

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 53, 2014

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 State Information and Technology Agency (Pty) Ltd (hereinafter referred to as "SITA");

AND WHEREAS the SITA potentially 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 SITA, 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 SITA;
- (b) improper or unlawful conduct by officials or employees of the SITA;
- (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) offences 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 SITA; 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 8 September 2012 and the date of publication of this Proclamation or which took place prior to 8 September 2012 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 recovery of any losses suffered by the SITA, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twenty-first day of July two thousand and fourteen.

J G Zuma
PRESIDENT

By Order of the President-in-Cabinet:

T M Masutha
MINISTER OF THE CABINET

SCHEDULE

Payments which were made by SITA to IBM SA (Pty) Ltd, in terms of an agreement dated 30 April 2013, concluded between IBM SA (Pty) Ltd and the SITA -

- (a) in a manner that was—
 - (i) not fair, competitive, transparent, equitable or cost-effective;
 - (ii) contrary to—
 - (aa) applicable legislation;
 - (bb) applicable manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the SITA,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SITA; or
 - (b) which were conducted or facilitated by or through the improper intervention of officials or employees of the SITA.
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