

## **PROCLAMATION**

*by the*

*President of the Republic of South Africa*

**No. R. 63, 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) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Ekurhuleni Metropolitan Municipality (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 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 1 January 2007 and the date of publication of this Proclamation or which took place prior to 1 January 2007, but are connected with or incidental 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 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 Thirty-first day of October Two thousand and ten.

**J G ZUMA**  
**President**

By Order of the President-in-Cabinet:

**J T RADEBE**  
**Minister of the Cabinet**

#### **SCHEDULE**

1. The procurement of goods, works or services by or on behalf of the Municipality and payments made in respect thereof in a manner that was -
  - (a) not fair, competitive, transparent, equitable or cost-effective;
  - (b) contrary to applicable legislation;
  - (c) contrary to applicable manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasury;

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- (d) contrary to manuals, codes, policies, procedures, prescripts, instructions or practices of, or applicable to the Municipality;
  - (e) conducted or facilitated by or through the intervention of officials or employees of the Municipality with undeclared or unauthorised conflicts of interest; or
  - (f) conducted or facilitated by the manipulation of the supply chain management or procurement processes of the Municipality by, or through the intervention of officials or employees of the Municipality to corruptly or unduly benefit themselves or others.
2. The procurement of goods, works or services by or on behalf of the Municipality based on material misrepresentations made by contractors, suppliers, service providers or bidders with regard to any preference to be afforded to them in terms of the supply chain management or procurement processes, and payments made in respect thereof.
3. The mismanagement, misspending or misappropriation of the finances, funds or assets of the Municipality and resultant losses suffered by the Municipality in respect of -
- (a) payments made for goods not supplied or works or services not rendered;
  - (b) payments made under maintenance contracts in respect of equipment never delivered or not commissioned; or
  - (c) duplication of payments to contractors, suppliers or service providers; and
  - (d) the fraudulent or corrupt involvement of officials or employees of the Municipality or contractors, suppliers or service providers of the Municipality in the making or receiving of such payments.