Greater Sekhukhune District 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 applicable—
  - (i) legislation;
  - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the relevant Provincial Treasury; or
  - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Greater Sekhukhune District Municipality,

and any related irregular or fruitless and wasteful expenditure incurred by the Greater Sekhukhune District Municipality or the State in respect of—

- (aa) the supply or delivery of water or water tanking services by or on behalf of the Greater Sekhukhune District Municipality, inter alia, to the Jane Furse Command 25ML Reservoir, Buffelshoek and the Elias Motsoaledi Local Municipality;
- (bb) the rendering of professional services in respect of a Value Added Tax review, compliance audit or debt collection services;
- (cc) the construction of the Jane Furse Command 25ML Reservoir (PH1C);
- (dd) the appointment of Engineering Consultants or the rendering of professional advice or services in respect of technical reports for Project Number: 3/3/1-12/2012/13; or
- (ee) the rendering of banking services for the Greater Sekhukhune District Municipality in respect of a Municipal Investment Account held at Standard Bank.

2. The procurement of and contracting for goods, works or services by or on behalf of the Elias Motsoaledi Local 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 applicable—
  - (i) legislation;
  - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the relevant Provincial Treasury; or
  - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Elias Motsoaledi Local Municipality,

and any related irregular or fruitless and wasteful expenditure incurred by the Elias Motsoaledi Local Municipality or the State in respect of the supply or delivery of water or water tanking services by or on behalf of the Elias Motsoaledi Local Municipality.

3. Fraud, corruption, irregularities, malpractices or maladministration in the affairs of the Greater Sekhukhune District Municipality and Elias Motsoaledi Local Municipality, respectively, regarding the matters referred to in paragraphs 1 and 2, including the causes of such fraud, corruption, irregularities, malpractices or maladministration and any losses, damage or actual or potential prejudice suffered by the Municipalities or the State.

**van die  
PRESIDENT van die REPUBLIEK van SUID-AFRIKA**

**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 Groter Sekhukhune Distriksmunisipaliteit en die Elias Motsoaledi Plaaslike Munisipaliteit (hierna na verwys as "die Munisipaliteite");

EN AANGESIEN die Munisipaliteite 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 aangeleenthede in die Bylae vermeld, ten opsigte van die Munisipaliteite, 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 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 Munisipaliteite;
- (b) onbehoorlike of onregmatige optrede deur raadslede, beamptes of werknemers van die Munisipaliteite;
- (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) misdryf 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), en welke misdrywe gepleeg is in verband met die sake van die Munisipaliteite; 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 Julie 2011 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Julie 2011 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 Munisipaliteite gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Agtiende dag van Augustus Twee duisend-en-sestien.

**J G Zuma**  
**President**

Op las van die President-in-Kabinet:

**T M Masutha**  
**Minister van die Kabinet**

#### **BYLAE**

1. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Groter Sekhukhune Distriksmunisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike —
  - (i) wetgewing;
  - (ii) handleidings, riglyne, omsendskrywes, praktyknotas of instruksies wat deur die Nasionale Tesourie of relevante Provinsiale Tesourie uitgevaardig is; of
  - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Groter Sekhukhune Distriksmunisipaliteit van toepassing is,

en enige verwante onreëlmatige of vrugtelose en verspilte uitgawes wat deur die Groter Sekhukhune Distriksmunisipaliteit of die Staat opgehoop was ten opsigte van—

- (aa) die verskaffing of lewering van water of watertenkdienste deur of namens die Groter Sekhukhune Distriksmunisipaliteit, inter alia, aan die Jane Furse Command 25ML Reservoir, Buffelshoek en die Elias Motsoaledi Plaaslike Munisipaliteit;
- (bb) die verskaffing van professionele dienste ten opsigte van 'n Belasting op Toegevoegde Waarde hersiening, nakoming audit of skuldinvorderingsdienste;
- (cc) die konstruksie van die Jane Furse Command 25ML Reservoir (PH1C);
- (dd) die aanstelling van ingenieurskonsultante of die verskaffing van professionele advies of dienste ten opsigte van tegniese verslae vir Projeknommer: 3/3/1-12/2012/13; of
- (ee) die verskaffing van bankdienste vir die Groter Sekhukhune Distriksmunisipaliteit ten opsigte van 'n Munisipale Beleggingsrekening gehou te Standard Bank.



2. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (a) nie mededingend, regverdig, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike —
  - (i) wetgewing;
  - (ii) handleidings, riglyne, omsendskrywes, praktyknotas of instruksies wat deur die Nasionale Tesourie of relevante Provinsiale Tesourie uitgevaardig is; of
  - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Elias Motsoaledi Distriksmunisipaliteit van toepassing is,

en enige verwante onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Elias Motsoaledi Plaaslike Munisipaliteit of die Staat opgeloop is ten opsigte van die verskaffing of lewering van water of watertenkdienste deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit.

3. Bedrog, korrupsie, onreëlmatighede, wanpraktyke of wanadministrasie in die aangeleenthede van die Groter Sekhukhune Distriksmunisipaliteit en die Elias Motsoaledi Plaaslike Munisipaliteit, onderskeidelik, ten opsigte van die aangeleenthede verwys na in paragrawe 1 en 2, insluitende die oorsake van sodanige bedrog, korrupsie, onreëlmatighede, wanpraktyke of wanadministrasie en enige verliese, skade of werklike of potensiële nadeel wat deur die Munisipaliteite of die Staat gely is.





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