

No. R. 40, 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 Maluti-a-Phofung 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 1 November 2002 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 Fifteenth 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 procurement and events leading to the procurement of services for the construction of a 132kv substation at Moeding (Tender No. ND03016N) in a manner and by a process contrary to the provisions of applicable legislation and the awarding of a contract for the performance of said services to a bidder whose bid was substantially higher than that of the lowest acceptable bid with the highest score.
2. The expenditure between February 2004 and February 2005 of an additional amount of approximately R1 345 505 for services on the construction of the 132kv substation at Moeding, referred to in paragraph 1.
3. The involvement in the construction of ventilated pit latrines of an entity other than the bidder to which a contract was awarded for the construction of the said latrines.
4. The procurement and events leading to the procurement during 2003 of services for the delivery of health and hygiene education and training in a manner and by a process contrary to applicable legislation governing such procurement.
5. The awarding of a contract for the performance of services for the delivery of health and hygiene education and training to Digoeregoere Business Projects whose bid was not the highest scoring bid and losses which the Municipality suffered as a result thereof.
6. The appointment of a consultant and agent in relation to projects for the construction of the pit latrines referred to in paragraph 3 and delivery of the services referred to in paragraph 4 without following procurement processes prescribed by applicable legislation.
7. The making of a double payment of R304 106, 40 on invoice number 200405 of Digoeregoere Business Projects on 25 August 2004 and 1 September 2004, respectively, and the failure to recover the excess payment.

8. The procurement and events leading to the procurement of electricity revenue management services during 2004 in a manner and by a process contrary to applicable legislation.
9. The awarding of a contract for the performance of electricity revenue management services to a bidder whose bid was not the lowest acceptable and highest scoring bid, and losses which the Municipality suffered as a result thereof.