



The South African Institute for Advancement

'Energising civil society by inspiring a passion for philanthropy'

Date: 11 August 2014

Att: Ms C Mangena
The Director
NPO Directorate
Office No. 533S
134 HSRC Building
Pretorius Street
0001

Dear Ms Mangena,

Re: Comment on the approved shortlist of nominees for the Panel of Arbitration in terms of Section 9(3)(c) of the Nonprofit Organisations Act 71 of 1997(The NPO Act) as published by the Minister of Social Development in July 2014.

We were forwarded the public notice regarding the shortlisted candidates to serve as members of the Panel of Arbitration in terms of the Nonprofit Organisations Act on 16 July 2014. We then conducted desktop research in order to gather information about the individuals listed on the proposed shortlist and were disappointed to find very little relevant information pertaining to the individuals and their involvement with the Non-profit Organisation(NPO) sector. Also disconcerting is the information that we found casts the shortlisted individuals in a very negative light.

On 8 July 2014, we formally requested copies of the detailed Curriculum Vitae(CV's) of all the shortlisted individuals, to assist us in drafting a more informed comment to the public comment request, as our desktop research did not provide us with the relevant information to do so. Our request for copies of the detailed CV's of the shortlisted individuals was refused through a letter from the Department of Social Development(DSD) dated 23 July 2014. Please note, that in our view, the prevarication by the DSD is unacceptable and does not constitute one of the legitimate reasons for which such requests may be refused. We also sent a list of questions on 28 July 2014, requesting further information about the shortlisted individuals and did not receive a response to this request.

INYATHELO: THE SOUTH AFRICAN INSTITUTE FOR ADVANCEMENT

PATRON: Mr Fred Phaswana

TRUSTEES: Ms Zenariah Barends, Prof Lungisile Ntsebeza, Ms Shelagh Gastrow, Mr Noel Daniels, Ms Nomvula Dlamini

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We are therefore providing comment based on the information at our disposal and using the listed criteria for nomination that was included in the Call for Nominations that was published on 06 February 2013.

Comment on shortlist of individuals:

1. Ms Charlotte Lobe

Information gathered:

Former COPE General Secretary, former ANC NEC member and ANCWL Spokesperson(prior to COPE membership).

Relevant Criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.

2. Mr Jimmy Manyi

Information gathered:

Jimmy Manyi CM (SA), Harvard Alumnus with Economic Geology background is the President of Progressive Professionals Forum. He is the former CEO of Government Communications and Information Systems and Cabinet Spokesperson. He also served as Director General at the Department of Labour. Manyi has over 20 years corporate experience in mainly blue chip and multinationals spanning across key sectors of the economy including Mining & Exploration, Auto-sector, Banking, ICT and FMCG. His skills include Governance, Sales and Marketing, Public Policy & Corporate Affairs and Banking. He served on various boards.

Relevant Criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.

3. Mr Mpho Makwana

Information gathered:

Mr Makwana is currently chairman of the board of trustees at The New LoveLife Trust and ITNA. He is a trustee of The Business Trust, the Vumelana Transaction Advisory Fund and World Wildlife Fund South Africa. He has experience across a wide range of businesses in both the private and public sectors. He was until recently (27 June 2011) the chairman of Eskom Holdings, having served on the board for almost nine years; he was Acting CEO & Chairman between November 2009-June 2010 and was appointed chairman of the Board of Directors on 11 June 2010. Prior to his full-time role as chairman of Eskom, Mr Makwana was a member of the group EXCO at Edcon (SA's largest CFTA Retailer) as the executive responsible for transformation and corporate affairs, between 2006 and 2009. He is also an Independent Non-Executive Director on the boards of companies listed on the JSE namely; Adcock Ingram Holdings Ltd (AIHLF.PK), Nedbank Group Ltd (NDBKF.PK) and Nedbank Ltd. He is a non-executive director and co-shareholder of Biotherm Energy (Pty) Ltd. He is also a Non-Executive Director of LR Management Group (Pty) Ltd, Associate Partner with the Strategic Communications Advisory firm Bairds Renaissance (Pty) Ltd and Partner at the Executive Search Firm, Heidrick & Struggles.

