

Proclamation

by the

President of the Republic of South Africa

No. R. 21, 2010

**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) ("the Act"), have been made in respect of the affairs of the Department of Health for the Gauteng Province (hereinafter referred to as the "Department");

AND WHEREAS the Department 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 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 -

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by officials and/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 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, 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 have taken place between 1 January 2006 and the date of publication 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 recovery of any losses suffered by the Department, 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 seventh day of May Two thousand and ten.

K P Motlanthe
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The procurement of the services of and contracting with consultants or service providers to the approximate value of R779 500-00 for the preparation and compilation of the 2007/2008 budget for the Department and payments made to them in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable -
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes and instructions issued by the National Treasury and/or the applicable Provincial Treasury, as amended (hereinafter collectively referred to as "practice notes"); and
 - (iii) manuals, policies, procedures, instructions and/or practices of or applicable to the Department (hereinafter collectively referred to as "Departmental policies").

2. The procurement of the services of and contracting with consultants or service providers on or about 2 July 2007 to the approximate value of R60 000 000-00 for the establishment of a Project Management Unit, its staffing and executing its functions and the extension of that contract during or about December 2008 and March 2009 and payments made to them in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

3. The procurement of the services of and contracting with service providers or conference administrators for the Gauteng AIDS Conference for 15 and 16 November 2007 and payments made to them in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective;
- (b) contrary to applicable legislation, practice notes and/or Departmental policies; and
- (c) fraudulent.

4. The procurement of and contracting for goods and services relating to the provisioning of an information system and electronic health records solution system during or about December 2007 and changes made to the contract during or about January 2009 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective;
- (b) contrary to applicable legislation, practice notes and/or Departmental policies; and
- (c) corrupt.

5. The procurement of and contracting for goods and services relating to the implementation of local area networks for about 134 health facilities under tender GT/GHD/107/2007 during or about December 2007 and changes made to the contract during or about August 2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

6. The procurement of, contracting for and payments made for goods and services under tender GT/GHD/02/2009 in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

7. The procurement of and contracting for database management goods and services

during or about October 2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

8. The procurement of and contracting for services relating to the evaluation of the Transformation Project at the surgical division of the Chris Hani Baragwanath Hospital during or about October 2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

9. The procurement of and contracting for goods and services relating to the supply, installation, commissioning and maintenance of ultra violet germicidal irradiation units under tender GT/GHD/22/2008 and payments made in relation thereto in a manner that was -

- (a) not fair, equitable, transparent, competitive and/or cost-effective; and
- (b) contrary to applicable legislation, practice notes and/or Departmental policies.

10. The incurrence of -

- (a) unauthorized expenditure;
- (b) irregular expenditure;
- (c) fruitless and wasteful expenditure; and
- (d) expenditure not due, owing and payable in relation to payments made -
 - (i) to consultants, suppliers and service providers for any of the aforementioned goods and services to the Department; and
 - (ii) in respect of services rendered to address the Auditor-General's qualified audit for the 2007/2008 financial year of the Department with regard to fixed assets.