



**POISED TO STRIKE**  
*against corruption*

**Special Investigating Unit**

**INTERIM REPORT**

APRIL TO SEPTEMBER 2011



## Vision

Working together to rid society of corruption.

The vision captures the commitment of the SIU to work together with government and other law-enforcement agencies to fight corruption in our society.

## Mission

We are a state body that fights corruption through quality investigations and litigation.

The mission captures the mandate of the SIU to investigate fraud, corruption and maladministration, and to institute civil litigation to recover losses suffered by the state, or to prevent future losses.

## Values

Integrity | Cooperation | Effectiveness | Professionalism | Drive

# Letter to the Speaker of Parliament

The Honourable Speaker  
Mr Max Sisulu  
Parliament of the Republic of South Africa  
P O Box 15  
Cape Town  
8000  
28 February 2012

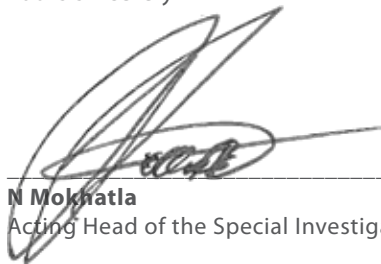
Dear Mr Sisulu

## **Special Investigating Unit Interim Report for April 2011 to September 2011**

On behalf of the Special Investigating Unit, established by Proclamation R118 of 2001 in terms of Act No 74 of 1996, it gives me great pleasure to submit the SIU's interim report for April 2010 to September 2011 as envisaged by section 4(1)(h) of Act No 74.

The report provides an overview of the Special Investigating Unit's performance.

Yours sincerely



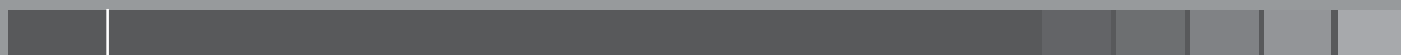
**N Mokhatla**

Acting Head of the Special Investigating Unit



# TABLE OF CONTENTS

|  | PAGE  |
|--|-------|
| Proclamations  | 4     |
| Background to the Special Investigating Unit                       | 5     |
| Department of Arts and Culture                                     | 6     |
| Department of Public Works: KwaZulu-Natal                          | 7     |
| Department of Public Works: National                               | 8     |
| Department of Education: Eastern Cape                              | 9     |
| Ekurhuleni Metropolitan Municipality                               | 10    |
| Department of Health: Gauteng                                      | 11    |
| George Local Municipality  | 11    |
| Department of Rural Development and Land Reform                    | 12    |
| Oudtshoorn Local Municipality                                      | 13    |
| South African Broadcasting Corporation                             | 14    |
| South African Police Service                                       | 15    |
| South African Social Security Agency                               | 16    |
| Stellenbosch Local Municipality                                    | 17    |
| Tshwane Metropolitan Municipality                                  | 18    |
| Department of Human Settlements                                    | 19-20 |
| Department of Social Development                                   | 21    |
| Midvaal Local Municipality   | 22    |
| National Heritage Council  | 23    |
| Department of Education: Mpumalanga                                | 23    |
| Department of Local Government and Traditional Affairs: North West | 24-25 |
| Former Department of Roads and Transport: Eastern Cape             | 26    |





# List of Abbreviations

|                |  |
|----------------|--|
| <b>AFU</b>     | Asset Forfeiture Unit  |
| <b>AGSA</b>    | Auditor-General of South Africa  |
| <b>ACTT</b>    | Anti-Corruption Task Team  |
| <b>AOD</b>     | Acknowledgement of Debt  |
| <b>BAC</b>     | Bid Adjudication Committee   |
| <b>BEC</b>     | Bid Evaluation Committee   |
| <b>CIDB</b>    | Construction Industry Development Board                                  |
| <b>DLTC</b>    | Driving Licence Testing Centre   |
| <b>DPCI</b>    | Directorate of Priority Crime Investigation in the SAPS (Hawks)          |
| <b>DPP</b>     | Director of Public Prosecutions  |
| <b>DRDLR</b>   | Department of Rural Development and Land Reform                          |
| <b>HOD</b>     | Head of Department   |
| <b>ISM</b>     | Information System Management  |
| <b>MAWG</b>    | Multi-Agency Working Group   |
| <b>MEC</b>     | Member of the Executive Council  |
| <b>MFMA</b>    | Municipal Finance Management Act   |
| <b>NPA</b>     | National Prosecuting Authority   |
| <b>NRCS</b>    | National Regulator for Compulsory Specifications                         |
| <b>PFMA</b>    | Public Finance Management Act  |
| <b>RDP</b>     | Reconstruction and Development Programme                                 |
| <b>SAPS</b>    | South African Police Service   |
| <b>SARS</b>    | South African Revenue Service  |
| <b>SASSA</b>   | South African Social Security Agency                                     |
| <b>SCCU</b>    | Specialised Commercial Crimes Unit                                       |
| <b>SCM</b>     | Supply Chain Management  |
| <b>SIU</b>     | Special Investigating Unit   |
| <b>SIU Act</b> | Special Investigating Units and Special Tribunal Act (Act No 74 of 1996) |
| <b>SOCPEN</b>  | Social Pensions System   |

# PROCLAMATIONS

The following new Proclamations were issued by the President in terms of the Special Investigating Units and Special Tribunals Act, Act No 74 of 1996 (SIU Act), during the period under review:

- Proclamation R 33 of 2011 dated 20 May 2011, (Government Gazette No 34305) (Midvaal Local Municipality), directed an investigation into alleged serious irregularities including maladministration and the procurement of legal services by or on behalf of the municipality during the period 1 January 2002 and 20 May 2011.
- Proclamation R 34 of 2011, dated 20 May 2011 (Government Gazette No 34306) (Former Department of Roads and Transport of the Eastern Cape), directed an investigation into alleged serious irregularities including maladministration in relation to the affairs of the Department during the period 1 May 2001 and 28 March 2010.

# Background to the Special Investigating Unit

**T**he Special Investigating Unit (SIU) is an independent statutory body that is accountable to the President and to Parliament in terms of its activities. The SIU was established by the President to investigate corruption and maladministration in government and to report on the findings of these investigations. The SIU is funded through the Department of Justice and Constitutional Development.

The SIU was set up by the President in terms of the Special Investigating Units and Special Tribunal Act, Act No 74 of 1996 (SIU Act). Its primary mandate is to recover and prevent financial losses to the state due to various acts of corruption, fraud and maladministration. The SIU also assists departments with systemic improvements that will improve service delivery.

The SIU is a public entity with powers of investigation and litigation. Following the issuing of a presidential proclamation by the President, the SIU has powers to subpoena, search, seize and interrogate witnesses under oath. The SIU can take civil action to correct any wrongdoing it uncovers in its investigations. For example, the SIU can obtain a court order to compel a person to pay back the wrongful benefit received and thus recover the money for the state. The SIU also works with the department concerned to cancel contracts when proper procedures were not followed.

While it does not have the power to arrest or prosecute offenders, where criminal conduct is uncovered, it will bring the matter to the attention of the Hawks in the South African Police Service (SAPS), as well as the National Prosecuting Authority (NPA). It works closely with them to ensure that there is an effective investigation and prosecution. The SIU

also works closely with the Asset Forfeiture Unit (AFU) in the NPA, where its powers are more appropriate or effective in recovering the proceeds of crime.

The SIU may investigate any matter set out in section 2 of the SIU Act, including the following:

- serious maladministration in connection with the affairs of any state institution;
- improper or unlawful conduct by employees of any state institution;
- unlawful appropriation or expenditure of public money or property;
- any unlawful, irregular or unapproved acquisitive act, transaction, measure or practice that has a bearing on state property;
- intentional or negligent loss of public money or damage to public property;
- corruption in connection with the affairs of any state institution; and
- unlawful or improper conduct by any person who has caused or may cause serious harm to the interest of the public or any category thereof.

The SIU applies a project-based approach and concentrates on processes, people and financial losses in departments. It offers a unique and integrated service, including the following:

- forensic audits and investigations;
- legal action, such as civil, criminal and disciplinary or other remedial action; and
- recommending and facilitating the implementation of improved systems.

# Department of Arts and Culture

Proclamation R36 of 2010, published on 30 July 2010

## Brief overview:

The SIU is mandated to conduct an investigation into, the allegations of mismanagement and/or misconduct by Department of Arts and Culture (DAC) officials and/or service providers contracted by the department and any other third party.

## Focus areas:

- Under spending/misspending of funds
- Irregular expenditure
- Fruitless and wasteful expenditure
- Possible civil recovery
- Possible criminal investigation
- Possible conflict of interests

## Findings:

- Under spending/misspending of funds: Allocations which were specifically budgeted for 2010 FIFA World Cup projects were used by the DAC for unrelated purposes in contravention of section 6.3.1(c) of Treasury Regulations.  
  
