

Free State PPE contracts set aside

Personal protective equipment (PPE) procurement contracts entered into in the Free State have been set aside by the Special Tribunal.



Image source: Karolina Grabowska from [Pexels](#)

The judgment was handed down by Judge Lebogang Modiba on Monday, 31 January 2022.

According to the tribunal, Modiba's judgment also invalidated the appointment of the 36 companies who won the contracts, worth some R39.1 million.

"Judge Modiba ruled that the respondents' entities are to be divested of the profit they have derived or stand to derive from the [contracts]. The Judge ordered that the SIU [Special Investigating Unit] should enlist the services of an appropriate independent expert to assess the surgical gowns delivered to the Free State Department of Health and Provincial Treasury... which are still in possession of the departments," the tribunal said.

Modiba ordered that the expert be enlisted in order to assess the quality of the surgical gowns and their appropriate use,

and determine the fair value of the surgical gowns in light of their quality and appropriate use.

“In the event... that any respondent entity disputes the determination of the order, it is entitled to appoint their own expert and file [a] report. In doing so, they will need to notify the other parties of such an intention. Thereafter, it shall file its expert report within 15 days,” the Tribunal said.

Modiba also directed that companies, which were found to have supplied surgical gowns that were not up to standard, to supply audited statements reflecting “all the money due or received from the Free State Provincial Treasury for supplying gowns to the departments and all the costs that they have incurred” in the procurement of those gowns.

Furthermore, Modiba ordered that officials implicated in the scandal be made to account.

“To the extent that the departments stand to suffer any loss from the RFQ [request for quotation], Accounting Officers of both the Departments of Health and Provincial Treasury shall invoke section 38 (1) (h) of the PFMA against implicated officials to recover any fruitless and wasted expenditure incurred or to be incurred from the [contracts],” the tribunal said.

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