

Media Statement

Slug: Public Protector Report on NEF

01 October 2014

“The National Empowerment Fund declined the application in adherence to governing legislation”.

The last application to the NEF for funding by Ms Naomi Ngwenya was declined by the NEF. The NEF stands by its decision in this regard. A total of 3 applications were made by Ms Ngwenya to the NEF all of which were declined for various reasons. Ms Ngwenya submitted a complaint to the Office of the Public Protector and the NEF has fully co-operated with the Public Protector on this matter.

The NEF has learnt from media (with shock) that on 30 September 2014, the Public Protector briefed the media on her findings in the NEF/Naomi Ngwenya matter.

The NEF was never informed about the finalisation of the report or the media reports and has until the time of finalisation of this statement around 12h00 on 01 October 2014, still not received a copy of the Public Protector’s report. The NEF has since 30 September 2014 been requesting a copy of the report from the Public Protector and the last communication by the Deputy Public Protector, Advocate Kevin Malunga, around 11h35 on 01 October 2014, is that the report has not been finalised by the Public Protector and will be sent to the NEF after it has been finalised and he could not commit as to when that will take place.

The NEF is extremely disappointed by the conduct of the Public Protector in addressing the media on a report which has not been finalised and as such the NEF is unable to respond to the issues and to queries being raised by the media because

we have not yet been provided with a copy of the report and the timing of release of that report cannot be confirmed by the Public Protector.

The Public Protector issued what she termed as a “fact sheet” to the media during her briefing and the NEF submits that the factual position stated in that fact sheet is incorrect and she disagrees with the findings thereof.

The NEF only finances Black Persons and in respect of people who were previously citizens of other countries but obtained citizenship of South Africa through naturalisation or otherwise, such people should have been naturalised before 1994.

In terms of the NEF standard operating procedures, the individuals behind the entities that apply for funding are required to complete an application form where they declare, among other things, their BEE status.

Ms. Naomi Ngwenya declared in her application form that she is a black person as defined in the Broad Based Black Economic Empowerment Act which defines Black People as “African, Coloured and Indian natural persons who are citizens of the Republic of South Africa by birth or by descent as well as natural persons who acquired citizenship by naturalisation prior to 27 April 1994. The NEF approved the transaction based on this declaration and informed Ms Ngwenya that the approval was not final but was subject to a suspensive condition that the NEF verified the declaration made by the applicant.

Upon verification, it was discovered that the applicant was only naturalised in 1999. It must be stated that the applicant never disclosed this fact to the NEF and made a declaration to the contrary. The NEF had no reason not to trust Ms Ngwenya and therefore proceeded based on her representation which was false. Ms Ngwenya personally signed the application form containing the declaration and she has since admitted that the signature on the form is hers.

It is our submission that our systems at the NEF are robust enough and there are sufficient checks and balances in place to ensure that we are responsive to the

funding requirements of the black entrepreneurs and at the same time exercising the requisite diligence to safeguard public funds against unscrupulous practices.

The NEF denies that it committed any act of maladministration as Ms Ngwenya had several opportunities to declare her correct BEE status but failed to do so and instead misrepresented the facts, therefore she is the author of her own prejudice. The NEF's robust processes picked up with misrepresentation before funds were disbursed to Ms Ngwenya and therefore the taxpayer's moneys were preserved.

We are however not in a position to fully respond to some of the issues which are contained in the Public Protector's factsheet or which are reported in the media until such that that we receive her report. We are in the process of consulting our lawyers to advise us on the conduct of the Public Protector and on the rights of the organisation. It is unfortunate that had the Public Protector provided the report timeously, the NEF would not have had to incur legal and advisors costs on some of the issues and this means that funds which would have used for transactions and time of staff members has to be wasted dealing with "unknowns" unnecessarily and deliberately orchestrated by the Public Protector.

-ENDS-

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