R41.7 million was identified by the SIU as unauthorised expenditure in terms of the Public Finance Management Act (PFMA).
- Irregular expenditure: Investigations into 12 of the 17 matters have been finalised. A payment of R4.5 million has been identified as unauthorised, because the funds earmarked for the Investing in Culture (IIC) Projects were used to make the payment. The SIU further identified payments amounting to R5.4 million as irregular expenditure and in contravention with the prescribed procurement procedures. The SIU identified payments amounting to R150 000 as fruitless and wasteful expenditure as the payment could have been avoided had reasonable care been exercised.
- Possible civil recovery: the SIU investigated 39 IIC matters with a total value of R22.5 million and recommended that payments totalling R8 493 650 should not be effected and the contract should be cancelled. The SIU has secured two AODs to the value of R351 000.
- Possible criminal investigation: the SIU referred two criminal matters to the value of R3.8 million to the SAPS. A service provider claimed Value Added Tax (VAT) to the amount of R 390 439 from the DAC, while not registered with SARS. A further seven criminal cases relating to theft and fraud of IIC funds were also registered with the SAPS.
- Investigation into the alleged misspending of funds: contracts valued at R13 497 303 were entered into with a single service provider. The SIU recommended that the final payment of approximately R1 million not be effected, since the service provider failed to deliver in terms of the contract. The payments to the service provider were all made in terms of a valid agreement. No criminal action was taken.



# Department of Public Works: KwaZulu-Natal (KZN)

Proclamation R43 of 2010, published 27 August 2010

## **Brief overview:**

The SIU reviewed a number of reports made available by the department which highlighted serious challenges within the Supply Chain Management (SCM) function of the department.

## **Focus areas**

In the period under review the investigation focused on two phases. Phase one was mainly procurement matters identified by the SIU and Phase two were matters referred to the SIU by the Internal Audit function of the department.

## **Procurement**

The files of the 259 projects linked to two entities under investigation have been uplifted and captured onto various data bases for analysis. The total value of the projects in question is over R900 million.

Departmental officials performing remunerative work in contravention of relevant regulations: A number of government officials and their spouses have been identified and linked to a total of 45 entities. The investigation is still establishing whether these entities performed work for the department or other government departments and if they are declared by officials.

Investigations into 15 government officials have been completed. All these have been tied to with suspicious transactions on which further information has been requested. Financial profiling of another 18 officials is currently in progress.

Allegations of collusion between DPW officials and certain contractors: A review of contracts awarded to two particular companies over the period 1 January 2005 to 1 September 2010 was conducted. The investigations revealed that these entities were owned and managed by one individual.

### *Cover Quoting*

The investigations found the two entities submitted competing tenders and / or misrepresented their association on contracts worth approximately R48 million. This amounted to fraud by cover quoting.

### *Fronting*

The owner of the two entities under investigation appears to have used other directors and members as fronts obtain higher preference points when tendering for contracts. The contract value of these 95 projects is R73 million.

### *Fraudulent financial statements*

The investigations have revealed that the supplier allegedly also committed fraud by submitting fraudulent financial statements to the Construction Industry Development Board (CIDB) in order to obtain an inflated grading.

### *Forged signatures*

Documentation submitted to an independent handwriting examiner reflected that in various project files the signatures of the so called "directors" and "members" were forged by unknown persons on at least 66 occasions.

### *Non-delivery*

KZN DPW appointed independent quantity surveyors to conduct site inspections of projects selected by the SIU and perform an analysis of the work actually performed by the two companies. Non-delivery

on 25 projects to the value of R5.5 million has been confirmed by the surveyors reflecting services not provided, but which were paid for by the department.

### *Sanctions*

Included within the department's tender documents is a stipulation that should the tenderer contravene certain provisions, a predetermined sanction could be imposed by the department. To date, sanctions in 125 matters to the value of R8.5 million have been calculated for potential recovery.

### *Arrests*

The investigation has resulted in a arrest of a contractor on 148 counts of fraud, forgery and corruption.

The SIU is working closely with the Asset Forfeiture Unit to trace assets linked to this owner. Payments from the two entities involved to department officials in the period 2004/2005 have been identified. These payments will form part of the 2nd phase of this investigation.

## **Internal Audit recommendations**

This investigation is still at an early stage, eight entities have been identified to have claimed VAT from the department while not registered for VAT at SARS. The value to be recovered by SARS is R294 081.55. Acknowledgement of Debt documents (AOD's) are currently been drafted to recover the undue benefit from these service providers.

### *Sub contracting*

An identified entity was awarded 16 projects by KZN DPW between the period May and December 2007 and were paid a total of R51 million. The owner of the business claimed preference points which were used by the department in the evaluation and awarding of the aforementioned tenders. Various projects were allegedly sub-contracted out and the value of the sanction that may be imposed as a result is calculated at R1.5 million.

## **Findings:**

- The SIU is currently involved in the financial investigation of over 30 officials regarding possible conflicts of interest relating to KZN DPW.
- Investigations have resulted in the arrest of the alleged owner of two companies on 30 August 2011, for 148 counts of Fraud, Forgery and Corruption relating to:
  - Cover quoting in respect of 819 projects at a total value of R48 million.
  - Fronting in respect of 95 projects at a total value of R73 million
  - Non-delivery for 25 projects to the value of R5.5 million
  - Fraudulent financial statements
  - Forged signatures

# Department of Public Works: National

Proclamation No R38 of 2010, published on 30 July 2010

## Brief overview:

In December 2009, the Special Investigating Unit was approached by the Department of Public Works (DPW) to assist in identifying, investigating and redressing improprieties within the Supply Chain Management (SCM). The SIU has reviewed a number of reports made available by the DPW and other sources. The DPW faced serious challenges particularly in procurement requiring investigation and resolution. The vulnerabilities within the SCM process appear to have led to abuse.

## Focus areas

The focus areas identified are:

- Specific contracts/tenders
- Leasing of buildings for client departments
- Prestige Accommodation
- General procurement irregularities

## Leases

The investigation into irregularities related to leased accommodation is a major focus area with approximately 41 different leases currently being investigated by the SIU.

To date the SIU has identified numerous irregularities including overpayments; no or incomplete lease agreements on file, lease agreements signed before bid committee approval; and disputes over actual square meters leased and rental rates above market related prices. The awarding and administration of leases and the leasing environment as a whole remains a key area of concern for the SIU.

In addition to the above, evidence has been obtained by the SIU which indicates that DPW officials colluded with service

providers and leases were irregularly awarded to such service providers in return for significant financial compensation being paid to the officials in question.

## Findings:

In one instance a total of 27 leases totaling approximately R325 million were found to have been awarded to one service provider, in return two DPW officials received financial benefits totaling almost R4 million. The SIU recommended the cancellation of the 27 lease contracts and referred the matter to the ACTT for criminal action.

The investigation found irregularities including fraud and corruption in procurement services including leasing of buildings. In one identified case of tender fraud and possible corruption, R17.5 million has been identified for civil recovery. The matter will be referred to the SAPS for criminal action as soon as criminal conduct is confirmed and blacklisting of the contractor will also be recommended.

Four DPW officials face disciplinary action for failing to declare interests in companies doing business with the department. A suspended senior official and project manager also face disciplinary action for fraud, corruption and tender irregularities. In another case two DPW officials identified in an investigation into tender fraud on a lease contract face disciplinary action and one senior official is currently suspended.

# DEPARTMENT OF EDUCATION: EASTERN CAPE

Proclamation R37 of 2010, published 30 July 2010

## Brief overview:

The SIU was requested to investigate allegations of fraud, corruption and maladministration within the Eastern Cape Department of Education.

## Focus areas

The SIU was asked to review:

- The awarding of tenders involving the Scholar Transport System (STS) from 2005 to 2010.
- The awarding of tenders involving the School Nutrition System (SNS) over the period from 2005 to 2010.
- The department's general procurement management system at both Head Office and district levels in the period 2006 to 2008.
- The department's payment systems including the transfer payment and salary payment systems, establish the causes of financial irregularities and to provide recommendations on systemic improvements.
- The payments of arrear salaries in the DOE Head Office, Lusikisiki and other District Offices.
- The awarding of tenders in the DOE's HIV/AIDS section over the 2007 and 2009 to determine the regularity of the procurement processes.
- The utilisation of funds allocated for Early Childhood Development (ECD) and the appointment of ECD practitioners.

- The awarding of a construction tender and the purchase of a R2 million bed & breakfast in the Queenstown district by the management of Ikhala FET College, including the conduct of committee members and others charged with governance.
- The awarding of tenders by The Learner and Teacher Support Materials Unit in the award of tenders and the administration of the Unit.

