

## PROCLAMATION NO. R. 32 OF 2016

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 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 Independent Development Trust (hereinafter referred to as "the IDT"), the Department of Basic Education (hereinafter referred to as "the DBE") and the Department of Education for the Free State Province (hereinafter referred to as "the DEFS");

AND WHEREAS the IDT, DBE and DEFS 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 IDT, DBE and DEFS, 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 IDT, DBE and DEFS;
- (b) improper or unlawful conduct by officials or employees of the IDT, DBE or DEFS;
- (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 IDT, DBE and DEFS; 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 IDT, DBE or DEFS, 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 Twenty-third day of April Two thousand and sixteen.

**J G Zuma**  
**President**

By Order of the President-in-Cabinet:

**T M Masutha**  
**Minister of the Cabinet**

### **SCHEDULE**

1. The procurement of, or contracting for goods, works or services by or on behalf the IDT, DBE or DEFS 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, circulars, practice notes 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 IDT, DBE or DEFS,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the IDT, DBE or DEFS in relation to the following projects:

<b>No</b>	<b>Bid number</b>	<b>Description of project</b>
1	FS ASIDI 12/14/1	Boshof Intermediate
2	FS ASIDI 12/14/2	Nampo Secondary
3	FS ASIDI 12/14/3	Caledon Park Intermediate
4	FS ASIDI 12/14/4	Diamanthoogte
5	FS ASIDI 12/14/5	Heide Primary
6	FS ASIDI 12/14/6	PT Sanders Intermediate
7	FS ASIDI 12/14/7	Sehlabeng Secondary
8	FS ASIDI 12/14/8	Tweespruit Primary
9	FS ASIDI 12/14/9	Itemoheng Primary
10	FS ASIDI 12/14/10	Luckhoff Combined

2. Maladministration and/or irregular, improper or unlawful conduct in respect of the affairs of the IDT, DBE or DEFS relating to—

- (a) the outsourcing of the bid evaluation functions performed in respect of the procurement or supply chain management processes; or

- (b) contract and performance management, including any failure to act timeously against contractors, suppliers or service providers for any non-performance, poor performance, defective performance or late performance in respect of goods, works or services delivered, performed or rendered,

in terms of the projects referred to in paragraph 1 of this Schedule, including the causes of such maladministration and/or irregular, improper or unlawful conduct.

3. Any non-performance, poor performance, defective performance or late performance by contractors, suppliers or service providers of goods, works or services delivered, performed or rendered in respect of the projects referred to in paragraph 1 of this Schedule and any losses or damages suffered by the IDT, DBE or DEFS as a result thereof.

4. Any unlawful, improper or irregular conduct on the part of—

(a) the IDT, DBE or DEFS, their officials or employees; or

(b) the contractors, suppliers or service providers, their directors, employees, contractors, sub-contractors or agents,

relating to any one or more of the allegations set out in paragraphs 1 to 3 of this Schedule.