

No. R. 39, 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) (the "Act"), have been made in respect of the affairs of the Dihlabeng Local Municipality situated in the Free State 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 justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the said 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 said Act, any -

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by officers and/or 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) 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 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 have taken place between August 2003 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Municipality.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Sixteenth 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 alienation, during 2005/2006, of land belonging to the Municipality (Portion of the Farm Pretoriuskloof 152 situated adjacent to Erf 3371 between the Engen One Stop and the Casino), in a manner and by a process contrary to the provisions of sections 14(2) and (5) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), to the lowest bidder at a purchase price substantially below the land's fair and reasonable market value.
2. The financial prejudice to and losses suffered by the Municipality as a result of the alienation of the land contemplated in paragraph 1.
3. Any actual or prospective interests held by any councillor of the Municipality in the company that was awarded the bid to which the land referred to in paragraph 1 was sold, and whether such interests existed at the time of the alienation, and any influence which such interests may have had on the alienation of the land to the said bidder.
4. The procurement of, and events leading to the procurement during 2005/2006 of motor vehicles for the Municipality in a manner and by a process contrary to applicable legislation and from a bidder, Moipone Investments, whose bids were not the lowest acceptable bids.
5. The financial prejudice and losses suffered by the Municipality as a result of the procurement of the motor vehicles referred to in paragraph 4.
6. The failure to enforce the condition regarding time of delivery which was imposed as a condition to the awarding of the contract for the procurement of motor vehicles from Moipone Investments, referred to in paragraph 4.