## Findings

The investigation has found irregularities by both officials of the department and service providers. Some of the cases involved high ranking department officials including a former CEO of the Ikhala FET College and a Deputy Director General of the department who are facing disciplinary charges which include financial misconduct, gross negligence and gross dereliction of duty and violation of the PFMA. One official was found to be responsible for the irregular appointments of Grade R ECD practitioners in exchange for payment. The official subsequently resigned. Two officials have been dismissed after they were found guilty on different disciplinary charges of financial misconduct in one case and payment of R1.4 million for services not rendered to a company owned by a close relative in another case.

The SIU referred four cases of fraud to the SAPS for criminal charges. The matter relating to the irregular appointment of ECD practitioners has also been referred to the SAPS.

# EKURHULENI METROPOLITAN MUNICIPALITY

Proclamation R63 of 2010, published on 08 November 2010

## Brief overview:

The investigation commenced during August 2010 and relates to allegations of procurement irregularities and financial mismanagement committed within the Waste Management Department, ICT Department, various DLTCs and Finance Department. Other allegations include unauthorised, irregular and wasteful expenditure and conflicts of interest.

## Findings

### Waste Management Department

Disciplinary proceedings have been instituted against five officials within the Waste Management department. Among others the officials face charges of:

- Conflicts of interest;
- Collusion between service providers and municipal officials; and
- Non-compliance with SCM processes, maladministration, fraud and corruption in respect of the awarding of contracts and failure to ensure execution in terms of the contracts.

The SIU has made significant progress in the investigations into 10 tenders worth in excess of R500 million awarded to 19 contractors. The investigations found:

1. Payments to the value of R37 million for goods were authorised but delivery could not be verified. In addition, the service provider was paid escalated prices on invoices already submitted to the value of R10 million. Criminal case against the service provider and a senior official will be registered with SAPS on this matter.
2. A senior official irregularly appointed 13 community based contractors and allocated a budget of R12 million

for the services. The contractors have alleged that undue benefits were received by two officials within the Waste Management division. It is alleged that these officials instigated overpayments and demanded refunds in cash from the contractors. The investigation team obtained affidavits from two of these contractors corroborating these allegations. Charge sheets are in the process of being drafted against the two officials and lifestyle audits conducted have revealed that these officials are living above their means.

3. The Regional Executive Manager failed to disclose a relationship with and interest in two companies appointed as service providers for waste and rubble removal and in addition authorised payments to one of them without verifying if services had been delivered. One of the service providers was registered on CIPRO only after the contract was awarded.

### ICT Contract

1. The investigations into the irregular awarding of the R32 million ICT contract and the non-disclosure of interests by a senior ICT official have been completed.
2. The investigation team is preparing to register a criminal case in a matter which involves an ICT contract worth R94 million. A director has provided a statement in which he admitted to signing off on invoices to the value of R12.3 million for services not delivered.

# DEPARTMENT OF HEALTH: GAUTENG

Proclamation R21 published on 14 May 2010

## Brief overview:

This matter was referred to the SIU by the National Treasury following an investigation by a private forensic firm in 2008 and a report by the Auditor General in 2009 which highlighted irregularities in the department. The investigation started in mid-2010.

The SIU has thus far conducted over 463 interviews and obtained more than 296 statements from witnesses and/or complainants and/or departmental officials. The Unit has also uplifted a substantial number of documents and files.

## Focus areas

The SIU has identified 10 procurement matters worth over R1 billion for investigation. All of the matters pertain to contracts entered into by the department for the supply of various services.

R681 916, R 15.3 million and R 1.2 million.

Officials against whom charges have been laid include the former Head of Department, former Chief Financial Officer and a current Chief Director. The SIU has recommended that two claims for damages for the loss of R 15.3 million and R1.2 million be lodged against senior officials.

## Findings

The SIU has laid three charges of fraud against several senior officials of the department as well as service providers. All charges are based on misrepresentations these parties made to the department which resulted in improper payments to service providers of amounts of

The Unit has recommended the recovery of approximately R11 million in duplicate payments made to one service provider. A recovery to the value of R77 8 749 (duplicate payments) has already been made through an AOD. A further recovery in a duplicate payment to the value of R414 481 was also made during the reporting period.

# GEORGE LOCAL MUNICIPALITY

Proclamation R.76 published 09 December 2010

## Brief overview:

The Municipal Manager of the George Local Municipality and the Western Cape MEC for Local Government, Environmental Affairs and Development Planning requested the SIU to conduct an investigation into various allegations at the Municipality.

## Focus areas

- Alleged irregularities pertaining to the establishment of the George Housing Association (GHA).
- Alleged irregularities pertaining to the approval of a multi-million rand development and the appointment of two contractors in this regard.
- Over-payments made to a contractor for the construction of the George Municipal Fire Station.
- Alleged irregularities in the sale of George Municipal land.
- Alleged irregular appointment of two contractors for professional services and construction of housing and infrastructure.

- The alleged irregular appointment of and payments to a company for professional services on two occasions.

## Preliminary findings

In the establishment of the George Housing Association and related irregularities, the SIU found the former Municipal Manager and the municipal Legal Adviser grossly negligent for taking an incorrect legal position during the establishment of the GHA. They were found to be negligent in authorising three payments to the total value of R5.1 million to the GHA.

In all other allegations the SIU has not yet found evidence of irregular and/or criminal acts. On the appointment of a provider for professional services and construction of housing and infrastructure the SIU recommended that the matter be considered closed.

# DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

Proclamation R.8 of 2011, published 18 February 2011

## Brief overview:

The SIU has been mandated to investigate allegations of irregularities in the application, awarding and administration of grants and funds under the Department of Rural Development and Land Reform's (DRDLR) Land Reform Programme. The allegations include possible fraud and corruption levelled against employees of the department. The SIU has entered into a long term partnership with the department which extends to March 2014.

## Focus areas:

In the current phase, the SIU is focusing on approximately 36 different matters, all related to funds paid out in the form of land grants. The total value of the grants under investigation is estimated at R495 million. The SIU team has also uplifted and analysed a substantial number documents and obtained affidavits from more than 2 200 individuals.

## Findings

The investigations have led to the arrest of four officials and a prominent businessman in KZN. This matter is currently before the Regional Court in Pietermaritzburg and all four individuals are currently out on bail.

The officials were allegedly involved in the fraudulent awarding of grants. The investigation has resulted in the suspension of these officials. Furthermore these officials and others are also under investigation for possible involvement in irregularities in other projects under investigation.

The investigation also revealed that the farms in question were never transferred to the intended beneficiaries, but to external entities not linked to the grant processes at all.

This investigation has also led to the forfeiture of three farms to the State, valued at approximately R51 million through the AFU in KZN. Efforts to have these farms transferred to the department are currently underway.

The department has referred five additional criminal cases involving fraudulent land grants amounting almost R90 million to the SIU. In this regard the SIU has already engaged the AFU with the view to having the farms and other assets in question seized as proceeds of crime.

The SIU has referred a total of eight matters with land reform grants to value of R91 million to the SAPS for criminal action. A total of 12 officials face disciplinary action and three of them are suspended. The SIU is in the process of recovering R29 million lost to the department as a result of irregular land reform grants. An AOD to the value of R120 000 has been facilitated in one case.



# OUTDSHOORN MUNICIPALITY

Proclamation R6 of 2011 published 4 February 2011

## Brief overview:

The proclamation mandated the SIU to conduct an investigation into irregularities at the Oudtshoorn municipality which have taken place between 1 January 2004 and 4 February 2011. This includes the procurement of and contracting for goods or services and payments thereof; losses or prejudice suffered by the municipality as a result of unlawful conduct or irregular practices; and the mismanagement of the municipality's assets, finances or other resources.

## Focus areas

- Irregular payments made to a service provider with regard to a multi-million rand housing project.
- A civil claim against the municipality for further payments made to a service provider in an irregular manner.
- Irregularities pertaining to the services rendered by a law firm, including the alleged failure of the firm to pay debts collected to the municipality, over charging and/or undue payments made to them.
- The alleged irregular procurement of services.

## Preliminary findings thus far

1. R1.7 million in duplicate payments to a service provider have been identified in a housing project. Evidence of fraud and corruption in this regard, implicating a former Municipal Manager, has been passed on to the SAPS.
2. A service provider instituted a civil claim to the value of a further R2.7 million against the municipality, the SIU found the payment on which the claim is based to be irregular.
3. Evidence revealed theft of municipal trust funds and a number of other irregularities by a law firm contracted to collect municipal debt. The losses to the municipality in this regard amount to at least R530 898. The matter has been

referred to the SAPS for criminal investigation.

