



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 9287

Regulasiekoerant

Vol. 539

Pretoria, 14 May 2010
Mei

No. 33190

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PROCLAMATION*by the**President of the Republic of South Africa***No. R. 21, 2010****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) ("the Act"), have been made in respect of the affairs of the Department of Health for the Gauteng Province (hereinafter referred to as the "Department");

AND WHEREAS the Department suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes 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 Department 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 –

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by officials and/or employees of the Department;
- (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 Part 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, and which offences were committed in connection with the affairs of the Department; 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 have taken place between 1 January 2006 and the date of publication 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 Department, 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 seventh day of May Two thousand and ten.

K P Motlanthe**President**

By Order of the President-in-Cabinet:

J T Radebe**Minister of the Cabinet**

SCHEDULE

1. The procurement of the services of and contracting with consultants or service providers to the approximate value of R779 500-00 for the preparation and compilation of the 2007/2008 budget for the Department and payments made to them in relation thereto in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective; and
 - (b) contrary to applicable -
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes and instructions issued by the National Treasury and/or the applicable Provincial Treasury, as amended (hereinafter collectively referred to as "practice notes"); and
 - (iii) manuals, policies, procedures, instructions and/or practices of or applicable to the Department (hereinafter collectively referred to as "Departmental policies").
2. The procurement of the services of and contracting with consultants or service providers on or about 2 July 2007 to the approximate value of R60 000 000-00 for the establishment of a Project Management Unit, its staffing and executing its functions and the extension of that contract during or about December 2008 and March 2009 and payments made to them in relation thereto in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective; and
 - (b) contrary to applicable legislation, practice notes and/or Departmental policies.
3. The procurement of the services of and contracting with service providers or conference administrators for the Gauteng AIDS Conference for 15 and 16 November 2007 and payments made to them in relation thereto in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective;
 - (b) contrary to applicable legislation, practice notes and/or Departmental policies; and
 - (c) fraudulent.
4. The procurement of and contracting for goods and services relating to the provisioning of an information system and electronic health records solution system during or about December 2007 and changes made to the contract during or about January 2009 and payments made in relation thereto in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective;
 - (b) contrary to applicable legislation, practice notes and/or Departmental policies; and
 - (c) corrupt.
5. The procurement of and contracting for goods and services relating to the implementation of local area networks for about 134 health facilities under tender GT/GHD/107/2007 during or about December 2007 and changes made to the contract during or about August 2008 and payments made in relation thereto in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective; and
 - (b) contrary to applicable legislation, practice notes and/or Departmental policies.
6. The procurement of, contracting for and payments made for goods and services under tender GT/GHD/02/2009 in a manner that was -
 - (a) not fair, equitable, transparent, competitive and/or cost-effective; and
 - (b) contrary to applicable legislation, practice notes and/or Departmental policies.
7. The procurement of and contracting for database management goods and services

during or about October 2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

8. The procurement of and contracting for services relating to the evaluation of the Transformation Project at the surgical division of the Chris Hani Baragwanath Hospital during or about October 2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

9. The procurement of and contracting for goods and services relating to the supply, installation, commissioning and maintenance of ultra violet germicidal irradiation units under tender GT/GHD/22/2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

10. The incurrence of -

- (a) unauthorized expenditure;
- (b) irregular expenditure;
- (c) fruitless and wasteful expenditure; and
- (d) expenditure not due, owing and payable in relation to payments made -
 - (i) to consultants, suppliers and service providers for any of the aforementioned goods and services to the Department; and
 - (ii) in respect of services rendered to address the Auditor-General's qualified audit for the 2007/2008 financial year of the Department with regard to fixed assets.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 21, 2010

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) (die Wet), gemaak is in verband met die aangeleenthede van die Departement van Gesondheid van die Gauteng Provinsie (hierna na verwys as die "Departement");

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

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare 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 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 -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement;
- (b) onbehoorlike of onregmatige optrede deur beamptes en/of werknemers van die Departement;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreef 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 Bedrywigheide, 2004, in verband met die sake van die Departement; 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 Januarie 2006 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenheid toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die sewende dag van Mei Tweeëduisend-en-tien.

