

## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

R. 180

5 March 2021

**by the**  
**PRESIDENT of the REPUBLIC of SOUTH AFRICA**

**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 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 Mogalakwena Local Municipality situated in the Limpopo Province (hereinafter referred to as “the Municipality”);

AND WHEREAS the Municipality 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 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 officials or employees 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 April 2016 and the date of publication of this Proclamation or which took place prior to 1 April 2016 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 Cape Town this 19<sup>th</sup> day of February Two thousand and twenty one

**CM 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 Municipality and payments made in respect thereof in a manner that was—

- (a) not fair, competitive, transparent, equitable or cost-effective; or
- (b) contrary to applicable—
  - (i) legislation;
  - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
  - (iii) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Municipality,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by, or losses suffered by, the Municipality or the State in relation to:

- (aa) Tender number: 04-2017/2018 (Bulk Masterplan: Phase 2A bulk water supply zone 1 - WF2A and WF8 infrastructure (boreholes and pipelines));
- (bb) Tender number: 05-2017/2018 (Bulk Masterplan: Phase 2A bulk water supply zone 1 - Gravity bulk connection to reservoirs);
- (cc) Tender number: 06-2017/2018 (Bulk Masterplan: Phase 2A bulk water supply zone 1 - WF2 raising mains, storage and bulk supply);
- (dd) Tender number: 25-2016/2017 (Construction of VIP toilets);
- (ee) waste removal and collection services;
- (ff) landfill services and the hiring of equipment;
- (gg) bush clearing and grass cutting services; and
- (hh) legal services.

2. The recruitment, selection and appointment of personnel of the Municipality—

- (a) in a manner that was contrary to—
  - (i) applicable legislation;
  - (ii) policies, procedures, prescripts, instructions or practices of, or applicable to, the Municipality; or
  - (iii) the applicable post structures, minimum post requirements and remuneration structures; and
- (b) for positions that they are not qualified for.

3. Any unlawful or improper conduct by—
- (a) officials or employees of the Municipality;
  - (b) contractors, suppliers or service providers of the Municipality; or
  - (c) any other person or entity,
- in relation to the allegations set out in paragraphs 1 and 2 of this Schedule.

## DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

R. 180

5 Maart 2021

**van die**  
**PRESIDENT van die REPUBLIEK van SUID AFRIKA**

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 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 Mogalakwena Plaaslike Munisipaliteit geleë in die Limpopo Provinsie (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 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 Munisipaliteit;

- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Munisipaliteit;
- (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 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 April 2016 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 April 2016 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 Munisipaliteit of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die 19de dag van Februarie Twee duisend-en-een-en- twintig

**CM Ramaphosa**  
**President**

Op las van die President-in-Kabinet

**RO Lamola**  
**Minister van die Kabinet**

**BYLAE**

1. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Munisipaliteit en betalings ten opsigte daarvan gemaak op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike—
  - (i) wetgewing;
  - (ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of die betrokke Provinsiale Tesourie uitgevaardig is; of
  - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Munisipaliteit van toepassing is,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is, of verliese wat gelyk is, deur die Munisipaliteit of Staat met betrekking tot:

- (aa) Tender nommer: 04-2017/2018 ("Bulk Masterplan: Phase 2A bulk water supply zone 1 - WF2A and WF8 infrastructure (boreholes and pipelines)");
- (bb) Tender nommer: 05-2017/2018 ("Bulk Masterplan: Phase 2A bulk water supply zone 1 - Gravity bulk connection to reservoirs");
- (cc) Tender nommer: 06-2017/2018 ("Bulk Masterplan: Phase 2A bulk water supply zone 1 - WF2 raising mains, storage and bulk supply");
- (dd) Tender nommer: 25-2016/2017 (Konstruksie van BBP toilette);
- (ee) afvalverwydering en versamelingsdienste;
- (ff) stortingsterrein dienste en die huur van toerusting;
- (gg) bosopruiming- en grassnydienste; en
- (hh) regsdiens.

2. Die werwing, keuring en aanstelling van personeel van die Munisipaliteit—

- (a) op 'n wyse wat strydig was met—
  - (i) toepaslike wetgewing;
  - (ii) beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Munisipaliteit van toepassing is; of
  - (iii) die toepaslike posstrukture, minimum posvereistes en vergoedingstrukture; en
- (b) vir posisies waarvoor hulle nie gekwalifiseer is nie.

3. Enige onwettige of onbehoorlike gedrag deur—
- (a) beamptes of werknemers van die Munisipaliteit;
  - (b) kontrakteurs, verskaffers of diensverskaffers van die Munisipaliteit; of
  - (c) enige ander person of entiteit,
- met betrekking tot die bewerings uiteengesit in paragrawe 1 en 2 van hierdie Bylae.