

PROCLAMATION NO. R. 5 OF 2018

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

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 Tshwane South Technical and Vocational Education and Training College (hereinafter referred to as "the College");

AND WHEREAS the College or the State 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 College, 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 College;
- (b) improper or unlawful conduct by employees of the College;
- (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 College; 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 1 January 2005 and the date of publication of this Proclamation or which took place prior to 1 January 2005 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 College or 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 Fourteenth day of December Two thousand and seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

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

- (i) not fair, competitive, transparent, equitable or cost-effective;
 - (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the College;
 - (iii) conducted or facilitated by or through the intervention of employees of the College with undeclared conflicts of interest; or
 - (iv) fraudulent,
- and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the College or the State.

- (b) For purposes of paragraph (a) “**goods, works or services**” means—
- (i) the rendering of security services at the Centurion, Odi, Pretoria-West and Atteridgeville Campuses of the College;
 - (ii) the rendering of cleaning services at the Centurion and Odi Campuses of the College;
 - (iii) the supply and installation of security access control at the Atteridgeville and Odi Campuses of the College;
 - (iv) the supply of golf shirts;
 - (v) the planning, design and construction of a resource centre, library and internet café;
 - (vi) training related services;
 - (vii) the supply and installation of electrical cabling at the Atteridgeville Campus in terms of Tender TSC2008/9/02;
 - (viii) event management services for the 2014 Spring-day celebration;

- (ix) the extension of a contract of a service provider to provide auditing services to the College; and
- (x) the appointment of two service providers to render unspecified services to the College.

2. Any unlawful or improper conduct by—

- (a) employees of the College;
- (b) contractors, suppliers or service providers of the College; or
- (c) any other person or entity,

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

PROKLAMASIE NO. R. 5 VAN 2018**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**

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 "Tshwane South Technical and Vocational Education and Training College" (hierna na verwys as "die Kollege");

EN AANGESIEN die Kollege 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 Kollege, 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 aangeleenthede, die opdrag van die Spesiale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Kollege;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die Kollege;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld 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 gepleeg is in verband met die sake van die Kollege; of
- (g) 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 Januarie 2005 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2005 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 Kollege of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Twee duisend-en-sewentien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. (a) Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Kollege en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (i) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
 - (ii) strydig was met toepaslike—
 - (aa) wetgewing;
 - (bb) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of relevante Plaaslike Tesourie uitgevaardig is; of
 - (cc) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Kollege van toepassing is;
 - (iii) gedoen of gefasiliteer was deur of deur die ingryping van werknemers van die Kollege met 'n ongeopenbaarde belangebotsing; of
 - (iv) bedrieglik was,
- en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Kollege of die Staat aangegaan is.

(b) Vir doeleindes van paragraaf (a) beteken “**goedere, werke of dienste**”—

- (i) die verskaffing van sekuriteitsdienste by die Centurion, Odi, Pretoria-Wes en Atteridgeville Kampusse van die Kollege;
- (ii) die verskaffing van skoonmaakdienste by die Centurion en Odi Kampusse van die Kollege;
- (iii) die verskaffing en installering van sekuriteit-toegangsbeheer by die Atteridgeville en Odi Kampusse van die Kollege;
- (iv) die verskaffing van gholf hemde;

- (v) die beplanning, ontwerp en konstruksie van 'n hulpbron sentrum, biblioteek en Internet kafee;
- (vi) opleiding verwante dienste;
- (vii) die verskaffing en installering van elektriese bekabeling by die Atteridgeville Kampus ingevolge Tender TSC2008/9/02;
- (viii) gebeurtenis-bestuursdienste vir die 2014 Lentedag vieringe;
- (ix) die verlenging van 'n kontrak van 'n diensverskaffer om ouditering dienste aan die Kollege te lewer; en
- (x) die aanstelling van twee diensverskaffers om ongespesifiseerde dienste aan die Kollege te verskaf.

2. Enige onwettige of onbehoorlike optrede deur—

- (a) werknemers van die kollege;
- (b) kontrakteurs, verskaffers of diensverskaffers van die Kollege; of
- (c) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.