**NATIONAL ASSEMBLY**

**QUESTION No. 1905-2021**

**FOR WRITTEN REPLY**

**INTERNAL QUESTION PAPER NO. 17-2021 dated 20 August 2021:**

**“Mr T W Mhlongo (DA) to ask the Minister of Sport, Arts and Culture:**

1. With regard to his announcement that there would be a forensic investigation to determine culpability and consequences regarding the National Arts Council mismanagement of R300 million, (a) how far is the process of selecting a company to undertake the investigation, (b) what is the name of the law firm, (c) who appointed the law firm, (d) what criteria were used to appoint the firm, (e) what are the terms of reference of the investigation and (f) what steps will be taken to ensure that the investigation is done transparently;

(2). whether he has found that the specified firm will be truly independent when undertaking the investigation; if not, how was this conclusion reached; if so, what are the relevant details;

(3). whether the public will get a full report after completion of the investigation; if not, why not; if so, what are the relevant details;

(4). whether all those found guilty will be punished; if not, why not; if so, how? **NW2133E**

**REPLY**

(1)(a). The Audit firm was appointed on 28 June 2021 through an open tender process.

 (b). The law firm appointed is **Mazars Forensic Services (Pty) Ltd**.

 (c). The law firm was appointed by the Council of the NAC.

 (d). An open tender process was followed where a tender advert was placed on 21 May 2021 in the National Treasury e-portal and NAC website, the tender closed on 03 June 2021. Tenders received were checked for administration compliance, thereafter functionality was evaluated by the Bid Evaluation Committee (BEC) the functionality criteria comprised of the following criteria: Company Experience (20 points), Capacity (25 points), Methodology (30 points) and Track record/References (25 Points), bidders needed to score a minimum of 80 points in order to be evaluated further on price and preference. Bidders who scored the minimum threshold were evaluated for price and preference, then recommendations were made to the Bid Adjudication Committee (BAC), presentations by the bidders who scored the minimum threshold of 80 points were invited to make presentations. The final recommendations were done and recommended to council for approval.

 (e). Terms of reference are as outlined:-

* Determine if there were any irregularities or inconsistencies in the management, adjudication, and approval of PESP applications received from the sector,
* Determine if there is any culpability with regard to those entrusted with PESP application and administration process
* Determine if there has been gross negligence, misconduct, or dereliction of duty in respect of the CEO tasked with the management of the PESP process,
* Determine if there has been gross negligence, misconduct, or dereliction of duty in respect of the CFO tasked with the management of the PESP process,
* Determine if there has been gross negligence, misconduct, or dereliction of duty in respect of the Previous Council tasked with the management of the PESP process,
* Determine if there has been gross negligence, misconduct, or dereliction of duty in respect of the any NAC staff/ Management/ Panel Member/ Council tasked with the management of the PESP process,
* Performing a reconciliation on PESP related funds, confirming cash on hand.
* Provide a comprehensive report with recommendations for Council’s consideration and action, where possible.

 (f). The NAC informed the Department that the appointment was a fair and transparent process and so when they undertake the investigation, they are an independent firm that will report to council on its findings. Council will then share the findings with the Minister.

(2). The Forensic auditors are working independently from any internal influence by the NAC officials or Council.

(3). The public will get a full report.

(4). Action will be taken on those found to be guilty.