

**FORUM
OF
CAPE FLATS CIVICS**
(Building and Uniting Communities)

21 July, 2017

Attention
Mr Vincent Smith
Chairperson
Ad Hoc Committee on Funding of Political Parties
C/o Ms Cindy Balie
3rd Floor
90 Plain Street
Cape Town
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Dear Mr Smith:

Proposed Amendments – “Public Funding of Represented Political Parties Act No 103 of 1997”:

The Forum of Cape Flat Civics thanks you for the opportunity to contribute to the National Parliamentary Ad hoc Committee on Funding of Political Parties’ call for public comment on how the “Public Funding of Represented Political Parties Act No 103 of 1997” may be strengthened to allow for greater transparency in the manner in which political parties are funded, so as to ensure their effective functioning.

The Forum is of the belief that more transparency is required, now more than ever, to stop State Capture and Process Capture. Where Process Capture comes in the form of public participation processes being manipulated to attain ratification for political party policies, which may have been influenced by private funders.

We recognise that the call for full transparency around party political funding, especially that from private sources, is a means of stopping State Capture and Process Capture. That the Constitutional Court has recently ruled, that politicians should be allowed to vote on a basis of conscience, thus stopping voting on party political instructions, is warmly welcomed.

However we feel that a secret ballot without necessary statutory safeguards could lead to unwelcome capture of members of parliament, members of provincial legislatures as well as Ward and Proportional representative councillors at local government level. The Forum’s contribution thus seeks to address this possible risk to our democracy.

**Forum of Cape Flats Civics
Steering Committee**

Chairman: L September, **Vice-Chair:** S Ajam, **PRO:** R Pascoe
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Our comments can be split into the following sections

- 1.) **Party Political Funding**
- 2.) **Full disclosure of all Income, Release of Tax Returns and Lifestyle audits:**
- 3.) **Agreements between business, business forums individuals or other organisations and government (or other organs of state).**
- 4.) **Public Participation**
- 5.) **State Tenders**
- 6.) **Applications to waive transparency requirements, must be advertised in the Government gazette**
- 7.) **Objections to application to waive transparency requirements**
- 8.) **Timeous notification for application to waive transparency requirements**
- 9.) **Period when requests for the waiving of transparency should be made:**
- 10.) **Reasons for application to waive transparency requirements:**
- 11.) **Review of the application by Auditor General assisted by National Treasury.**

Bearing the above in mind, we recommend the following,

1. **Party Political Funding:**

The Forum believes in complete/ full transparency of party political funding be made a requirement of the "Public Funding of Represented Political Parties Act No 103 of 1997" to reverse and combat any form of State Capture, process capture and/ or corruption at all levels of government.

This should come in the form of opening up the books of political parties to public inspection, as well as be audited by the Auditor General, with the aim of detecting any conflicts of interest or risks to democracy. The Auditor General should then pronounce on any possibly conflicts of interests and possible risks of conflicts of interests to our democracy.

The Forum is of the view that Transparency of party political funding must cover all levels of government being national, provincial and local/ municipal government.

The findings of the Auditor General should be binding on all political parties as well as the State/ parliament.

2. **Full disclosure of all Income, Release of Tax Returns and Lifestyle audits:**

As individuals may also stand as independent candidates, or where our democracy experiences one or two man parties, it is paramount that we have complete disclosure of income received by individuals elected to parliament, provincial legislatures and at municipal level/ city council.

Thus besides full disclosure of party political funding, we also believe that all elected politicians should fully disclose 1.) all income received, 2.) their Income Tax Returns be made available for public scrutiny, and that 3.) Lifestyle audits of all elected politicians should be undertaken periodically.

The Forum is of the view that Transparency of all income received by elected politicians must cover all levels of government being national, provincial and local/ municipal government.

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3. **Agreements between business, business forums individuals or other organisations and government (or other organs of state).**

Agreements and/ or the acceptance of proposals without protest should be open for public scrutiny before government and/ or any other organs of state, sign said agreements or tacitly approves' said agreements.

Agreements between political parties and business, business forums or other organisations with links to government, especially government tenders must be fully disclosed and cross referenced/ checked to party political funding, and state tenders etc.