Relevant criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
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Mr Makwana is a board member of several NPO's however we are not able to ascertain if he has any experience working in the NPO sector.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.
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4. Ms Nobom Sonto

Information gathered:

No information found.

Relevant criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
No information available	No information available	No information available	No information available

5. Mr Siwisa Hintsa

Information gathered:

Prominent black attorney, former UDF office holder, civil rights lawyer.

Relevant Criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.	Not able to determine this based on the information available to us.

6. Mr Lizwi Nduku

Information gathered:

General Secretary of the National Unitary Professional Association for African Traditional Health Practitioners of South Africa (NUPAATHPSA).

Relevant criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
No information available	No information available	No information available	No information available

7. Ms Sindiswa Rwexana

Information gathered:

Former ANC MP, Former Cope member.

Relevant criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
No information available	No information available	No information available	No information available

8. Ms Zanele Hlatshwayo

Information gathered:

There is information of several people named Zanele Hlatshwayo on the internet and we are unable to ascertain as to which Zanele Hlatshwayo is being referred to on the shortlist.

Relevant criteria:

Knowledge of the NPO Sector	At least five-year-experience in the NPO Sector	Knowledge of the provisions of the NPO Act	Commitment to the building and strengthening of the NPO sector
No information available	No information available	No information available	No information available

Comment on the process to establish NPO Tribunal:

We are very concerned about the process that is unfolding to establish the Panel of Arbitration in terms of the NPO Act. The shortlisted individuals will be given extraordinary powers to review refusals to register organisations under the NPO Act and to review deregistrations by the NPO Directorate. Given that many organisations are required to have an NPO number in order to receive funding from particular donors, this panel will be a very important body for the NPO sector. While we understand that there are incredibly limited requirements on the part of the Minister of Social Development to establish the Panel of Arbitration in the NPO Act, it is imperative that we practice good governance and go beyond what is required of us by law to ensure that this process is transparent, accountable and effective.

We are especially disappointed that no information was provided by the Minister of Social Development’s office with regards to the experience, qualifications or suitability of the shortlisted individuals for this Panel. By not providing this information, this process is likely to be viewed as a farce, as it is not possible to provide informed comment on a shortlist of individuals if the relevant information is not available. This letter therefore provides very limited comment.

Request for further information in order to rescue the credibility of this process and the Panel of Arbitration that would be established:

- That the relevant information of all these individuals be made public in terms of Section 5(6)(a) of the Promotion of Access to Information Act No. 2 of 2000. We are of the view that failure or refusal to provide information in the first instance would constitute grounds for review entitling a Court to set aside the decision of the Minister, and to direct that the process be recommenced in accordance with the PAIA;

- That the DSD extend the deadline for comment, once it has provided the relevant information on these individuals, so that organisations may make an informed comment;
- That the DSD make public why these individuals were chosen above other nominated individuals;
- That the DSD make public the full list of individuals that were nominated for inclusion on the Panel of Arbitration;
- That the individuals included in the Panel of Arbitration be representative of at least seven provinces;
- That the individuals included in the Panel of Arbitration be representative of at least seven of the sectors in which NPO's work, eg. Health, education, disability, social justice, etc.

We are of the opinion that the failure or refusal to provide information in the first instance would constitute grounds for review entitling a Court to set aside the decision of the Minister, and to direct that the process be recommenced in accordance with the legislation. We look forward to the release of the information requested, and a delay in the deadline and the establishment of the Panel.

Kind Regards,

Janine L. Ogle | Project Coordinator

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The following organisations and individuals hereby endorse this inquiry.

Organisational:

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Individual:

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