REPUBLIC OF VANUATU

DECENTRALIZATION ACT [CAP 230]

Instrument of appointment – Investigator to inquire into the affairs of the Shefa Provincial Government Council Order No. 67 of 2023

In exercise of the powers conferred on me by subsection 18L(1) of the Decentralization Act [230], I, the Honourable **CLAUDE CHRISTOPHE ANTOINE HOGTERMON EMELEE,** Minister of Internal Affairs, make the following Order.

1 Appointment of investigator

Lionel KALUAT is appointed as an investigator to inquire into the affairs of the Shefa Provincial Government Council.

2 Terms of reference

The investigator must carry out the functions according to the terms of reference as set out in the Schedule.

3 Commencement

This Order commences on 3 May 2023.

Made at Port Vila this 3rd **day of** MAY **, 2023.**

REPUBLIC OF VANUATU
MINISTER OF INTERNAL AFFAIRS
MINISTRE DE AFFAIRS INTÉRIEURES
REPUBLIQUE DE VANUATU

Honourable CLAUDE CHRISTOPHE ANTOINE HOGTERMON EMELEE
Minister of Internal Affairs

SCHEDULE

TERMS OF REFERENCE OF THE INVESTIGATOR TO INQUIRE INTO THE AFFAIRS OF THE SHEFA PROVINCIAL GOVERNMENT COUNCIL

1 Objective

To inquire, report and ascertain whether the activities of the SHEFA Provincial Government Council ("the SPGC") regarding the implementation of council resolutions, revenue collections, the management of the administration and report any issues discovered in administrative units and likely to impact the role, performance, and financial strength of the Council and whether they have been carried out in accordance with;

(a) the Decentralization Act [CAP. 230] ("the Act"); and

(b) the Provincial's Financial Regulations; and

(c) any Ministerial directions; and

(d) the Shefa Province Staff Manual; and

(e) the Council Standing Orders and By-Laws; and

(f) any other relevant Acts and standards.

2 Inquiry report

The investigator must prepare a complete report on the findings of his inquiry and present the report to the Minister of Internal Affairs before 1st of June 2023.

3 Scope of inquiry

The Investigator will focus (but not limited to) on the following issues;

(a) observe and inquire into the performance of the Council of the duties and powers imposed or conferred upon it by provisions of the Act or any other Act; and

(b) attend Council meetings, Committee meetings and Heads of Unit meetings of the Council; and

(c) give due notice to the Secretary General of his intention to inspect any books, records, documents, contracts, stores or other assets and any undertaking of the council; and

(d) inspect the overall recruitment and disciplines undertaken on Shefa Provincial Government Council staff; and

(e) examine how council revenues are collected, recorded, and managed at the SPGC; and

(f) examine the overall payments made by the council particularly the:

  (i) payments made to councillors which are not covered in the Decentralisation Act and Standing Orders; and

  (ii) increase of councillors' salaries and constituency allowance; and

  (iii) purchase of vehicle for the operations of the administration; and

  (iv) unacquitted funds including imprests and DSA; and

  (v) receipting of Revenue Items using non-official receipts; and

(g) examine the overall management practices of the SPGC administrations; and

(h) examine the overall financial performance and position of the council; and

(i) assess the materiality and consequences of unbudgeted activities of the council against approved budget and annual plans; and

(j) examine the level of interference of the council in the administrative matters of the councils; and

(k) any other issues which the investigator deems necessary to be brought to the attention of the Honourable Minister of Internal Affairs.

4 Procedure when conducting the inquiry

While conducting the inspection, special attention must be made to the following;

(a) whether the legislative frameworks and legal processes have been complied with when undertaking such initiative; and

(b) whether the decisions relating to the administration of the SPGC are done in accordance with the Act or the Regulations or other relevant legal requirements; and

(c) whether the commitment through contracts and payments made to council members, staffs and suppliers including procurement of goods and services are in accordance with the required financial procedures and regulations; and

(d) whether awards of contracts are endorsed by the full council; and

(e) whether expenditures made including procurement of goods, services, imprests have the necessary supporting documents and have been incurred, recorded, and acquitted in accordance within the provisions of the regulations; and

(f) whether any unbudgeted activities are authorised in accordance with the required regulations; and

(g) whether any actions taken or decisions made are done in accordance with the required legal requirements; and

(h) whether resolutions made by the council are actioned by the Administration.

5 Management letter

(1) In addition to the inquiry report provided in clause 2, the investigator is to prepare a management letter and submit to the Minister of Internal Affairs and Office of the Director General of the Ministry of Internal Affairs detailing the following;

(a) factors causing the deficiencies as discovered through the inspection; and

(b) degree of compliance with regulations and procedures; and

(c) alternative measures that should be introduced to address these deficiencies; and

(d) the financial position of the council and the impact of service deliveries six (6) months before and six (6) months after the period of inspection.

(2) The observations in the management letter must be accompanied by the recommendations from the investigator and any SPGC's Management comments on the observations and recommendations, to correct the deficiencies discovered.

6 Access

The investigator is allowed to;

(a) be given access to all documents and reports for the years 2021 until the period of this assignment;

(b) review previous investigations and assessments made into certain matters of the SPGC;

(c) be given access to all legal documents, contracts, correspondence, financial Regulations, Ministerial instructions, notices, resolutions, minutes, and any other information deemed necessary by the Investigator.

(d) be allowed in all Council meetings, committee meetings and HoU meetings that are to be held during the period of this inspection.

7 Cost

The cost for the investigator will be covered by the SPGC in consultation with the Department of Local Authorities.

8 Renumeration

The investigator is entitled to remuneration of **VT 300,000** by the SPGC. The payment will be processed in two parts, the first payment will be made during the inquiry period. The final payment will be made upon presenting to the Minister the written report of the inquiry.