4. The irregular procurement of services at inflated cost of between R6.5 and R8.4 million from an identified service provider. The investigation has revealed contraventions of the MFMA and possible fraud. The matter has been reported to the SAPS.
5. The irregular procurement of services in order to do an unnecessary survey at a cost of R559 648. The investigation has revealed contraventions of the MFMA and possible fraud. The matter has been reported to the SAPS.
6. The services of consultants, valued at R1.9 million, had been procured in an irregular and unlawful manner. The investigation has revealed evidence of contraventions of the MFMA and possible fraud. The matter has been reported to the SAPS.
7. The services of a specific service provider were procured in an irregular and unlawful manner. The losses are still to be quantified and the matter is about to be reported to the SAPS.
8. The SIU recommended the suspension of the Municipal Manager and initiated attempts to recover losses and prevent further losses. Instead the Council opted to enter into severance agreements with the Municipal Manager and former Municipal Manager. The agreements indemnified these managers from liability for the losses they caused the municipality.

# SOUTH AFRICAN BROADCASTING CORPORATION LIMITED

Proclamation R58 of 2010, published 29 October 2010

## **Brief overview:**

The SABC Board requested the SIU to investigate allegations of misconduct and mismanagement, and the proclamation mandated the SIU to conduct an investigation into allegations of mismanagement and/or misconduct by SABC Board members, officials and/or employees and any other third party.

Phase 1 of the SABC investigation was completed on 31 March 2010 where after the SABC Board extended the SIU's mandate to 31 March 2012.

## **Focus areas and findings**

*Potential Conflicts of interest:* during the period under review the SIU identified an additional 20 officials with interests in entities that conducted business with the SABC. Investigations showed that officials did not always declare their interests. Data analysis showed an additional 1 282 business interests held by SABC officials that required further investigation.

*Procurement Contracts:* 17 procurement contracts were investigated with the Investigation focused primarily on identifying whether the contract complied with SABC policy and establishing the veracity of the allegations received. However, preliminary results indicate that the SABC may have incurred irregular/fruitless and wasteful expenditure in excess of R150 million. Possible criminal offences were identified on two contracts.

*Appointment of consultants:* The AGSA identified that 114 consultants were paid R279 million between September 2007 and June 2009. The AG recommended that the appointment of these consultants should be investigated. The SIU's focus area in this investigation was to identify irregular and/or fruitless and wasteful expenditure by measuring compliance of the process followed in appointing the consultants against SABC policies with a view to identify financial misconduct and mismanagement.

*Revenue collection:* The SIU performed a compliance review and financial analysis and investigated specific allegations on 20 revenue contracts with a combined value of about R798 million.

Preliminary results showed that all of the 20 revenue contracts contravened SABC policies. The investigation revealed not only

weaknesses in the sales control environment but shortcomings in corporate governance which resulted in unsound business practices.

*Petrol cards:* The investigation focused on 32 employees who were identified as the top 10 in each category of anomaly.

Results to date show inadequate monitoring of the utilisation of petrol cards resulting in the SABC being defrauded. To date, the SIU was able to secure an AOD from an SABC employee for an amount of R23 000 for expenses wrongly charged to his petrol card. Other recoveries from employees are anticipated.

## **Other matters**

- The SIU investigated 18 employees for conflicts of interest. Of these employees 15 did not declare their interest and 3 declared their interest but it was not approved by the requisite authority. The SIU prepared 12 disciplinary files for those employees that did not declare their conflicts of interest. However, six of the 18 resigned from SABC and therefore no disciplinary action could be recommended against them.
- The SIU referred R34 million in potentially untaxed SABC employee benefits matter to SARS for investigation.
- The SIU's investigation of employee benefits in Phase 1 resulted in a recovery of R180 000 from a former SABC employee.

## **Criminal Matters**

The SIU rendered assistance to the SAPS on the finalisation of criminal matters involving SABC. It should be noted that these matters were reported to the SAPS by the SABC.



# SOUTH AFRICAN POLICE SERVICE

Proclamation R 42 of 2010 published on 10 August 2010

## Brief overview:

Initially the Independent Complaints Directorate (ICD) formally requested an investigation into the allegations of irregularities in the Expert and Facility Management Services of the SAPS in relation to 33 specific SAPS building and/or renovation projects. Subsequent to this, the former National Commissioner of Police further requested the SIU to extend the mandate of the ICD to include allegations of Supply Chain Management (SCM) irregularities within other divisions of SAPS including the Information Services Management (ISM) division. The proclamation covers the period 1 January 2005 to 10 August 2010.

## Focus areas:

Following a review of the allegation and available information, the SIU prioritised the following matters for investigation:

- 33 police stations where building and renovation projects were undertaken by the SAPS
- R900 million SAPS Tetra Systems contract in the Eastern Cape
- Allegations of irregularities within SCM in the Forensic Services Laboratory (FSL)
- The awarding of contracts to manufacture and supply SAPS uniforms and other related items of clothing
- An ISM contract awarded

to favour specific service providers SAPS failed to comply with prescribed tender processes and budgets were exceeded in almost all 33 stations in question. The documentation in terms of financial/procurement process for building police stations was found to be incomplete. Some SAPS officials interviewed indicated that they acted on verbal instructions.

## Investigation of individual police stations

- To date the SIU has received 3783 payment batches in respect of the construction of the 33 Police stations currently under investigation.
- The SIU has developed a procurement investigation database for this project to identify irregularities within the procurement process followed by SAPS. Currently all transactions are being captured and analysed.

## Procurement contracts

The SIU is currently investigating a number of contracts where the following have been identified:

- Possible fronting.
- Possible fraudulent tax clearance information submitted.
- Manual price alterations on tender documents.
- Indications that at least one member of a Bid Evaluation Committee (BEC) had undisclosed links to an entity that formed a part of a successful bid. More widely, some BEC members did not complete disclosure of interest forms.
- Different requirements and standards were applied to bidders tendering for the same contracts.
- SCM processes were not followed in the awarding of some tenders.

## Possible Conflicts of interest

Data analysis revealed 215 possible conflicts of interest and 115 members directly linked to suppliers that have been paid by the SAPS. The amount currently involved is R50 million. These matters are currently under investigation

## Preliminary findings

### Construction of Police stations

#### Devolution of custodian functions

The SAPS did not have the requisite legislative authority to proceed with the building of the 33 police stations on their own. To date no legislative amendments have been effected empowering the police to take over the function from the DPW. The SAPS was not able to satisfy devolution requirements set out by DPW for devolution by 1 April 2006. Both National Treasury and the DPW have to date only indicated that they would support devolution of custodial functions for 503 Police Stations with effect from 1 April 2009. SAPS commenced with building own facilities from as early as January 2005 under the auspices of "own resources". Although SAPS had own resources, this did not translate to authority to construct police stations. In the absence of a binding legal document or legislative amendment, the SAPS's actions were irregular and contrary to legislative authority.

#### SAPS Processes & Compliance with SCM prescripts

SCM processes appear to have been deliberately manipulated

# SASSA PROCUREMENT INVESTIGATION

Proclamation R27 of 2010, published on 8 June 2010

## Brief overview:

SASSA Internal Audit approached the SIU to conduct a forensic investigation into procurement concerns found during an internal audit review.

## Focus area:

During the period under review SASSA requested the SIU to prioritise an investigation into allegations of procurement irregularities relating to 21 ICT suppliers, valued at R610 million.

## The focus of the SIU investigation is:

- To evaluate whether contracts were awarded and managed in accordance with the principles of value for money, open and effective competition, ethics and fair dealing, and accountability and report criteria.
- To determine whether there was a link between any SASSA officials and the suppliers or service providers who were awarded contracts.
- To determine whether any SASSA official or member of the BEC and Bid Adjudication Committee (BAC) received unlawful benefits from any successful bidder.
- To determine whether the non-compliance identified during the internal audit review was deliberate and intentional.
- To determine whether any criminal and/or disciplinary transgressions were committed, and what action should be taken as a result.

The SIU will also make systemic recommendations relating to the improvement of internal processes where necessary.

## Findings

A final report in respect of one of these contracts has been handed over to SASSA, who in turn handed it to the State Attorney for advice on the way forward.

All other investigations are ongoing. Irregularities identified thus far include:

- General deviation from and non-compliance with SCM policies and procedures.
- Non-compliance with PFMA and other applicable legislation.
- BEC and BAC committees established and members removed/changed contrary to policy and prescripts.
- BAC awarded contracts to service provider contrary to and without considering BEC recommendations.
- SASSA officials signing contracts beyond delegated authority.
- Possible double payments on contracts.
- Change requests made without proper authorisation.
- Payments made to service providers prior to contracts being signed.
- Overlapping of contracts for the same service, resulting in fruitless and wasteful expenditure.
- Work commenced on projects prior to SLA being signed by both parties.
- Over billing.
- Non-compliance in respect of contractual obligations; and
- Same official chairing both BEC and BAC meetings.

