

ANNEXURE 1



NATIONAL ARTS COUNCIL
OF SOUTH AFRICA

EXPIRED PROJECTS AND SURPLUS POLICY

GR003/4/2015

APPROVAL

The signatories hereof, confirm their acceptance of the contents and authorise the adoption thereof.



Signature - CEO

15 May 2015
Date



Signature - Chairperson: Audit and Risk

22/5/2015
Date



Signature - Chairperson

22/05/2015
Date

Approval Page

Purpose

The Approval page is to ensure that the approval steps were followed in order to indicate the status of the document.

The Custodian of this policy is the office of the Chief Financial Officer [CFO] who will, together with the Chief Executive Officer [CEO], be responsible for reviewing this document when necessary.

The NAC Policies and Procedures will be divided into the following divisions:

- Grants
- Finance
- Corporate Governance for e.g. Council related policies;
- Information Technology and Administration

STEPS IN APPROVAL PROCESS

Policy Review Committee Recommendation (Compliance - technical correctness and integration with other policies and Procedures) Review Committee - Consists of department heads)

Name of Chair and Signature		Recommended	
Date of Review		Not Recommended / Resubmit*	

CEO Recommendation [Compliance check with Legislation and policy]

Name of CEO and Signature		Recommended
Date		Not Recommended / Resubmit*

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1. Purpose

The purpose of this policy is to regulate and guide Council on the procedures, processes and authorisation of expired project.

Policy Scope

This policy serves as a framework for identifying organisations and individuals that have not reported and accounted for funds within a specified time, claimed funds or withdrew funds for various reasons. The funds available as a result of expired projects shall be approved by Council for project funding and for other NAC strategic initiatives.

Legal Basis

The legal basis of the policy rests with the NAC Act (56 of 1997) as amended by the Cultural Laws Amendment Act (no 36 of 2001) is regulated in terms of Section 31.3 of the Treasury Regulations (issued in terms of the Public Finance Management Act, 1999) as determined by the Minister of Finance.

2. Policy Statement

The Accounting Officer or a delegated official of the NAC is responsible to develop and establish policies and procedures regarding the allocation and management of expired projects.

3. Policy Context

Expired funds are classified as 'unused' funds as they emanate from funding not claimed and projects closed due to unaccountability or lack of reporting.

Council 'writes-off' grant funded projects as a result beneficiaries not claiming all or part of the grant allocated to the project. These funds result in a surplus after a particular fiscal period to which the grant was allocated has elapsed.

4. Policy Compliance

Expired Funds constitute part of the NAC'S assets and therefore have to be utilised in line with the NAC objectives within the prescripts of the regulatory framework of the NAC as follows:

(a) White Paper on Arts and Culture and Heritage

(b) National Arts Council Act and Its Regulations

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- (c) Public Finance Management Act
- (d) NAC Grant Awarding Manual

4.1 Compliance with the White Paper on Arts and Culture

The White Paper on Arts, Culture and Heritage outlines the transformational imperatives within the sector which are underpinned by the following democratic principles:

- Participatory Democracy
- Reconstruction and Development
- Freedom of Expression and Identity

4.2 Compliance with the National Arts Council Act

- 4.2.1 Section 3 of the NAC Act outlines the objectives of the Act to which the NAC should comply in the execution of its mandate.
- 4.2.2 Section 6 of the National Arts Council outline functions of the Council based on sub section 3 in order to achieve its objects.
- 4.2.3 Section 6 (b) also empowers Council to determine which field of the arts should have preference for the purpose of support thereof.
- 4.2.4 Section 6 (g) allows Council to liaise with the responsible member in order to promote the arts more effectively through the Republic and to ensure coordination in the distribution of funds at national and provincial level.
- 4.2.5 6 (h) Allow Council to make funds available to the responsible members for such distribution as the Council may determine.
- 4.2.6 Section (j) Allows Council to make grants to any person, organisation or institution in order to provide facilities to support the development and promotion of the arts.
- 4.2.7 Section 6 (p) empowers Council to generally do everything which is necessary to achieve its objects.
- 4.2.8 Section 16 (1) on financing outline the sources of funds as (d) interest on investment and (e) income from any other service.

