

LANDSVERORDENING Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen

(AB 2013 GT no. 69)

Artikel 1

In deze landsverordening en de daarop berustende bepalingen wordt verstaan onder:

- a. uitvoeringsorgaan: het Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen, bedoeld in artikel 2;
- b. directeur: de Directeur van het Uitvoeringsorgaan, bedoeld in artikel 6, eerste lid;
- c. adjunct directeur: de Adjunct directeur van het Uitvoeringsorgaan, bedoeld in artikel 6, eerste lid;
- d. raad: de Raad van Toezicht, bedoeld in artikel 9;
- e. **minister: de Minister van Volksgezondheid, Sociale Ontwikkeling en Arbeid.**

Artikel 2

1. Er is een Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen.
2. Het uitvoeringsorgaan is een zelfstandig bestuursorgaan.
3. Het uitvoeringsorgaan heeft rechtspersoonlijkheid en is zelfstandig wat betreft haar interne organisatie, het beheer van haar middelen en het behartigen van haar belangen.

Artikel 3

Het uitvoeringsorgaan heeft, voor zover niet bij of krachtens landsverordening anders is bepaald, **de navolgende taken**:

- a. de uitvoering van sociale of ziektekostenverzekeringen of verzekeringen met een overwegend sociaal karakter, voor zover die bij of krachtens landsverordening aan haar zal worden opgedragen;
- b. het adviseren van de minister ten aanzien van beleidskaders betreffende sociale en ziektekosten verzekeringen;
- c. het implementeren en uitvoeren van door de minister vastgestelde beleidskaders betreffende sociale en ziektekosten verzekeringen;
- d. het adviseren van de minister ten aanzien van de landelijke wet- en regelgeving ter zake van sociale en ziektekosten verzekeringen;
- e. het verrichten van bij of krachtens landsverordening opgedragen uitvoerende werkzaamheden op het gebied van sociale en ziektekosten verzekeringen;
- f. het, voor zover nodig op instructie van de minister, behartigen van de Sint Maartense belangen ter zake van sociale en ziektekosten verzekeringen in Koninkrijks-, regionaal en internationaal verband;
- g. het adviseren van de minister en desgevraagd andere leden van de ministerraad, ter zake van de onder a tot en met f genoemde aangelegenheden;

- h. het desgevraagd adviseren dan wel verrichten van diensten ten behoeve van overheidsdiensten en derden over aangelegenheden ter zake van sociale en ziektekosten verzekeringen;
- i. het verrichten van andere door de minister opgedragen werkzaamheden;
- j. het verrichten van andere bij of krachtens landsverordening opgedragen werkzaamheden.

Artikel 18

1. De directeur is verantwoording verschuldigd en rekenplichtig aan de minister.
2. De directeur is belast met het beheer van de financiële middelen en de eigendommen van het uitvoeringsorgaan. Hij is ter zake bevoegd tot daden van beschikking.

Artikel 19

1. De minister gaat jaarlijks met de directeur een prestatiecontract aan waarin de kwantitatieve, kwalitatieve en financiële normen en doelstellingen zijn opgenomen.
2. De jaarlijkse begroting stelt het uitvoeringsorgaan in staat aan het in het eerste lid bedoelde prestatiecontract te voldoen.
3. Het prestatiecontract treedt niet eerder in werking dan na goedkeuring van de begroting waarin met het prestatiecontract rekening is gehouden. Het prestatiecontract wordt zonodig aangepast aan het reeds verstreken tijdsverloop.
4. Indien ingevolge artikel 3, onderdelen i en j, aan het uitvoeringsorgaan taken worden opgedragen waarmee in het prestatiecontract nog geen rekening is gehouden, wordt dit aangepast. Tevens wordt zonodig de begroting aan deze wijziging van het prestatiecontract aangepast.

Artikel 20

1. De directeur stelt jaarlijks de begroting voor het daaropvolgende kalenderjaar vast. De begroting behelst een raming van de baten en de lasten, een raming van de voorgenomen investeringen en een raming van de inkomsten en uitgaven. De begrotingsposten worden ieder afzonderlijk voorzien van een toelichting.
2. De directeur legt het ontwerp van de begroting vergezeld van een voorstel voor het prestatiecontract, bedoeld in artikel 19, eerste lid, vóór 1 maart ter toetsing voor aan de raad. De raad kan uiterlijk tot 15 maart zijn reactie aan de directeur kenbaar maken.
3. De directeur zendt de vastgestelde begroting vóór 1 april van het jaar, voorafgaande aan het jaar waarop deze betrekking heeft, ter goedkeuring van de minister. De directeur voegt de reactie van de raad bij. Indien de raad geen reactie heeft gegeven bericht de directeur zulks aan de minister.
4. De minister stelt vóór 1 oktober van het jaar, voorafgaande aan het jaar waarop de begroting betrekking heeft, of hij de begroting goedkeurt dan wel aan de begroting zijn goedkeuring onthoudt.