# STELLENBOSCH MUNICIPALITY

Proclamation R3 of 2011, published on 14 January 2011

## Brief overview:

At the request of the Western Cape MEC for Local Government, the SIU conducted an initial review of concerns at the Stellenbosch Municipality. Pursuant to the review the SIU wrote to the MEC recommending a full investigation. The SIU, with the support of the MEC, then requested the President to issue a proclamation mandating a full investigation.

## Focus areas:

- The alleged irregular and unlawful procurement of services at a cost of R777 550 for services at a "Cultural Day" that was staged in Kayamandi, Stellenbosch in April 2009.
- The irregular and unlawful procurement of services at a cost of R180 000 for demolition of a building situated on municipal land in Kayamandi, which was leased to another company at the time.
- The irregular and unlawful procurement of services from and/or contractual appointment of a coordinator for the Stellenbosch 2010 Soccer World Cup Project.
- Allegations of irregularities pertaining to the evaluation and award of seven tenders (to the value of R106 million) in 2006.
- Allegations that the R13.5 million tender for the building of Kayamandi stadium was inflated.

## Findings

The investigation into procurement of services for the Kayamandi 'Cultural Day' has so far revealed evidence of fraud and MFMA contraventions. The former Municipal manager, his brother, the CFO, the former Mayor, Deputy Mayor, a Councillor and a supplier have been implicated in these irregularities.

The matter has been reported to the SAPS and the process of quantification of losses is continuing.

The investigation into the demolition of a building has revealed evidence of fraud and other statutory contraventions involving the Former Municipal Manager, possibly other municipal officials, a Councillor and a supplier. The matter has been reported to the SAPS.

The investigation into the Stellenbosch 2010 Soccer World Cup Project has so far revealed evidence of fraud and other statutory contraventions involving the former Municipal Manager, his brother, the CFO, the former Mayor and possibly other Councillors and suppliers. The matter has been reported to the SAPS. The SIU is in the process of quantifying any losses incurred by the municipality. Official payment records and supporting documents revealed that at least R1.5 million was paid to the coordinator of the Stellenbosch 2010 Soccer World Cup Project over the period September 2008 to 1 March 2010.

The investigation into seven tenders has so far revealed evidence of irregularities such as conflicts of interest in the tender process. The municipality has already intervened by means of civil action, and reported the matter to SAPS early in the SIU investigation.

The evidence obtained in the investigation into allegations around the building of the Kayamandi stadium has thus far not been able to substantiate the allegations under investigation.

# TSHWANE METROPOLITAN MUNICIPALITY

Proclamation R62 of 2010, published on 08 November 2010

## Brief overview:

The investigation commenced in December 2010 and relates to allegations of financial mismanagement, human resource irregularities, and general non-compliance with internal processes.

## Focus areas:

- Procurement irregularities including non-compliance with SCM policies and procedures in excess of R200 million.
- Conflicts of interest allegations involving R185 million worth of contracts concluded between the municipality and officials, and non-disclosure of interests.
- Deviations from tender procedures in which more than 300 contracts worth more than R447 million were entered into without allegedly obtaining the necessary approvals.
- Financial mismanagement relating to the R1.9 billion spent on the One-Time Vendor Accounts.
- In excess of R75 million in unauthorised, irregular and/or wasteful expenditure.
- Human Resource Irregularities in respect of recruitment and selection processes (irregular appointments; fraudulent qualifications); interference in disciplinary processes; fraudulent identity numbers used by officials; fraudulent driving licences; fraudulent social grants.
- Metro Police where it has been identified that more than 80 officials failed to disclose their criminal records before appointments were made.

for a new municipal bus fleet costing R40 000 per month whilst the bid committee recommended that the tender be awarded to a service provider for a monthly fee of R19 000. As a result the municipality incurred additional costs in excess of R70 million. The SIU will be recommending disciplinary action against seven senior officials.

- *Asset Verification tender:* The SIU investigated the awarding of an asset verification tender worth R7.9 million, where there was overspending of R2.8 million without the required approval and authorisation.
- *1 Time Vendor Account:* Investigations found that the municipality has made payments of over of R1.9 billion in 22 746 transactions through the 1-Time Vendor Account. However, data analysis revealed numerous payments being made to the same service provider and persons at different times, despite the fact that 1 Time Vendor service was created to provide a once-off service to pay service providers not registered on the preferred supplier database.

## Human Resources

A comparison of the payroll database and home affairs database found the following:

- Eight officials have more than one ID number linked to them.
- In 11 instances, the ID numbers used by officials on the municipal payroll database do not exist at all on the Home Affairs database.
- Six unrelated officials are using the same bank account and salaries are being paid into the one bank account.
- 15 officials are using ID numbers that are linked to a third party.
- 13 officials are using ID numbers belonging to persons classified as deceased on the home affairs database.

*Social Grants:* 3 778 officials were found to be registered to receive social grants. 93 of these have already admitted to illegally receiving the grants and are paying back the value received. The SIU is assisting the municipality with the preparation of charge sheets.

*Fraudulent Driving Licences:* 212 instances of fraudulently obtained driving licences have been confirmed. 87 of these licences have been referred for cancellation. Criminal cases are pending in 10 instances. Disciplinary case files are currently being prepared.

*Criminal records:* 104 Metro Police officials were identified with possible criminal records. The municipality has requested the prioritisation of this focus area to expedite their disciplinary process. It has been confirmed that 45 of these officials have been convicted of serious criminal offences including murder

## Findings

### Supply Chain Management

#### Conflicts of interest and non-disclosures:

- The investigation identified 65 officials with business interests in 66 companies who are currently doing business with the municipality to the value of R185 million. During the period under review the SIU prioritised disciplinary cases against nine officials whose companies received payments in excess of R1 million from the municipality.
- In the period under review, analyses of bank statements of six companies linked to former and current spouses and/or family members of two senior officials have revealed possible money laundering. An official has been placed on suspension pending the finalisation of the investigation.

#### Procurement:

The total value of procurement contracts currently under review is in excess of R800 million. In the period under review, the following tenders were investigated:

- *Bus tender:* The SIU has finalised an investigation into an allegation that officials contravened procedures when a bus lease agreement was signed. It is alleged that officials signed

and rape. 18 officials are currently awaiting trial and no records could be found for 50 individuals.

*Fraudulent Qualifications:* the verification of qualifications held by all officials in management positions has so far showed that:

- Five officials submitted fraudulent qualifications and lied

about their experience. One official has already been dismissed and action will be taken against four others once the report is finalised.

- It has been confirmed that six officials do not possess any form of qualification and there are discrepancies in the qualifications of another 22 officials.

## DEPARTMENT OF HUMAN SETTLEMENTS: NATIONAL

Proclamation R7 of 2007, published on 25 April 2007

### Brief overview:

The department requested the SIU to investigate corruption and maladministration in the national low-cost housing scheme. The SIU's investigation model focused on recovering money, deterring officials and third parties from irregularities/improprieties and removing them from the low-cost housing system. Current focus areas are irregular low income housing subsidies, and housing contracts.

### Findings

#### Irregular low-cost housing subsidies

In the period under review the SIU finalised 397 matters related to irregular subsidies. The Unit also facilitated the repayment of 503 irregular subsidies through AODs to the value of R 5.5 million. The SAPS made 184 arrests and 149 convictions were achieved in the period. The SIU also assisted the department with the preparation of 110 disciplinary files against officials involved in low-cost housing subsidy irregularities.

#### Contracts

During the period under review, 59 housing projects were identified countrywide for investigation. Nine reports were completed in respect of 15 projects and the rest are still under investigation, for completion by the end March 2012.

#### KwaZulu-Natal

##### *Ingwavuma Blockyard Project*

- Found inadequate project monitoring and reporting mechanisms, and non-compliance with contractual obligations by service providers. Payments of over R850 000 made where delegated authority was exceeded.

- Misconduct identified on the part of some officials.

#### Eastern Cape

##### *Ntabankulu Housing Project*

- Municipality has no official supply chain management policy in place.
- Identified fraud and failure to comply with tender prescripts, as well as overpayments to service providers of over R900 000.
- Certification of work as complete when in fact it was not performed, or materials were not delivered
- Evidence of criminal activity reported to relevant authorities, and two suspects arrested by the SAPS.

##### *Port Elizabeth - Joe Slovo Housing Project (Eastern Cape)*

- Documentation not supplied to SIU despite ongoing requests.

