DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 96 **2 December 2022**

PROCLAMATION

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: DEPARTMENT OF WATER AND SANITATION

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 National Department of Water and Sanitation (hereinafter referred to as "the Department");

AND WHEREAS the Department or the State 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 Department, 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 Department;

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

(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 Department; 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 2019 and the date of publication of this Proclamation or which took place prior to 1 January 2019 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 Department 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 thirteenth day of November Two thousand and twenty two.

MC Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for goods, works or services by or on behalf of the Department in respect of contract number DEV 0043-WTE for:

(a) Repairs to Pump Number 5 at Grootfontein Pump Station;

(b) replacement of Rising Main 1 & 2 Power Packs and Controls at Grootfontein Pump Station; and

(c) design, supply, installation and commissioning of Packaged Water Treatment Plant at Grootdraai Pump Station by the Department in a manner that was—

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

(ii) contrary to applicable—

(aa) legislation,

(bb) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury; or

(cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department;

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

2. Any unlawful, improper or irregular conduct by—

(a) officials or employees of the Department;

(b) suppliers or service provider of the Department; or

(c) any other person or entity

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

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 96 **2 Desember 2022**

PROKLAMASIE

van die

PRESIDENT van die REPUBLIEK van SUID AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996: VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID: DEPARTEMENT VAN WATER EN SANITASIE

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 Nasionale Departement van Water en Sanitasie (hierna verwys as "die Departement");

EN AANGESIEN die Departement 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 Departement, 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 Departement;

(b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Departement;

(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 Departement; 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 2019 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2019 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 Departement of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die dertiende dag van November Twee duisend-en-twee-en-twintig.

MC Ramaphosa
President

Op las van die President-in-Kabinet

RO Lamola
Minister van die Kabinet

BYLAE

Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Departement ten opsigte van kontrak nommer DEV 0043-WTE vir:

(a) Herstelwerk aan Pomp Nommer 5 by die Grootfontein Pompstasie;

(b) vervanging van kragpakke en kontroles van Stygende Hoofriool 1 & 2 by die Grootfontein Pompstasie; en

(c) ontwerp, verskaffing, installering en in gebruikneming van Verpakte Waterbehandelingsaanleg by die Grootfontein Pompstasie deur die Departement op 'n wyse wat—

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

(ii) strydig was met toepaslike—

(aa) wetgewing;

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

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

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is, deur die Departement of die Staat.

2. Enige onwettige, onbehoorlike of onreëlmatige gedrag deur—

(a) beamptes of werknemers van die Departement;

(b) verskaffers of diensverskaffers van die Departement; of

(c) enige ander person of entiteit,

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

This gazette is also available free online at **www.gpwonline.co.za**