5. De minister onthoudt zijn goedkeuring niet alvorens hij de directeur in de gelegenheid heeft gesteld om de begroting nader mondeling toe te lichten, en zo nodig aan te passen. Zonodig hoort de minister de raad ter zake.
6. Zolang de minister de begroting niet heeft goedgekeurd, geldt de begroting van het jaar, voorafgaand aan het jaar waarop de begroting betrekking heeft, als grondslag van het beheer.
7. Indien de minister niet binnen zes maanden, nadat de begroting is aangeboden door de directeur, overgaat tot goedkeuring, geldt die begroting als goedgekeurd.

Artikel 21

1. Het boekjaar van het uitvoeringsorgaan alsmede het boekjaar van de door haar beheerde fondsen valt samen met het kalenderjaar.
2. Voor elke sociale en ziektekosten verzekering waarvan de uitvoering aan het uitvoeringsorgaan is opgedragen, wordt **een afzonderlijke administratie** gevoerd.
3. De kosten van het beheer van het uitvoeringsorgaan worden over de sociale en ziektekosten verzekeringen en voorzieningen, waarvan de uitvoering aan het uitvoeringsorgaan is opgedragen, verdeeld naar regelingen, bij landsbesluit, gehoord de directeur, te stellen.
4. De directeur stelt voor elke sociale en ziektekosten verzekering, waarvan de uitvoering aan het uitvoeringsorgaan is opgedragen, jaarlijks binnen vijf maanden na afloop van elk boekjaar de balans en de verlies- en winstrekening vast en brengt een jaarverslag uit waarin het gevoerde beleid en de taakuitoefening van het uitvoeringsorgaan in het afgelopen boekjaar uiteengezet worden.
5. De directeur zendt voor elke sociale en ziektekosten verzekering, waarvan de uitvoering aan het uitvoeringsorgaan is opgedragen, jaarlijks binnen zes maanden na afloop van elk boekjaar aan de minister de vastgestelde balans, de verlies- en winstrekening en jaarverslag. Deze stukken gaan vergezeld van een verklaring omtrent de getrouwheid, afgegeven door de Stichting Overheidsaccountantsbureau of een andere door de minister aangewezen deskundige als bedoeld in artikel 121 van Boek 2 van het Burgerlijk Wetboek.
6. De verklaring, bedoeld in het vijfde lid, heeft mede betrekking op de rechtmatige besteding van de middelen door het uitvoeringsorgaan.
7. De minister legt het jaarverslag, de vastgestelde balans, de verlies- en winstrekening en de accountantsverklaring over aan de Staten.
8. De minister zendt elke vijf jaar een verslag naar de Staten ten behoeve van de beoordeling van de doelmatigheid en doeltreffendheid van het functioneren van het uitvoeringsorgaan.
9. De documenten genoemd in dit artikel zijn openbaar, tenzij de minister anders bepaalt.

Artikel 22

1. De financiële middelen van het uitvoeringsorgaan worden verkregen uit de op grond van de wetgeving vastgestelde premies, eventuele overheidsbijdragen en vergoedingen voor geleverde diensten.
2. De financiële middelen van het uitvoeringsorgaan strekken **uitsluitend** tot voldoening van de operationele en infrastructurele kosten van het uitvoeringsorgaan en de uitkeringen aan verzekerden.

3. De middelen die beschikbaar zijn gesteld voor de uitvoering van een bepaalde sociale of ziektekosten verzekering mogen voor **geen ander doel** dan voor die verzekering worden aangewend.
4. Indien gedurende het jaar aanmerkelijke verschillen ontstaan of dreigen te ontstaan tussen de werkelijke en de begrote baten en lasten dan wel inkomsten en uitgaven doet het Uitvoeringorgaan daarvan onverwijld mededeling aan de minister onder vermelding van de oorzaak van de verschillen.
5. Het uitvoeringsorgaan is bevoegd, na voorafgaande goedkeuring van de minister, een **reservefonds te vormen bestemd tot dekking van mogelijke verliezen** van het uitvoeringsorgaan.
6. Het uitvoeringsorgaan is bevoegd, na voorafgaande goedkeuring van de minister, een **bestemmingsreserve** te vormen. Voor het aanleggen van een bestemmingsreserve voor de financiering van **bijzondere projecten van derden binnen de sector die betrekking heeft op de doelstelling van het uitvoeringsorgaan** is voorafgaande goedkeuring de minister vereist.
7. De **hoogte van het reservefonds en de bestemmingsreserve wordt door de minister vastgesteld**, en in het prestatiecontract, bedoeld in artikel 19, eerste lid, opgenomen.

