

PROCLAMATION 196 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

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 "SIU Act"), have been made in respect of the affairs of the JB Marks Local Municipality and its predecessor, the Tlokwe Local Municipality (hereinafter referred to as "the Municipality");

AND WHEREAS the Municipality 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 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 alleged—

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by 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 01 January 2015 and the date of publication of this Proclamation 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 Municipality 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 Johannesburg this 16th day of September Two thousand and twenty-four.

**CM Ramaphosa
President**

By Order of the President-in-Cabinet:

T Simelane
Minister of the Cabinet

Schedule

1. The procurement of, or contracting for goods, works or services by or on behalf of the Municipality, or its predecessor, the Tlokwe Local Municipality, in relation to the construction of a flood line canal next to the N12 provincial road and Ikageng extension 11 and payments made in relation thereto in a manner that was—

- (a) not fair, competitive, transparent, equitable or cost-effective; or
- (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury;
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality;

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality or the State.

2. Any irregular, unlawful or improper conduct by—

- (a) officials or employees of the Municipality; or
- (b) the applicable suppliers or service providers of the Municipality; or
- (c) any other person or entity,

in relation to the allegations as set out in paragraph 1 of this Schedule.

PROKLAMASIE 196 VAN 2024 **deur 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 EN SPESIALE TRIBUNAAL**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna “die Wet” genoem), gemaak is ten opsigte van die sake van die JB Marks-plaaslike munisipaliteit (hierna “die Munisipaliteit” genome);

EN AANGESIEN die Munisipaliteit moontlik verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat die vermelde bewerings ondersoek moet word en siviele verrigtinge wat uit sodanige ondersoek voortspruit, bereg moet word;

verwys ek nou, DERHALWE, kragtens artikel 2(1) van die Wet, die aangeleentede in die Bylae vermeld, ten opsigte van die Munisipaliteit, vir ondersoek na die Spesiale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleentede, dit die opdrag van die Spesiale Ondersoekeenhede is om ondersoek in te stel, soos in die Wet beoog, na enige beweerde—

- (a) ernstige wanadministrasie in verband met die sake van die Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of niegoedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van 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 in verband met die sake van die Munisipaliteit gepleeg is; of
- (g) onregmatige 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 tussen 1 Januarie 2015 en die datum van publikasie van hierdie Proklamasie plaasgevind het, maar betrekking het op, verband hou met, insidenteel of aanvullend is tot die aangeleentede in die Bylae vermeld of dieselfde persone, entiteite of kontrakte betrek wat onder die gesag van hierdie Proklamasie ondersoek word, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die vermelde Spesiale Ondersoekeenhede verleen word, uit te voer of te verrig, met inbegrip van om enige verliese wat die Munisipaliteit of die Staat met betrekking tot die in die Bylae vermelde sake, gely het, te verhaal.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 16^{de} dag van September Tweeduisend vier-en-twintig.

CM Ramaphosa
President

Op las van die President in die Kabinet:

T Simelane
Minister van die Kabinet

Bylae

1. Die verkryging van, of kontraktering vir goedere, werke of dienste deur of namens die Munisipaliteit, of die voorganger daarvan, die Tlokwe-plaaslike munisipaliteit, in verband met die konstruksie van 'n vloedkanaal langs die N12 provinsiale pad en Ikageng-uitbreiding 11 en betalings wat met betrekking daartoe gemaak is op 'n wyse—

- (a) wat nie billik, mededingend, deursigtig, gelyk of koste-doeltreffend was nie;
- (b) wat strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas, omsendbriewe, of opdragte deur die Nasionale Tesourie of Tersaaklike Provinsiale Tesourie uitgereik,
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of van toepassing op die Munisipaliteit;

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwistende uitgawes deur die Munisipaliteit of die Staat aangegaan.

2. Enige onreëlmatige, onregmatige of onbehoorlike optrede deur—

- (a) beamptes of werknemers van die Munisipaliteit; of
 - (b) die toepaslike verskaffers of diensverskaffers van die Munisipaliteit; of
 - (c) enige ander persoon of entiteit,
- in verband met die bewerings in paragraaf 1 van hierdie Bylae uiteengesit.