

086 5922 533

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS

INHOUD

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
PROCLAMATION			PROKLAMASIE		
R. 58			R. 58		
Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing special investigating unit and special tribunal: Kopanong Local Municipality	3	34677	Wet op Spesiale Ondersoekenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande spesiale ondersoekenhede en spesiale tribunaal: Kopanong Plaaslike Munisipaliteit	4	34677

PROCLAMATION*by the**President of the Republic of South Africa*

No. 58, 2011

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL: KOPANONG LOCAL MUNICIPALITY

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 Kopanong Local Municipality that falls within 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 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—

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by councillors, officials 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 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 July 2006 and 31 March 2009 or which took place prior to 1 July 2006 or after 31 March 2009, but which is relevant to, connected with, incidental or ancillary to, the matters mentioned in the Schedule or which involves 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 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 Twenty-ninth day of September Two thousand and eleven.

J G ZUMA
President

By Order of the President-In-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

1. The procurement of and contracting for consulting or related services by or on behalf of the Municipality and payments made in respect thereof 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, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality; or
 - (c) conducted or facilitated by the manipulation of the Municipality's supply chain management or procurement processes, and related unauthorised, irregular, fruitless and wasteful expenditure or loss of the Municipality's funds.

2. Losses or prejudice suffered by the Municipality as a result of -
 - (a) the unnecessary or wasteful engagement of and payment for consultancy or related service providers;
 - (b) payments made to the Municipality's consultancy or related service providers despite their non-performance, incomplete performance or defective performance; or
 - (c) the settlement of claims by consultancy or related service providers for payments not lawfully due to them.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika*

No. 56, 2011

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL: KOPANONG PLAASLIKE MUNISIPALITEIT

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleentheid van die Kopanong Plaaslike Munisipaliteit geleë in die Vrystaat 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 beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentheid 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 die aangeleentheid, 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 aangeleentheid van die Munisipaliteit;
- (b) onbehoortlike of onregmatige optrede deur raadslede, beamptes en/of werknemers van die Munisipaliteit;

- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatregel 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 aangeleenthede 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 Julie 2006 en 31 Maart 2009 of wat plaasgevind het voor 1 Julie 2006 of na 31 Maart 2009, maar wat relevant is tot, verband hou met, insidanteel 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 Ondersoekseenheid 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 Nege-en-twintigste dag van September Twee duisend-en-elf.

J G ZUMA

President

Op las van die President-in-Kabinet:

J T RADEBE

Minister van die Kabinet

BYLAE

1. Die aanskaffing van, en kontraktering vir konsultasie of verwante dienste deur of namens die Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat -
 - (a) nie billik, deursigtig, regverdig, 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, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Munisipaliteit van toepassing is; of
 - (c) gedoen of gefasiliteer was deur die manipulering van die Munisipaliteit se voorsieningskanaal-bestuur of aanskaffings prosesse, en verwante ongemagtigde, onreëlmatige, vrugtelose en verkwiste uitgawes of verlies van die Munisipaliteit se fondse.
2. Verliese of nadeel deur die Munisipaliteit gely as gevolg van -
 - (a) die onnodige of verkwistende indiensneming van en betaling vir konsultasie of verwante diensverskaffers;
 - (b) betalings wat aan die Munisipaliteit se konsultasie of verwante diensverskaffers gemaak is ten spyte van dié se wanprestasie, onvolledige prestasie of defektlawe prestasie; of
 - (c) die skikking van else deur konsultasie of verwante diensverskaffers vir betalings wat nie regmatig aan hulle verskuldig is nie.