**LANDSVERORDENING regelende een algemene, de gehele bevolking
omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom**

(Landsverordening Algemene Ouderdomsverzekering - AOV)

AB 2013 GT no. 520

Artikel 22

Sint Maarten waarborgt zonder enig voorbehoud de betaling door de Bank van het ouderdomspensioen en het bedrag genoemd in artikel 20, waarop krachtens deze landsverordening aanspraak bestaat.

Artikel 23

De middelen tot dekking van de ingevolge deze landsverordening uit te keren pensioenen en uitkeringen als bedoeld in artikel 20 en van de aan de uitvoering van deze landsverordening verbonden kosten, alsmede de middelen benodigd voor het vormen en in stand houden van een **bij landsbesluit, houdende algemene maatregelen, te bepalen reserve**, worden gevonden door het heffen van premies van de verzekerden en **uit overige inkomsten**.

Artikel 25

Bij landsbesluit, houdende algemene maatregelen, worden voorschriften vastgesteld met betrekking tot de belegging van de gelden van het Ouderdomsfonds.

Artikel 59

Wanneer het Ouderdomsfonds tijdelijk niet voldoende middelen heeft tot dekking van de uitkeringen en kosten, die op grond van het tweede lid van artikel 24 ten laste van dit fonds komen, **verstrekt Sint Maarten renteloze voorschotten aan het fonds** onder door de minister en de Minister van Financiën te stellen voorwaarden.

Le 18 déc. 2015 à 11:19, Jeroen Veen <jveen@me.com> a écrit :

Dear Minister Lee,

As briefly discussed during the introductory meeting, the following pressing matter needs to be regulated.

The funds entrusted to SZV need to be invested to generate a return sufficient to cover present and future obligations. The recent ALM study (Asset Liability Management Study) shows (summarized) that the investments need to generate a minimal 6% return.

The laws that regulate the different funds Health Care/Sickness - (ZV) Accident - (OV) Widowers and orphans - (AWW), Old Age (AOV) en Extraordinary Health Care (AVBZ) stipulate -amongst others- that the monies of these funds should be invested according to investment rules (a framework) laid down in a National Decree (Landsbesluit). This national decree has never been established for the AOV, AVBZ- and AWW funds.

The decree for the ZV and OV funds dates back to 1966 and is antique. The investment framework in that decree, gives SZV hardly any possibility to invest in the local economy.

SZV has therefore therefore drafted a National Decree and Explanatory note that establishes a modernized investment framework for all the funds entrusted to the organization and it revokes the two older ones.

This draft decree gives SZV sufficient liberty to also invest in the local economy as is a topic of discussion right now considering the talks about possible co-financing of the hospital and possible acquisition of the government building.

The draft National Decree sets the investment framework. The SZV investment charter will set the strategic and tactical policies which is something left to the investment officer, CFO and the investment committee. Ultimately, the director carries the responsibility.

I realize that there are other legislative matters that need to be taken care of but I trust you understand the urgency of this matter and I sincerely hope that the draft will soon be screened by legal affairs and channelled into the legislative process.

If we can assist you with this, please feel free to call upon SZV to provided additional information or assistance.

Sincerely
On behalf of G. Carty

J. Veen

<PUBLICATIEBLAD SXM.docx>

CONFIDENTIAL

Government of Sint Maarten
Ministry of Public Health, Social Development and Labour
The Honorable Minister, Mr. E. Lee
Government Administration Building
Clem Labega Square
P.O. Box 943
Philipsburg
Sint Maarten



Date: 22 / 03 / 2016

Subject: Report Supervisory Council SZV

Your Excellency,

• **The Investment**

The Supervisory Council of SZV (the "SC") took notice of the letter of Mr. Carty (the "Director") to the Minister of Finance dated 5 February 2016, in which the envisaged investment is summarized as follows (the "Investment"):