##### *Cala/Elliott Housing Project*

- Investigated alleged non-delivery by service providers to the value of R 26 million for which no value could be determined.
- Misappropriation of materials that remained on site when services of the first appointed service provider ceased – the second service provider unduly benefited in the amount of R3.3 million in this regard.
- Investigated allegations of non-compliance with contractual terms resulting in losses of R414 357 in irregular expenditure and R9 676 000 for non-adherence to Joint Building Contracts Committee agreements for the department.
- Evidence of contravention of the PFMA by a former HOD which constituted criminality and 67 counts of fraud by a service provider.
- Civil liability for payments of approximately R26.8 million wherein no value could be determined.

#### North West

##### *Ba Ga Phuduhucwana and Ba Ga Maldi Housing Projects*

- Investigated non-delivery by services providers, causing a potential loss of R7.5 million to the Provincial Department.
- Allegations of irregular documentation submitted by the contractor - the information supplied was inaccurate, lacked clarity, was contradictory, was false and misleading and could not be reconciled to the actual project costs.
- Evidence of criminal activity was uncovered and reported to the relevant prosecuting authority. Two individuals have been arrested and are facing criminal charges.
- Found acts of misconduct of departmental officials including senior officials including contraventions of the National Housing Act, National Housing Code and PFMA.

##### *Tswaing Letsopa Housing Project*

- Due to the fact that limited and/or incomplete source documentation was provided to the SIU, no finding could be made with regard to alleged non-delivery by service provider/s



appointed in respect of the construction of top-structures and allegations of breach of contract relating to agreement/s signed between the relevant contractor/s and the department.

- No information was supplied to the SIU regarding the required Declaration of Interest of the acting HOD during the financial years under investigation (2003 to 2008).

## **Northern Cape**

### *Sol Plaatjie Municipality Project*

- The SIU found a practice of not having a formal project proposal or formal agreement signed for the allocation of bulk subsidies by the provincial department, to be contrary to the provisions of the National Housing Code. The SIU also found evidence of gross negligence and a failure to comply with various provisions of the PFMA
- The project payment process in terms of the provisions of the National Housing Code was not complied with.
- The project status reflected on HSS as at end February 2010 as "completed". This is notwithstanding the fact that only 67 houses were constructed and 433 still had to be constructed. However, payment was made as though the full project was completed – this translates into irregular expenditure of R7.9 million.
- Advance payments made contrary to the provisions of the Housing Act and the National Housing Code, and general non-compliance with project payment regime of the National Housing Code.
- Overpayments of R3.5 million to service providers.
- The total value of funds for which no value could be determined and which constituted fruitless and wasteful expenditure is R8.4 million. The department also paid out an amount of R3.7 million in this project with no beneficiaries having been identified in 204 sites and 137 subsidies where no site was identified.

## **Western Cape**

### *Eden District Municipality Emergency Housing Programme Projects*

- An irregular project merger and associated unauthorized changes to HSS occurred in respect of Haarlem and Uniondale and Zoar EHP projects.
- The SIU could not obtain documentation authorising the reversal of expenditure amounting to R11 202 436 (as per the 2009 HSS information) to R0 (as per the 2010 HSS information)

in respect of these projects. No documentation/authorisation could be obtained regarding the change in the project description. The request for the merger of these projects did not originate from the developer but appears to have been initiated by departmental officials.

- The WC DOHS did not adhere to the National Housing Code Emergency Housing Programme (EHP) policy guidelines. In 674 instances, work was performed on houses where no immediate threat to life, health and the safety of occupants existed.
- Non-adherence to the subsidy quantum permissible in terms of the EHP occurred in 501 instances (49% of the total approved project size), as a result of cross subsidisation.
- EDM / WC DOHS used Municipal Infrastructure Grant funds to double subsidize the project in order to provide ceilings. Double subsidisation to housing beneficiaries occurred contrary to the provisions of NHC.
- No evidence indicating criminal activity or civil liability in respect of any of the relevant parties was obtained.
- No evidence was obtained indicating which WC DOHS official/s approved the merger of the projects, approved the reversal on HSS of expenditure amounting R11 202 436 and approved the cross subsidisation that occurred during the implementation of the merged project. Furthermore, no evidence was obtained indicating which official's omission resulted in the non-alignment of the contractual terms regularising the merger of the projects.

## **Limpopo**

### *Rirothe Rural Housing Project*

- Alleged non-delivery by the appointed service providers appointed
- Overpayments to the value of R1.6 million were made to a service provider. This includes an amount of R317 733 which was paid out to the appointed service provider after the termination date of the contract.
- The service provider tasked with undertaking the geotechnical investigation erroneously calculated the costs involved in the construction of the required substructures resulting in an overpayment of R1.7 million.
- The department incurred irregular expenditure amounting to R1.5 million in respect of actual payments made.

# DEPARTMENT OF SOCIAL DEVELOPMENT

Proclamation R18 of 2005, published on 6 April 2005.

Amended and extended by Proclamation R5 of 2007 published on 30 March 2007.

## Brief overview:

The proclamation mandates the SIU to investigate the payment and/or receipt of social grants or benefits by unqualified beneficiaries, and the irregular or unlawful conduct of government officials and/or agents responsible for the administration and/or payment of social grants or benefits.

The South African Social Security Agency, custodian, joined the partnership in 2006 to address fraud, corruption and maladministration in the system.

## Deliverables

The SIU has committed itself to achieving the following:

- Deterring and dissuading irregular beneficiaries
- Recovering losses
- Enhancing savings

## Results and achievements

The success with which the SIU achieved its objectives of deterring and dissuading irregular beneficiaries, recovering losses and enhancing savings is reflected in the following results that were achieved during the period under review. The preventative future saving to government is determined according to a formula approved by the Auditor-General.

| Achievements                                   | April to September 2011 |
|--|-------------------------|
| Total new cases before court                   | 1 369                   |
| Convictions                                    | 1 178                   |
| Disciplinaries prepared                        | 823                     |
| Total AODs                                     | 2 947                   |
| Value of AODs                                  | R 34 168 567            |
| Recommendations for removal from Socpen system | 2 947                   |
| Actual savings                                 | R 6 947 500             |
| Preventative savings                           | R 116 066 700           |

# MIDVAAL LOCAL MUNICIPALITY

Proclamation R33 of 2011, published on 20 May 2011

## **Brief overview:**

The investigation commenced in June 2011 and the following focus areas are currently the subject of investigations:

- Procurement irregularities
- HR irregularities
- Financial irregularities

## **Focus areas:**

### **Supply Chain Management**

Two contracts to the value of more than R50 million are currently under investigation –

- Allegations of flawed adjudication process emerged in relation to Riversdal Sewerage development and that the successful service provider was not the lowest bidder. It was also alleged that payments were effected on fraudulently submitted invoices. A criminal case has already been registered and investigators will be working with the Commercial Crime Unit of the SAPS to finalise the investigation.
- There are also allegations that the winning bidder in the procurement for legal services for debt collection had access to the municipal account system which gave this bidder an unfair advantage over others. The municipality was therefore in breach of section 83 of the Municipal Systems Act, because it failed to allow all other bidders access to the data. No performance agreement was entered into between the legal firm and the municipality. Investigations further revealed that the Credit Control Policy had not been adhered to although the legal firm was appointed.

It is also alleged that the municipality procured the services of a firm of attorneys for labour services worth over R1 million for over a two year period without following any competitive procurement process. Both investigations have just commenced.

### **Asset Management**

Allegations are currently being looked at in respect of assets being sold on auction without being placed on the asset register and certain assets being paid for by the municipality without there being any record on the register. A Municipal billboard was burnt down in a fire which resulted in the municipality lodging a R60 000 insurance claim. However, it is alleged that the insurers successfully repudiated the claim on the basis that the municipality had failed to record the billboard in its assets register, resulting in a loss of R60 000.

### **Human Resources**

The SIU has requested and reviewed personnel files to commence with this aspect of the investigation, focusing on any undisclosed business interests on the part of councillors. The investigation will also review the recruitment process for a number of top management positions.

### **Financial Mismanagement**

*Staff Accounts – Arrears*

The SIU initiated an initiative to recover outstanding debts on rates and taxes from officials who have been in arrears for more than three months. 93 officials were found to be owing the municipality an amount of R395 605. The SIU and municipal management drafted letters to inform officials of their debts and R37 396 has been recovered so far.

#### *Top 100 debtors accounts*

Despite debt collection initiatives, a substantial amount of debt was still outstanding in respect of water and electricity accounts. Investigators prioritised the top 100 highest outstanding debts. The SIU made arrangements with the debtors which resulted in a recovery of R28.8 million in outstanding accounts. This process is continuing.