K P Motlanthe
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

BYLAE

1. Die aanskaffing van dienste van en kontraktering met konsultante en diensverskaffers tot 'n geraamde bedrag van R779 500-00 vir die voorbereiding en samestelling van die 2007/2008 begroting van die Departement en betalings wat aan hulle gemaak is in verband daarmee op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike -
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas en instruksies deur die Nasionale en/of toepaslike Provinsiale Tesourie, soos gewysig, uitgevaardig (hierna gesamentlik na verwys as "praktyknotas"); en
 - (iii) handleidings, beleid, prosedures, instruksies en/of praktyke op die Departement van toepassing (hierna gesamentlik na verwys as

"Departementele beleid").

2. Die aanskaffing van dienste van en kontraktering met konsultante of diensverskaffers op of ongeveer 2 Julie 2007, tot 'n geraamde bedrag van R60 000 000-00, vir die oprigting, bemanning en funksionering van 'n Projek Bestuurseenheid, en die verlenging van daardie kontrak gedurende of ongeveer Desember 2008 en Maart 2009 en betalings wat aan konsultante en diensverskaffers gemaak is in verband daarmee op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.

3. Die aanskaffing van dienste van en kontraktering met diensverskaffers of konferensie administrateurs vir die Gauteng HIV Konferensie van 15 en 16 November 2007 en betalings wat aan hulle gemaak is op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie;
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid; en
- (c) bedrieglik is.

4. Die aanskaffing van en kontraktering vir goedere en dienste in verband met die voorsiening van 'n inligtings stelsel en elektroniese gesondheids-rekord oplossing stelsel gedurende of ongeveer Desember 2007 en veranderings wat aan die kontrak aangebring was gedurende of ongeveer Januarie 2009 en betalings wat in verband daarmee gemaak is op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie;
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid; en
- (c) korrupt is.

5. Die aanskaffing van en kontraktering vir goedere en dienste in verband met die implementering van lokale area netwerke vir ongeveer 134 gesondheid fasiliteite kragtens tender GT/GHD/107/2007 gedurende of ongeveer Desember 2007 en veranderings wat aan die kontrak aangebring was gedurende of ongeveer Augustus 2008 en betalings wat ten opsigte daarvan gemaak is op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.

6. Die aanskaffing van, kontraktering vir en betalings wat gemaak is vir goedere en dienste kragtens tender GT/GHD/02/2009 op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.

7. Die aanskaffing van dienste en kontraktering vir databasis bestuur goedere en dienste gedurende of ongeveer Oktober 2008 en betalings wat in verband daarmee gemaak is op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.

8. Die aanskaffing van en kontraktering vir dienste in verband met die evaluering van die Transformasie Projek by die snykundige afdeling van die Chris Hani Baragwanath Hospitaal gedurende of ongeveer Oktober 2008 en betalings in verband daarmee gemaak wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en
- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.

9. Die aanskaffing van en kontraktering vir goedere en dienste in verband met die voorsiening, installasie, ingebruikneming en onderhoud van ultra violet ontsmettings eenhede kragtens tender GT/GHD/22/2008 en betalings wat in verband daarmee gemaak is op 'n wyse wat -

- (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en

- (b) strydig is met toepaslike wetgewing, praktyknotas en/of Departementele beleid.
- 10. Die oploop van -
 - (a) ongemagtigde uitgawes;
 - (b) onreëlmatige uitgawes;
 - (c) vrugtelose en verkwiste uitgawes; en
 - (d) uitgawes wat nie opeisbaar, verskuldig en betaalbaar is ten opsigte van betalings wat gemaak is -
 - (i) aan konsultante, verskaffers en diensverskaffers vir enige van die voorafgaande goedere en dienste aan die Departement; en
 - (ii) ten opsigte van dienste wat gelewer is om die Ouditeur-Generaal se gekwalifiseerde oudit vir die 2007/2008 finansiële jaar van die Departement ten opsigte van vaste bates aan te spreek.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

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
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