**NATIONAL ASSEMBLY**

**QUESTION No. 2561-2021**

**FOR WRITTEN REPLY**

**INTERNAL QUESTION PAPER NO. 29-2021 dated 26 November 2021:**

**“Mrs V van Dyk (DA) to ask the Minister of Sport, Arts and Culture:**

What (a) investigations have been conducted at the National Arts Council of South Africa, (b)(i) are the names of the persons and (ii) is the name of the company and/or institution who were appointed to do the investigation (c) are the names of the persons who appointed the investigators, (d) was the date on which the investigative service were advertised, (e) was the (i) cost and (ii) outcome of the investigation and (f) steps have been taken by his department in this regard? NW3034E

**REPLY**

The National Arts Council of South Africa conducted four (04) investigations as explained hereunder:-

**INVESTIGATION 1**

1. Forensic audit regarding the Presidential Employment

Stimulus Package at the NAC

1. (i) CEO and CFO

(ii) Appointed company was Mazars Forensic services

1. Company was appointed by Council of the National Arts

Council

1. Services were advertised on 21 May 2021
2. (i) Cost of the investigation was R1572 486.08

(ii) Outcome of the investigation was as follows:

* There were several irregularities pertaining to the management of the PESP. These include financial mismanagement, process irregularities and lack of adequate oversight
* All funds have been accounted for at the NAC;
* Newly appointed Council Members (from the 1st of January 2021) were all cleared of any wrong-doing;
* The Report confirmed the findings of the State Law Advisor stating that newly appointed Council members whose organisations had applied for the PESP could not have been conflicted, as they had not commenced their appointment at the NAC at the time of applying and completion of adjudication.
* The Report however did identify conflict of interest in respect of some Former Council Members, who contravened Section 8(5) of the NAC Act by participating in the PESP processes and failing to declare their directorship in companies that applied to the PESP.
* Former Council Members disregarded their own resolution of 19 September 2020 by allowing five Council Members to actively participate in the evaluation of applications, thereby contravening the provisions of the NAC Act.
* The five former Council members were cumulatively paid R511, 452 for performing work of independent Panel Members. These payments are regarded as irregular expenditure as these Council members contravened the provisions of the NAC Act.
* Failure to meet deliverables within the timeline of the PESP Programme.
* Failure to take effective and appropriate steps to prevent irregularities in the adjudication process, including irregular spending.
* Failure to provide financial oversight regarding the implementation of the PESP within the allocated budget of R285 million, resulting in an over-commitment amount of R428,073,778 (More than double the allocated budget)

1. The Department has mandated Council to implement the recommendations of the forensic report. Disciplinary steps are currently underway.

**INVESTIGATION 2**

1. The investigation was to identify the person/s within the NAC who may have leaked information to the media, Sunday Times and the Sowetan.
2. (i) Ms. Molekwa, Ms. Makgoka and Ms. Diphofa.

(ii) Grant Thornton

1. The appointment was through the normal Supply Chain Management process and the appointment was signed off by the CEO.
2. The investigative service advertisement cannot be traced
3. (i). The cost for the service was R388 252.00

(ii) The outcome of the investigation was that:

* Ms. Makgoka appeared to have contravened the NAC’s Code of Ethics, Information Technology Policy and her conditions of employment by leaking confidential information.
* Ms. Molekwa appeared to have contravened the NAC’s Code of Ethics, Information Technology Policy and her conditions of employment by leaking confidential information to Ms. Makgoka as recorded in the Molemo letter of appeal.

1. The Department tasked the NAC Council to implement the recommendations of the investigation report, which led to disciplinary charges being instituted against the implicated official.

**INVESTIGATION 3**

a) Allegations that a grant application by the South African Roadies Association was deliberately declined because the NAC Senior Management failing to adhere to the grant funding policies of the NAC

b) (i) Ms. Mangope, Ms. Makwetla and Ms. Diphofa.

(ii) Business Innovation Group (BIG)

1. The investigation was commissioned by the Department of Sport, Arts and Culture
2. The advertisement was through Request for Quotation as it was below the threshold for open tender.
3. (i). the cost for the service was R235 812.

(ii) A report was released, and the findings included:

* DAC Management inform Mr Nyathela about the outcome of the investigation
* The DAC Management provides feedback about the outcome of the investigation to the NAC and its Board/ Council.
* The NAC conducts an audit to establish whether all awards made under the Expired projects, Surplus policy adhered to all applicable Acts and Regulations, and that the projects awarded achieved the objectives of the NAC.
* The NAC conducts training awareness and workshops with staff and other stakeholders during which the policies and procedures of the NAC are explained.
* NAC should as a matter of urgency seek legal opinion on the validity of the Expired and Surplus Policy GR003/4/2015. The policy might be in breach of the PFMA and Treasury Regulations, if funding received from the National Government is not declared and disposed of in terms of the regularity framework applicable. In addition, the policy could be used to favour particular grant applicants as the discretion for award rests solely with the NAC.

1. The NAC Council was tasked implementing the recommendations of the forensic report.

**INVESTIGATION 4**

a) An investigation was authorised for the following allegations: Conflict of interest involving BIG employee

Review of the awarding of a grant of R50 000.00 in 2013

Review of the awarding of a grant of R1 889 000.00 in 2016

Conflict of interest involving the CEO and Lalela Projects Administrator

b)(i), Ms. Mangope, Ms. Son and Ms. Diphofa

(ii) Gobodo Forensic and Investigative Accounting

Investigations

(GFIA)

1. The investigation was instructed by the Department of Sport, Arts and Culture
2. The investigation was not advertised as it was below the threshold for tendering. Request for Quotations was sourced.
3. (i) The cost for the service was R373 061 000

(ii) A report was released, and the outcome was that the CEO was charged with the following:

* + Gross Negligence
  + Gross Dishonesty
* Bringing the name of the institution/organisation into disrepute
* Failing to act in the best interest of the employer
* Contravention of section 38 (iii) of the PFMA

**The Arts Development Manager was charged with the following:**

* **Charge 1:** Approval of funding of the Lalela project whilst it was classified as an expired project
* **Charge 2:** Approving the Lalela project payment whilst it did not follow the proper funding application process

**The CFO was charged with the following:**

* The NAC charged Ms. Son for non-disclosure of her NFVF investigation. This was the only charge the NAC could pursue against the CFO.

1. The Department instructed the NAC to implement the recommendations of the report and the 3 people concerned were taken through a disciplinary process with the following outcomes:

* The CEO was exonerated from all charges, and she was recalled to resume her duties at the NAC.
* The Arts Development Manager was exonerated from all charges, and she resumed her duties immediately.
* The CFO tendered her tendered her resignation and her hearing did not sit as scheduled.