#### *Indigent database and grants*

Allegations have been made that persons who do not comply with the prerequisites of the indigent policy have been benefitting from indigent grants. The Indigent Policy stipulates that only households with an income of less than R1 400 per month qualify for the discount afforded by the policy. The list of beneficiaries was compared with the various databases within the SIU and the following findings have been made in respect of the preliminary analysis conducted:

- 2 500 persons benefit from the indigent system and of these;
- 202 have been declared as deceased on the Department of Home Affairs database;
- 14 have been identified as receiving other government grants already as per SOCPEN;
- 15 have been identified as being permanently employed within a state institution, as compared with PERSAL;
- 372 are registered as directors in companies according to CIPRO information; and
- 115 are owners of their own businesses.

#### *Non-disclosure of Interest*

There are 524 permanently employed officials at the municipality. A comparison made between the employee database and CIPRO has revealed 99 employees having directorships in businesses. The personnel files are currently being reviewed to establish if disclosures were made. Investigations are also currently analysing the preferred supplier database to establish if any of these officials have been doing business with the municipality.



## Waste Management

Four landfill sites were identified as operating without compliance with legislative provisions. Information received has indicated that the municipality did not obtain licenses to operate the landfill sites. Even though the sites are operating illegally the municipality charges for the services, and regulatory prescriptions pertaining to the gas levels and other environmental impact regulations are not adhered to. The landfill sites are currently an environmental and health risk.

## Alienation of land

Irregularities with the sale in execution process and the procedures followed to obtain summonses were identified pertaining to at least 85 properties.

The investigating team will conduct a reconciliation of all

accounts on the system to determine if all legal procedures were followed and all funds collected on outstanding debt have been paid to the municipality.

## Erroneous issuing of town planning certificates

*Development Uitvlugt: Illegal issue of a section 82 certificate*

The allegation in this matter is that a former Director Town Planning and Development issued a section 82 certificate (certifying that the services are either installed and /or guarantees were obtained that the services will be installed to the satisfaction of the municipality and in relation to regulation requirements), while the services were not installed and/or no guarantees were provided for, at the Uitvlugt development.

As a result of the sign off of the certificate, an investment bank paid R160 million to the developer.

# NATIONAL HERITAGE COUNCIL

Proclamation R2 of 2011 published on 14 January 2011

**T**he former Minister of Department of Arts Culture requested the SIU to conduct an investigation into irregularities identified in the audit report of 2010 by the Auditor General of South Africa (AGSA) at National Heritage Council. The following matters were identified for further investigation:

- Irregular expenditure and contracts;
- Conflict of interest;
- Confirmation of compliance of utilisation of expenditure in relation to the National Lottery funding.

A number of problems were identified during the period under review:

- Irregular and fruitless expenditure that was incurred by the NHC to the value of R5 321 000 by contracting with suppliers contrary to the PFMA and National Treasury regulations;

- An instance of the improper and unauthorised changes of scores on a procurement bid
- Two tenders, valued at over R10.5 million which were awarded without a competitive bidding process.
- The SIU identified three procurement contracts amounting to approximately R53.4 million, including lottery funding of approximately R35 million. Problems identified include:
  - Tenders awarded contrary to original bid specifications.
  - Contracts amended, extended or renewed without official approval.
- An entire tender process was recreated after the contract had been awarded and executed.
- Affidavits were obtained which pointed to possible tender fraud amounting to approximately R51.9 million in respect of two matters.

# DEPARTMENT OF EDUCATION: MPUMALANGA SCHOLAR TRANSPORT SUBSIDY SCHEME

Proclamation R2 of 2009, published on 21 January 2009

**T**he SIU investigation was preceded by two independent investigations into the scholar transport system in the Mpumalanga Department of Education. The reports from these investigations highlighted numerous instances of alleged maladministration, fraud, corruption and other serious malpractices, which resulted in substantial losses to the department.

Prior to the SIU commencing its investigations, the Premier

of Mpumalanga also appointed a Commission of Inquiry to look into these concerns. An agreement was reached with the appointed commissioner that the SIU would conduct investigations into ten priority matters identified in the initial investigations. The total funds under investigation by the SIU in these matters is estimated to be R138 million.

The SIU has concluded its investigation and is finalising its report to be handed over to the department.

# DEPARTMENT OF LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS: NORTH WEST PROVINCE

Proclamation R72 of 2009, published on 11 November 2009

## Brief overview:

In November 2009 the President issued a Proclamation mandating the SIU to investigate allegations of irregularities at the twenty four municipalities in the North West. The investigation began in January 2010 and is to be conducted over a period of three years.

## Focus areas:

The SIU investigation is focusing on the following areas:

- Irregularities in the awarding of tenders to service providers
- Irregularities in the payments to service providers for work not done and/or not completed
- Irregular, unauthorised and/or wasteful expenditure
- Non-compliance with MFMA, supply chain management policies, Treasury regulations and other relevant prescripts
- Irregular recruitment, suspensions, disciplinaries and dismissals of officials
- Lack of good governance and accountability
- Lack of service delivery
- Conflicts of interest by municipal officials

## High mast lights project

The SIU established that the former Municipal Manager contravened supply chain management rules by appointing consulting engineers for the Brits electricity sub-station without following any procurement processes. This contract was valued at approximately R1.3 million.

The municipality also contravened its supply chain management policy by allowing the consulting engineering firm to appoint the high mast lights suppliers as sub-contractors without following any SCM processes. This had a significant impact in terms of the BEE status of the project.

The initial scope of the project was for the installation of 134 high mast lights. This was then amended for the installation of 126 high mast lights and 6 street light intersections. The SIU established that only 119 high mast lights were installed.

The SIU recommend that the municipality:

- Recover losses from the suppliers.
- Open Criminal charges against the former Municipal Manager for the contravention of Sec 173 of the MFMA.
- Consider the cancellation of the contract in respect of the sub-station.

The SIU has referred 4 cases of misconduct to the municipality for disciplinary action.

## Greater Taung Local Municipality

The SIU has reviewed four contracts to the total value of R18.2 million.

The SIU is investigating an allegation that an amount of R90 000 was paid irregularly for the rental of the former Executive Mayor's motor vehicle. It has transpired that such rental was justifiable since the Executive Mayor's motor vehicle insurance policy did not have an option of a car hire. The matter is therefore closed.

The investigations into allegations that the service provider was paid R99 000 for the supply of fence and gates at the taxi rank. The service provider was paid the full amount but only supplied the fence and not gates. The SIU has established that the gates have been bought but were not erected as there was an agreement between the taxi industry and the service provider that it would be inconvenient to open and close the gates at the taxi rank.

An allegation of the irregular appointment of municipal officials could not be properly investigated due to missing employee personnel files. Attempts to obtain such documents have not been successful.

## Findings

### Madibeng Local Municipality

The SIU investigation found that 12 companies conducting business with the municipality are owned by or belong to municipal officials. Analysis of the Madibeng payment database revealed that between January 2005 and November 2009 payments of approximately R4.9 million were made to these companies.

The SIU has recommended disciplinary action against officials who are still employed at the municipality.

### Grass Cutting

Investigations into sundry payments of R16 000 made to a company contracted for cutting grass have been finalised. This entity allegedly belongs to the Mayor's brother. The following recommendations were made.

- The municipality should open a criminal case of fraud against the service provider.
- A criminal case against the former head of supply chain management and former Municipal Manager for contravention of Section 173(5)(f) of the MFMA.
- Criminal charges be laid against the former Municipal Manager in terms of the provision of the MFMA.

The SIU is investigating the payment of a service provider for services not rendered. The SIU is facilitating the recovery of a R21 250 payment through a signed AOD. The official who authorised the payment has been suspended and disciplinary action will follow. The SIU will refer the evidence for investigation and possible prosecution.

The investigation has discovered the irregular increase of a salary from R133 000 to R250 000 per annum. The investigation is continuing and the losses incurred by the municipality are being quantified.

135 employees of the municipality have undeclared financial interests in businesses outside the municipality. There are four instances, to the value of R162 750, where companies belonging to municipal officials were awarded contracts by the municipality.

#### **Ramotshere Moiloa Local Municipality**

The SIU is investigating allegations of cheque fraud to the amount of R428 246.90. The municipality issued a cheque in favour of SARS, however it was deposited in a different account.

#### **Ventersdorp Local Municipality**

The SIU is investigating the irregular appointment of two service providers contrary to SCM procedures. The SIU will refer the evidence collected to the Hawks for possible criminal charges.

The SIU is investigating allegations that a service provider agreed in a contract with the municipality that they would pay the municipality R1 million to buy out all companies that were providing ICT services to the municipality so that the municipality could deal with only one service provider (themselves). It is alleged that the R1 million was never paid to the municipality account. The SIU has thus far not found any evidence of the money being transferred back to the municipality. The SIU will finalise its investigations and make recommendations to the municipality.

