

PROCLAMATION 183 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

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 Umzumbe Local Municipality (hereinafter referred to as “the Municipality”);

AND WHEREAS the Municipality 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 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 the employees or officials 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 1 January 2013 and the date of publication of this Proclamation or which took place prior to 1 January 2013 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 Pretoria this 16th day of August 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, services in respect of—
 - (a) the construction of the Umzumbe Municipal Offices;
 - (b) the rehabilitation of the Qwabe, Cabhane, Mabheleni, Magabha, Sgananda and Ndletshe Roads;
 - (c) the construction of the Isipofu Access Road, in terms of Tender Number: UMZ-73T-2015;
 - (d) construction work at the Ntelezi Msani Heritage Centre, in terms of Tender Number: UMZ-61T-2014;
 - (e) the construction of Nkanini Indoor Sports Centre, in terms of Tender Number: UMZ-47T-2014 (Phase 1) and Tender Number: UMZ-65T-2015 (Phase 2);
 - (f) the construction of the Ntatshana Access Road and Bridge (Phase 1 and Phase 2); and
 - (g) the Three Year Electrification Turnkey Project (2015 to 2018),by or on behalf of the Municipality, 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 Municipality;
 - (iii) conducted by, or facilitated through, the unlawful, irregular or improper intervention of employees or officials of the Municipality; or
 - (iv) fraudulent,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality or the State as a result thereof.
2. Any non-performance, poor performance, defective performance or late performance by the service providers appointed by the Municipality, in respect of services delivered, performed or rendered in terms of the projects referred to in paragraph 1(a) to (g) of this Schedule.
3. Any unlawful or improper conduct by employees or officials of the Municipality or the service providers in question, their employees or any other person or entity, relating to the allegations set out in paragraphs 1 and 2 of this Schedule.

PROKLAMASIE 183 VAN 2024**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 Umzumbe Distriksmunisipaliteit (hierna na verwys as "die Munisipaliteit");

EN AANGESIEN die Munisipaliteit 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 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 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 Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreef 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 Munisipaliteit; 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 2013 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2013 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 Ondersoekeenhede 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 Munisipaliteit of die Staat gely is.

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

**CM Ramaphosa
President**

Op las van die President-in-Kabinet:

**T Simelane
Minister van die Kabinet****BYLAE**

1. Die verkryging van, of kontraktering vir, dienste ten opsigte van—
 - (a) die konstruksie van die Umzumbe Munisipale Kantore;
 - (b) die herstel van die Qwabe, Cabhane, Mabheloni, Magabha, Sgananda en Ndletshe Paaie;
 - (c) die konstruksie van die Isipofu Toegangspad, ingevolge Tender Nommer: UMZ-73T-2015;
 - (d) konstruksiewerk by die Ntelezi Msani Erfenissentrum, ingevolge Tender Nommer: UMZ-61T-2014;
 - (e) die konstruksie van Nkanini Binnenshuise Sportsentrum, ingevolge Tender Nommer: UMZ-47T-2014 (Fase 1) en Tender Nommer: UMZ-65T-2015 (Fase 2);
 - (f) die konstruksie van die Ntatshana Toegangspad en Brug (Fase 1 en Fase 2); en
 - (g) die Drie-jaar Elektrifiserings Turnkey Projek (2015 tot 2018), deur of namens die Munisipaliteit, en betalings wat in verband daarmee gemaak is op 'n wyse wat —
 - (i) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie;
 - (ii) strydig was met toepaslike —
 - (aa) wetgewing;
 - (bb) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of die betrokke Provinsiale Tesourie uitgevaardig is; of
 - (cc) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Munisipaliteit van toepassing is;
 - (iii) gedoen is, of gefasiliteer is deur, die onwettige, onreëlmatige of onbehoorlike tussenbeidedrenging van werknemers of beamptes van die Munisipaliteit; of
 - (iv) bedrieglik was,
 - en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur die Munisipaliteit of Staat aangegaan is as 'n gevolg daarvan.
2. Enige wanprestasie, onder-prestasie, defektiewe prestasie of laat prestasie deur die diensverskaffers wat deur die Munisipaliteit aangestel is, ten opsigte van dienste gelewer, uitgevoer of verrig ingevolge die projekte na verwys in paragraaf 1(a) tot (g) van hierdie Bylae.
 3. Enige onwettige of onbehoorlike optrede deur werknemers of beamptes van die Munisipaliteit of die betrokke diensverskaffers, hulle werknemers of enige ander persoon of entiteit, ten opsigte van die bewerings uiteengesit in paragrawe 1 en 2 van hierdie Bylae.