

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 48, 2012

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 Technology Agency (Pty) Ltd (hereinafter referred to as the "Agency");

AND WHEREAS the Agency 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 justiciable civil disputes 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 Agency 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 those matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any -

- (a) serious maladministration in connection with the affairs of the Agency;
- (b) improper or unlawful conduct by members of the board, directors, officials or employees of the Agency or officials or employees of the Departments or the public bodies for and on behalf of whom the Agency is acting, as envisaged in the State Information Technology Agency Act, 1998 (Act No. 88 of 1998);
- (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 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Agency; 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 7 October 2003 and the date of publication of this Proclamation or which took place prior to 7 October 2003 or after the date of publication of this Proclamation, and which is relevant to, connected with or 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 Agency 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 Thirteenth day of August Two thousand and twelve.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The procurement of works, goods or services by the Agency for itself or for and on behalf of Departments for whose procurement the Agency is responsible, as envisaged in the State Information Technology Agency Act, 1998, or on behalf of public bodies which so requested the Agency -
 - (a) in a manner that was not fair, equitable, transparent, competitive or cost-effective;
 - (b) in a manner that was contrary to applicable –
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant Provincial Treasuries; or
 - (iii) manuals, codes, policies, procedures, instructions or practices of or applicable to the Agency, the Departments or the public bodies concerned;
 - (c) which was conducted or facilitated by or through the intervention of -
 - (i) members of the board, directors, officials or employees of the Agency (hereinafter collectively referred to as “the Agency’s personnel”); or
 - (ii) officials or employees of the Departments or public bodies concerned (hereinafter collectively referred to as “the Clients’ personnel”),with undeclared or unauthorised conflicts of interest;
 - (d) which was conducted or facilitated by the manipulation of the Agency’s procurement processes –
 - (i) by suppliers or service providers of the Agency, the Departments or public bodies concerned; or
 - (ii) by, in collusion with or through the intervention of, the Agency’s personnel or the Clients’ personnel,to corruptly or unduly benefit themselves or others; and
 - (e) which was facilitated by, through or in return for payment or offers of payment to or receipt by the Agency’s personnel or the Clients’ personnel of gratification, contrary to applicable laws or the employment conditions of such personnel.
 2. The binding of the Agency, the Departments or public bodies concerned to incur, irregular, unauthorised or fruitless and wasteful expenditure.
 3. The failure to collect monies due, owing and payable to the Agency.
-