An investigation into the appointment of a service provider for Waste Management without following SCM processes has found that the service provider was appointed during a community meeting and the municipality did not adhere to supply chain management policies. The service providers have indeed provided their services. Recommendation to cancel the contract will be made. It will also be recommended that disciplinary steps be taken against the accounting officer for failure to adhere to the SCM policies of the municipality.

The SIU has finalised an investigation into the irregular reinstatement of two officials after they were found guilty in court and dismissed by the municipality. They appealed their dismissal and were re-instated even before the appeal could be finalised. Disciplinary action has been recommended against HR officials for the irregular re-instatement of dismissed employees.

#### **Moses Kotane Local Municipality**

The SIU investigated allegations of irregular payments of R2.3 million for the supply of roof sheeting which was not delivered. As the store room was not kept in an acceptable condition, the SIU was unable to establish whether or not the material was actually delivered.

The SIU found irregularities in the appointment of a data-capturer who was found to be the son of the Municipal Manager. He scored the lowest marks during the interviews but was appointed, and the Manager did not disclose his relationship

to the candidate. Irregularities were also discovered in the appointment of the Supply Chain Manager. The candidate did not meet minimum requirements for the position as advertised, and HR was not involved in the recruitment- instead the Municipal Manager conducted the short listing process. The Municipal Manager and the SCM manager have been suspended and charges against them are pending.

The municipality has instituted disciplinary processes against the former Municipal Manager for irregular appointment of staff, nepotism, fruitless and wasteful expenditure and insubordination.

It has been established that 115 municipal employees had undeclared interests in various businesses outside the municipality. The SIU will assist with disciplinary action against these officials. It was also established that 17 of the 115 are registered directors with companies currently doing business with the municipality. The SIU will refer the evidence to the SAPS for criminal investigation.

The SIU is conducting an investigation into an allegation of irregular awarding of a tender for the renovation of the Civic Centre, including:

- the project team was appointed without following proper SCM processes. The Municipal Manager was charged and found guilty of these irregular appointments in a disciplinary hearing;
- that payment of R1.2 million was made to a service provider who did not deliver the agreed materials. Criminal charges have been recommended against the contractor; and
- that construction materials to the value of R365 000 were auctioned by a contractor for R5 000, without the municipality being notified. The SIU recommended civil action against the contractor.

The SIU has signed 15 AODs to the combined value of over R200 000 for losses incurred by the Moses Kotane Local municipality. The SIU has referred 14 disciplinary matters to the municipality, ten of which have been finalised and four are in the process of being finalised.

#### **Rustenburg Local Municipality**

The SIU has conducted a land audit for the municipality and has found that some properties are not registered on the municipal asset register and the municipality is losing revenue in rates and taxes. The SIU has concluded its investigation and recommended the implementation of a proper asset register.

The SIU is also investigating the irregular payment of a salary and overtime money paid to a former employee of the municipality who is an awaiting trial prisoner.

#### **Tswaing Local Municipality**

The SIU has discovered 135 irregular appointments of employees to various positions, where the appointments were authorised by the former Municipal Manager. The SIU has recommended that action be instituted against the former Municipal Manager and two Municipal Directors.

The SIU was investigating an allegation that fire fighting vehicles and uniforms for fire fighters were irregularly purchased. However this matter cannot be thoroughly investigated because of missing documents. The SIU has recommended that disciplinary action be instituted against the officials who failed to preserve the documents in terms of the Archives Act.

# FORMER DEPARTMENT OF ROADS AND TRANSPORT: EASTERN CAPE

Proclamation R 34 of 2011, published on 20 May 2011

## **Brief overview:**

The proclamation mandated the SIU to investigate:

- Loss of state funds as a result of irregular awarding of procurement contracts.
- Conduct of officials, employees and service providers or their appointed agents responsible for or involved in the administration within the department.

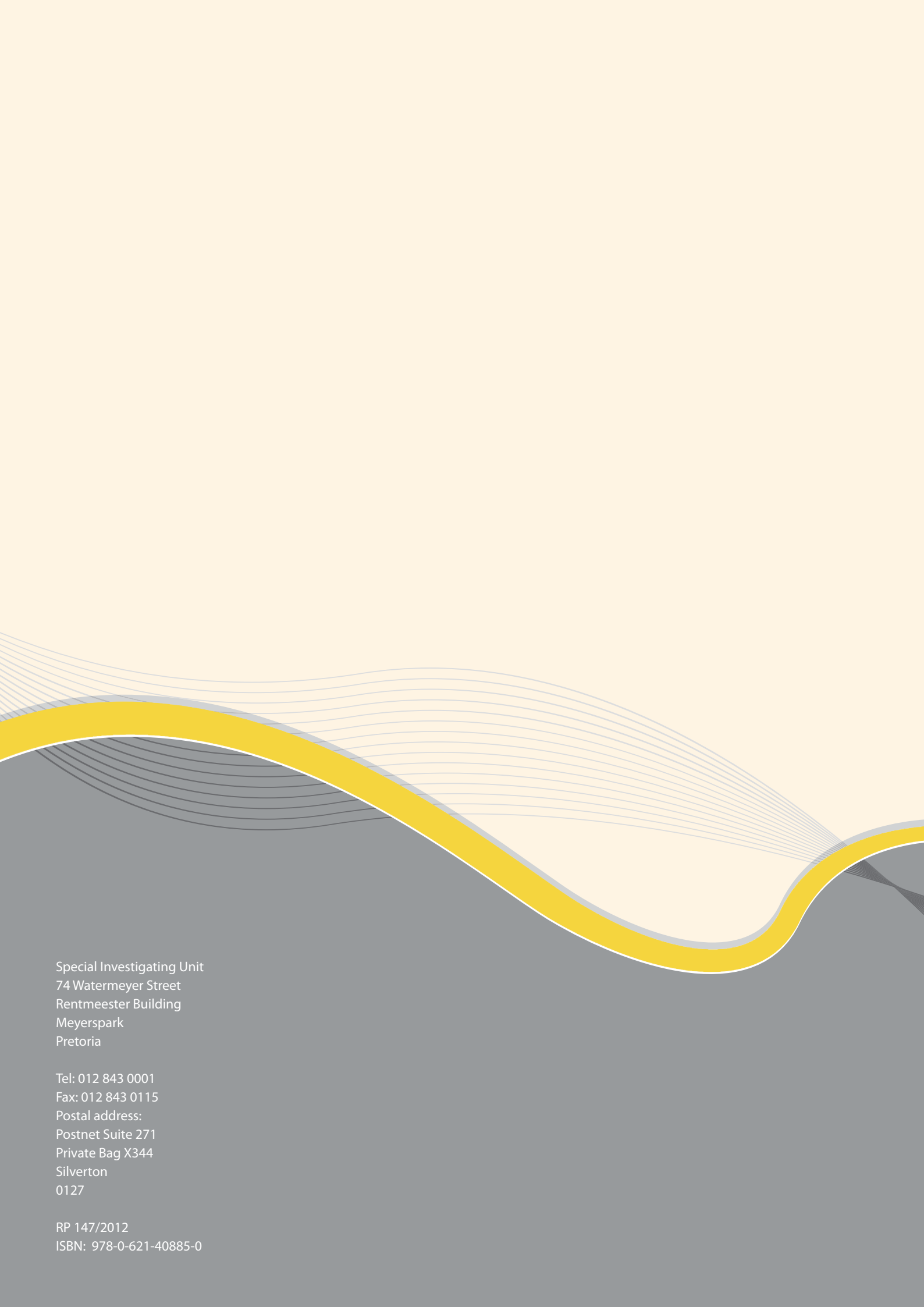
## **Focus areas:**

The investigation will focus on the following:

- Allegations of irregularities at the Kei Rail project.
- Allegations that irregular tenders were awarded to three entities that were providing IT related services. It is alleged that these contracts were continuously extended with no competitive bidding process being followed. It is further alleged that department officials used these entities to circumvent the official recruitment process by employing friends and relatives.
- Alleged irregular payments, totalling to R60 million, to service providers of Port St Johns Municipality.
- The alleged irregular awards of three tenders for ICT services
- The irregular award of a tender to a training entity with questionable accreditation to train traffic officials.
- Allegations of corruption, fraud and maladministration against a senior official employed at the Alfred Nzo District Office of the department in relation to community-based transport.
- The alleged irregular award of tenders to three entities to construct/repair seven emergency and eight non-emergency roads for approximately R30 million between 2005 and 2009. It is alleged that certain of these roads were never constructed or repaired.

The investigation is ongoing.

[illegible]



Special Investigating Unit  
74 Watermeyer Street  
Rentmeester Building  
Meyerspark  
Pretoria

Tel: 012 843 0001  
Fax: 012 843 0115  
Postal address:  
Postnet Suite 271  
Private Bag X344  
Silverton  
0127

RP 147/2012  
ISBN: 978-0-621-40885-0