4.3 Compliance with the Public Finance Management Act

- 4.3.1 Section 51 (1) an accounting authority for a public entity—
 - (a) must ensure that hat public entity has and maintains—
 - (i) effective, efficient and transparent systems of financial and risk management and internal control;
 - (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance

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- with regulations and instructions prescribed in terms of sections 76 and 77; and
- (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
 - (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;
- (b) must take effective and appropriate steps to—
- (i) collect all revenue due to the public entity concerned; and
 - (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and
 - (iii) manage available working capital efficiently and economically;
- (c) is responsible for the management, including the safeguarding, of the assets and for the management of the revenue, expenditure and liabilities of the public entity;
- (d) must comply with any tax, levy, duty, pension and audit commitments as required by legislation;
- (e) must take effective and appropriate disciplinary steps against any employee of the public entity who -
- (i) contravenes or fails to comply with a provision of this Act;
 - (ii) commits an act which undermines the financial management and internal control system of the public entity; or
 - (iii) makes or permits an irregular expenditure or a fruitless and wasteful expenditure;
- (f) is responsible for the submission by the public entity of all reports, returns, notices and other information to Parliament, and to the relevant executive authority or treasury, as may be required by this Act;
- (g) must promptly inform the National Treasury on any new entity which that public entity intends to establish or in the establishment of which it takes the initiative, and allow the National Treasury a reasonable time to submit its decision prior to formal establishment; and
- (h) must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity.
- (2) If an accounting authority is unable to comply with any of the responsibilities determined for an accounting authority in this Part, the accounting authority must promptly report the inability, together with reasons, to the relevant executive authority and treasury.

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4.4 Compliance with the NAC Grant Awarding Manual

The NAC has established grant awarding processes that individuals, organisations and arts companies should comply with in section 6, 7, 8 and 9 of the Grant Awarding Manual of the NAC with the exception of section 10 on the Right to Appeal and Appeal Process.

5. Scope of Application

5.1 Processes and Procedures

- 5.1.1 The ADOs in each respective arts discipline identify projects and bursaries that have not claimed funds through returning contracts, reporting and accounting processes during a specified period in the life a project or bursary as indicated in the grant agreement. This is in exception of grant recipients who have requested extension time and subsequently approved by the NAC.
- 5.1.2 A phone call and e-mail reminder should be sent to beneficiaries requesting them to report after a specified period of reporting as stated in the grant agreement has lapsed. This should be followed by a formal letter which request beneficiaries to account or claim funds a month after the reporting period has lapsed.
- 5.1.3 The same process is repeated after three months have lapsed without any claims to the funds stating a specific date to report by.
- 5.1.4 Once a response is not received within a specified date, the beneficiary is sent a formal letter which informs him/her that the project/bursary will be closed.
- 5.1.5 The ADOs is responsible to draw a summary list of expired projects which indicates the names of projects and bursaries to be expired, funding number, amount to be expired and reasons for expiry.
- 5.1.6 A list from each Arts Development Officer is submitted to the Manager who collates the list and submits to the Management Committee for review and to the Audit and Risk Committee or any other duly nominated committee for authorisation.
- 5.1.7 The authorised list should subsequently be submitted to the Executive Committee for recommendation and to Council for approval.
- 5.1.8 A recommendation will be made to EXCO and Council as to how the expired amount should be utilised.
- 5.1.9 Once approved, the amount should be utilised for funding support to projects, strategic initiatives and bursaries as per EXCO or Council approval.
- 5.1.10 The approved expired projects from EXCO and Council are submitted to the Finance Section to update records.
- 5.1.11 The Finance Section debits the accounts of the affected projects and bursaries in the general ledger.
- 5.1.12 The accounts are therefore closed and effectively payment cannot be made afterwards.

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5.1.13 A registered letter should be sent to beneficiary's physical address informing them that the project/bursary is closed and that no further payment will be effected.