The Auditor General should review any agreement between business, business forums individuals or other organisations and government, and pronounce on any conflicts of interest or risks of conflicts of interest, relating to party political funding, or relating to income received by elected politicians.

4. **Public Participation**

Public participation processes should be reviewed by the Auditor General.

Auditor General should audit the accounts of any politician forming part of a national, provincial or local government committee members undertaking public participation process, and pronounce on any conflicts of interest and/ or risks to the process.

While auditing party political funding and income received by elected politicians involved in public participation process committees, the Auditor General should pronounce on any conflicts of interest, and risks to the public participation process, uncovered while auditing all income of political parties, and that of elected politicians involved in public participation process committees.

5. **State Tenders**

To combat State Capture and corruption, all tenders must be open to public scrutiny as a rule, reviewed by the Chief Procurement Officer in National Treasury and audited by the Auditor General, matching and cross referencing/ checking funding received by political parties.

If any part of a tender contract has to be treated with confidentiality and/ or discretion a request for this must be made. Thus Statute must make for full and open disclosure as a rule for all government and state operated entity tenders, where an application/s must be made for the waiving of transparency requirements, for any particular section of a tender that needs to be treated as confidential. State tenders must be audited by the Auditor General, where any conflicts of interest or risks arising due to party political funding must be publicly pronounced. The findings of the auditor General must be binding on the State.

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6. **Applications to waive transparency requirements, must be advertised in the Government gazette**

A notice must be advertised in the government gazette for any application to waive transparency requirements, This notice must serve to inform and make the public and civil society aware of the request and the reasons for said request. The Auditor General should be requested to advise, and pronounce on any possible risks and conflict of interest arising from party political funding.

7. **Objections to application to waive transparency requirements**

In this regard objections from the public must be allowed a reasonable period of time. Objections to sections of a tender being closed to public scrutiny, should be allowed up to a reasonable date to allow for all interested parties to object to the request, the process should follow normal constitutionally enshrined public participation processes/ procedures.

The decision to waive transparency requirements, must consider the recommendations of the auditor general who must also pronounce on any possible conflicts of interest and risks to conflicts of interest.

8. **Timeous notification for application to waive transparency requirements**

Civil society, the general public and the Auditor General must be notified timeously about the application to close certain sections of a tender/s to full public disclosure, especially if conflicts of interest or risks of conflict of interest arises due to party political funding, or due to income received by elected politicians, could play a role in the waiving of transparency requirements.

9. **Period when requests for the waiving of transparency should be made:**

The request should not be advertised in the holidays, and or after parliament closes for the year, especially in the December holidays when most civil society organisations close for the year. The Auditor General should pronounce on any tender where the period for comment on the waiving of transparency requirements is unreasonable.

10. **Reasons for application to waive transparency requirements:**

If the government and/ or any affected State Operated Entities believe that full disclosure will not be beneficial to the security of the country, or that certain sections of the tender might be marked as sensitive information, and should not be subject for full public disclosure, or where any prospective/ potential 3rd party to a tender contract has reservations about full disclosure, where this will infringe on their intellectual property or patented rights, this must be disclosed in the government gazette as a reason for the request/ application to waive full transparency requirements:

Recommendations from the Auditor General, as well as any risks must be made public, and be made binding.

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11. **Review of the application by Auditor General assisted by National Treasury.**

The application to waive transparency must be scrutinised by the Auditor General and/ or Chief Procurement Officer (within National Treasury) for infringements to compliance or possible abuses of transparency legislation mentioned above.

If the Auditor General finds that the application is or is not warranted a report in this regard should be made, and be binding on government and/ or any state entity or organ of state, or political party, unless set-aside by a court of law

It is the view of the Forum that besides the above proposed amendments to the "Public Funding of Represented Political Parties Act No 103 of 1997", transparency around party political funding, and income received by elected politicians should also be included as an amendment to the South African Constitution.

We thank you again for the opportunity to contribute to the strengthening of our democracy, and hope that our contribution is accepted

Thanking you and kind regards

Yours Sincerely



Lester September
The Chairman

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