PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 162 OF 2024

by the

PRESIDENT of the REPUBLIC of SOUTH AFRICA

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL: TOKOLOGO AND SOL PLAATJIE LOCAL MUNICIPALITIES

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 Tokologo Local Municipality and the Sol Plaatjie Local Municipality (hereinafter referred to as "the Municipalities");

AND WHEREAS the Municipalities may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings 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 Municipalities, 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 alleged—

(a) serious maladministration in connection with the affairs of the Municipalities;

(b) improper or unlawful conduct by employees of the Municipalities;

(c) unlawful expenditure of public money;

(d) 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 Municipalities; or

(e) 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 April 2015 and the date of publication of this Proclamation or which took place prior to 1 April 2015 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary 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 Municipalities or the State, 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 11 day of December Two thousand and twenty three.

President

By Order of the President-in-Cabinet:

Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for goods, works or services by or on behalf of the Municipalities and payments made in respect thereof in a manner that was–

(a) not fair, competitive, transparent, equitable or cost-effective;

(b) contrary to applicable—

(i) legislation;

(ii) manuals, guidelines, practice notes, circulars 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 Municipalities,

and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipalities or losses suffered by the Municipalities or the State in relation to the following:

(*aa*) the Tokologo Local Municipality project titled "Erection of 15 High Mast Lights"; and

(*bb*) the Sol Plaatjie Local Municipality project titled "Electrification Project".

2. Any irregular, improper or unlawful conduct by–

(*a*) the applicable service provider of the Municipalities; or

(*b*) any other person or entity,

relating to the allegations referred to in paragraph 1 of this Schedule.

PROKLAMASIE KENNISGEWING 162 VAN 2024

van die

PRESIDENT van die REPUBLIEK van SUID AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID: TOKOLOGO EN SOL PLAATJIE PLAASLIKE MUNISIPALITEITE

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die Tokologo Plaaslike Munisipaliteit en die Sol Plaatjie Plaaslike Munisipaliteit (hierna na verwys as "die Munisipaliteite");

EN AANGESIEN die Munisipaliteite of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en 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 vermeld ten opsigte van die Munisipaliteite, 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 aangeleenthede, 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 aangeleenthede van die Munisipaliteite;

(*b*) onbehoorlike of onregmatige optrede deur werknemers van die Munisipaliteite;

(*c*) onregmatige besteding van publieke geld;

(*d*) 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 sake van die Munisipaliteite; of

(*e*) 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 April 2015 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 April 2015 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel 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 Ondersoekeenheid 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 Munisipaliteite of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te **PTA** op hede die **11** dag van **Desember** Twee duisend-drie-en-twintig.

President
Op las van die President-in-Kabinet
Minister van die Kabinet

BYLAE

1. Die verkryging van, of kontraktering vir, goedere, werke of dienste deur, of namens, die Munisipaliteite en betalings wat ten opsigte daarvan gemaak is op 'n wyse wat—

(*a*) nie regverdig, mededingend, deursigtig, of koste-effektief was nie; of

(*b*) strydig was met toepaslike—

(i) wetgewing;

(ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of betrokke Provinsiale Tesourie uitgevaardig is; of

(iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Munisipaliteite van toepassing is,

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Munisipaliteite aangegaan is of verliese wat deur die Munisipaliteite of die Staat gely is met betrekking tot die volgende:

(*aa*) die Tokologo Plaaslike Munisipaliteit projek getitel "Erection of 15 High Mast Lights"; en

(*bb*) die Sol Plaatjie Plaaslike Munisipaliteit projek getitel "Electrification Project".

2. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—

(*a*) the betrokke diensverskaffer van die Munisipaliteite; of

(*b*) enige ander persoon of entiteit,

met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.