5.2 Obligations of the NAC

- 5.2.1 Should the Beneficiary fail to meet any of its obligations in terms of the NAC Agreement on the fixed dates, or use the allocated amount for any purpose other than as set out in the NAC Agreement, the NAC shall discontinue any further payments herein and cancel the Agreement immediately, and may reclaim any amounts that it has already paid.
- 5.2.2 Should the NAC employ the services of attorneys for the recoveries of any monies thereof, or for the enforcement of any of its rights in terms of the NAC Agreement, the Beneficiary shall be liable for the attorney's fees arising thereof on an attorney-client basis.
- 5.2.3 The legal interest shall be charged on any amounts owed by the Beneficiary to the NAC arising out of breach of the terms and conditions of this Agreement.

6 Period Post Expiry

- 6.1 All affected parties will be required to submit reports even if the projects have been closed.
- 6.2 Expired projects will not be legible for funding until two years have elapsed and only after outstanding reports have been submitted.
- 6.3 The expired list shall be put on the NAC Public file/Arts Development/Expired Projects for easy access to all internal role players.

7. Future Reference Checks

- 7.1 It is the responsibility of each ADO and Arts Development Manager to check and verify that new applications shortlisted have not been expired before.
- 7.2 Should shortlisted applicants that have been expired before be recommended for funding, the Arts Development Manager should report the matter to the chairperson of the Panel and the CEO to recommend withdrawal of the concerned project or bursary.

8. Utilisation of Surplus Funds

The purpose of this policy is to regulate and guide Council on the use of surplus funds generated from, unclaimed grant funds and the funding budget of the NAC.

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Surplus funds are classified 'unusual' funds as they emanate from excesses in operating budget and interest from investment funds at the end of the financial year. This excess in operating budget emanates from two sources:

- from expired projects or unclaimed allocated grants; and
- from unspent administrative funds.

Council 'writes-off' grant funded projects as a result of beneficiaries not claiming all or part of the grant allocated to the project. These funds result in a surplus after a particular fiscal period to which the grant was allocated has elapsed.

A surplus from the funding budget is a result of unspent funds from grant funding. These funds result in a surplus at the end of the fiscal period.

9. Scope of Application of Surplus Funds

- 9.1 Surplus funds may be utilised to attain the NAC objectives, however, provided that the process does not transgress any legislation and policies that regulates the operations of the NAC.
- 9.2 The funds shall not be utilised to fund or support projects that could otherwise be supported through project funding; except for emergency funding requests for projects that take place outside of the Republic of South Africa.
- 9.3 The funds may be utilised to support projects and programmes that are designed to transform and grow the sector. These programmes may be identified by the Staff, Panels, and Council and/or by means of an open call for applications. However, internal approval processes should be followed as specified in the Grant Awarding Manual.
- 9.4 It may also be applied in a situation where Management or Council wishes to develop or strengthen its relationship or partnership with a particular organisation within the sector in pursuance of its objectives.
- 9.5 It may also be utilised to support projects that do not fall within the seven arts discipline which are supported by the NAC; provided that the project has a potential or ability to contribute towards the growth of the sector.
- 9.6 Council and Management can directly make decisions with regard to the utilisation of surplus fund only if that allocation relates to project operational activities.

10. Policy Review

The Expired Project Policy will be reviewed when required by the following parties:

- Council and Executive Committee
- Audit and Risk Committee
- NAC Management
- Arts development Officers

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Input from all role players will be obtained to assist in the policy review.

11. Non-Compliance

All employees of the Fund including managers are duty bound to familiarise themselves with the Policy and comply with its stipulations.

11.1 Advantage

- 11.1.1 The advantages of compliance and adherence to this policy are among others.
- 11.1.2 The fair and unbiased treatment of any kind.
- 11.1.3 The budget as Approved will not be compromised, thus ensuring that resources of the NAC are utilised optimally.

11.2 Disciplinary procedures

- 11.2.1 The NAC disciplinary procedure will be applied if and when any of the principles outlined in this policy have been compromised or breached.

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