

Briefing on matters of audited financial statements, governance issues and funding model of projects at the National Arts Council

Presented by: South African Roadies Association

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1. Introduction

- SARA is grateful to the Portfolio Committee on Sports, Arts & Culture for the invitation to present and extends its gratitude in that regard
- SARA will make a brief presentation with respect to the National Arts Council
- SARA is a small training organization, in its 26th year of audited operations whose primary purpose is train South African youth for readiness in the event, technical and production sectors.
- For more than 20 years SARA has run an on-job-training programme locally and abroad. This year 8 South African youth are on a 10 month paid on-the-job training program in the USA on Universoul Circus, the oldest and only black circus in the USA. The program has been running since 2002 and more than 150 South African youth have received paid for on-the-job training in various production and technical positions on the circus.
- SARA has had limited dealings with the NAC for 2 decades prior to Ms Mangope's arrival at NAC and had never had cause or conflict with the NAC or its staff

2. Audited financial statements

- SARA has a specific view with respect to the incorrectness audited statements of NAC:
 - The past 3 years of clean audits passed by AGSA were corrupted
 - The Expired Project and Surplus Policy is unlawful, yet signed off on (Sec 217 of the Constitution/Section 38 (1) (a) (iii) of the PFMA/Regulation 13 (c) of the Public Service Regulations, 2016)
 - Flagship Projects abuse is not reflected in the financials or noted
 - Surplus NAC funds are used to fund DAC projects (e.g. orchestras)

3. Governance issues

- In SARA's view and experience NAC is riven with governance issues:
 - Running an unlawful policy using surplus funds – Expired Project and Surplus Policy – which is improper conduct in state affairs (Section 182 (1) (a) of the Constitution) and constitutes maladministration in terms of section 6 (4) (a) (i) of the Public Protector Act
 - Paying NAC board members to provide services to the NAC
 - Trying to destroy a whistle blower for highlighting corruption
 - Using NAC funds for personal matters e.g. litigation v SARA
 - Issuing fake proposals on behalf of 3rd parties

4. Funding model of projects

- From SARA's experience the NAC's funding model is:
 - Rent asunder and abused by personal interests of Board and CEO
 - Allows for the flagship projects – which is the board and Senior executives giving money to parties who have no need for funding...i.e. for abuse
 - Delays the issuing of calls for proposals, delays payment of grants awarded with the specific aim of creating surplus funds which would then be distributed through an unlawful policy
 - Made use of by DAC and manipulated by DAC

5. Additional matters

- Three additional matter being

.....the abuse of power by CEO Mangope ref using the NAC and the court to settle personal issues and the findings of the Public Protector

.....the reference to the Hawks

.....the abuse by DAC of the NAC's Expired Project and Surplus Policy

See page to follow

6. Findings of the Public Protector

SARA filed a complaint with the Public Protector South Africa against the NAC and its CEO for their conduct in January 2017, and the Public Protector has finally issued a Report on the 15 June 2020, with the following findings.

- Section 7 (9) finding of maladministration against the NAC CEO
- "The allegation that the CEO of the NAC submitted an application to ÈXCO for partnership funding using the Complainant's name without his knowledge and consent, is substantiated.
- The Policy amounts to improper conduct in state affairs as envisaged in section 182(1)(a) of the Constitution and constitute maladministration as envisaged in section 6(4)(a)(1) of the Public Protector Act;
- The Policy is not aligned with sections 33(1) and 217 of the Constitution, section 51(1)(b)(i) of the Public Finance Management Act, sections 3(1) and 3(2)(b)(i) of Promotion of Administrative Justice Act, Regulation 16A8 of the National Treasury Regulations as well as regulation 13(c) of the Public Service Regulations 2016."

7. The Hawks

- After the release of the Public Protector's Report, such was referred by SARA to the Hawks;
- Pursuant to the reviewing the Public Protector's Report, the Hawks opened up case #: 233/10/2020 against the NAC CEO

8. Surplus utilization by DAC

THE DEPARTMENT OF ARTS AND CULTURE: SURPLUS UTILIZATION

Funding Commitments: Orchestra's

Orchestra's	Commitments	2018/19 (60%)	2019/20 (40%)
KZN Philharmonic Orchestra	10,300,000	6,180,000	4,120,000
Cape Town Philharmonic Orchestra	7,371,000	4,422,600	2,948,400
Cape Town Jazz Orchestra	3,912,000	2,347,200	
Johannesburg Philharmonic Orchestra - (new)	0	3,000,000	3,000,000
Total	21,583,000	15,949,800	10,068,400

Sliding Reduction scale
 2018/19 60%
 2019/20 40%

Surplus	2018/19	2019/20
	5,633,200	13,514,600

Project to be funded NAC Signature	Description	R'000
Beneficial Funding of Orchestra's		
National Orchestra	Establishment of the National Orchestra to be funded directly by the DAC	1,000,000
Ditshago Media PTY LTD	Social Media Training Programme	933,200
Mazwoi Communications PTY LTD -	Buleye'khaya Festival, DAC Flagship Project, a festival taking place in East London in December 24	2,000,000
Indiamenze Development Foundation	Fill up Mabida - Maskandi Concert	1,700,000
Total		5,633,200

In view of this directive we kindly request the National Arts Council to process payment in two tranches namely 1st tranche 90% and 2nd tranche 10%.

It will appreciated if your office can schedule a meeting with my office to discuss the way. In the meantime kindly make arrangements to contract and process the above mentioned projects earmarked.

Yours Sincerely,

 MR CHARLES MABASO
 ACTING DIRECTOR GENERAL
 DATE: 05/12/18

9. Conclusion

- SARA concludes as follows:-
 - Failure at DAC internal audit and legal
 - NAC should be properly audited
 - The Expired Project and Surplus stopped, as unlawful
 - Funding should be overhauled
 - All NAC Board members and senior executives subjected to lifestyle audits
 - Parliamentary Monitoring Group records evidence frustration of PC by NAC dishonesty – Section 17 (2) should be applied
 - Minister and DG should be called to order for what transpires at the NAC under their watch

Thanks to the Portfolio Committee on
Sport, Arts and Culture for according
SARA the time

Any questions?