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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 37, 2007

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), have been made in respect of the affairs of the Free State Provincial Department of Finance and the Free State Provincial Treasury (hereinafter collectively 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, and at the request of the Premier of the Free State Province, refer the matters mentioned in the Schedule 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 officers 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 2002 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, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Department.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this First day of November Two thousand and seven.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The procurement of goods and services by the Department in the amount of R777 862, 44 for the Free State Moral Regeneration Movement contrary to prescribed tender procedures and in a manner that was neither fair, competitive, transparent, equitable nor cost-effective.
2. The failure by the Department to-
 - (a) conclude an appropriate service level agreement regulating the rendering of services and the delivery of goods procured for the Free State Moral Regeneration Movement and for the payment thereof; and
 - (b) verify the rendering of services and delivery of goods procured for the Free State Moral Regeneration Movement before making payment thereof.
3. The awarding of contracts for the rendering of services and the delivery of goods for the Free State Moral Regeneration Movement to an entity in which the spouse of the personal assistant of a Member of the Executive Committee held an interest.