- SZV will purchase the new administration building (the "NAB") from Sint Maarten for ANG 45 million (the "Purchase Price");
- SZV (or a newly incorporated subsidiary) shall, at the expense of SZV, finalize construction of the NAB, and, in consultation with Sint Maarten, arrange and pay for the interior design, furniture and computer hardware, for which SZV shall reserve an amount of ANG 15 million;
- SZA shall lease the NAB and computer hardware to Sint Maarten in such a manner that the net return on investment for SZV shall be 6% per annum;
- the Purchase Price shall be paid by ANG 20 million in cash and by setoff of ANG 25 million in debt that Sint Maarten has to SZV; and
- Sint Maarten will get the option to buy back the NAB (including furniture and computer hardware).

It is the SC's understanding that the Director intends to finance the Purchase Price (exclusively) with surpluses in the AOV fund.

The SC also took note of your Excellency's letter dated 15 February 2016 in which your Excellency, *inter alia*, states:

- to, in principle, not object to the Investment;
- that the final contracts with respect to the Investment require your Excellency's approval;
- your Excellency agrees to continue with the project to get the NAB ready for use by the tenant (i.e. Sint Maarten);
- that the acquisition of the NAB by SZV is one of SZV's business opportunities;
- that SZV will use a business approach to professionally manage these large investments;
- that SZV will incorporate a 100% subsidiary, i.e. an investment holding company (the

Sous
4

"Holding");

- that the Holding will incorporate a 100% subsidiary which will own the NAB;
- that other investment opportunities (e.g. a possible investment in the SMMC) will be structured via a separate (investment) company, which will be 100% subsidiary of the Holding as well; and
- having separate companies will create greater flexibility to invite future investors (e.g. APS, Vidanova other private/government companies etc.) to participate in an individual investment, and to create an easy exit if SZV wants out in such a way that no expensive additional directors and/or Supervisory Board is needed.

Based on article 15 of the *Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen* (the **"SZV Ordinance"**), the SC has advisory and supervisory role, and the SC reports to your Excellency. While the Director's decision with respect to the Investment is not specifically subject to SC approval, the SC can request the Director to report to the SC regarding the developments pertaining to the Insurances and the policies followed and management tasks performed by the Director. That includes the Director's investment task. The SC reports to the your Excellency. When informed of the Investment, the SC identified a couple of issues it considers necessary to report to your Excellency.

Unlike the ZV, OV and Cessantia Decrees, no national decree has been enacted setting out the investment parameters of the AOV Fund. While it does not have statutory basis or status, SZV's Investment Committee adopted an Investment Charter on 6 June 2013, which document is meant as an advice to the Director. With respect to investments in general, and investments of AOV funds specifically, it states, amongst other things, the following (the **"Investment Guidelines"**):

- safeguarding the (future) available funds is SZV's primary investment task;
- investments have a risk and revenue dimension, risk must continually be managed;
- investments must be solid and prudent;
- investments should carry limited risks while yielding desired results; and
- investments should have an investment horizon of 10 years and investments in real estate must reflect a strategic maximum of 15% and a tactical maximum of 10% of all investments.

Some might argue that because the Investment Charter lacks statutory basis or qualification, the Director is not bound by the Investment Charter and he has full discretion on how to invest AOV funds. The SC would disagree with that position. With any investment, the Director must always keep the objective of the SZV - safeguarding (future) funds so payment under the insurances can be made when needed - at the center of his decision-making. Unlike a private funds, management of public funds brings with it a higher standard of prudence. It, *inter alia*, means that directors of pension funds, social insurance banks and the like, when exercising proper business judgment and an adequate duty of care, must make investments with much more moderate risk profile, than if they were investing private money. When making investments they must apply the so-called prudent person standard. In short that standards entails:

- the fund must be managed by persons with the required expertise;
- the assets must be invested in a manner that is in the interest of the participants (the loyalty principle); and
- investments must make in such a way that the safety, quality, liquidity and rate of return

SSMS
4

of an investment portfolio as a whole, is safeguarded (the entire portfolio test). This means that the risk/return ratio of an individual investment is less relevant, the impact on the entire portfolio is relevant.

The Investment Charter was adopted to give a framework of what prudent investing is in the context of the objective of SZV. If the Director and Investment Committee decide to make an investment that deviates from the Investment Guidelines, they should be able to substantiate that such an investment is still in line with the objective of the SZV. I.e., they must substantiate that any investment meets the prudent person test.

So far, the Director and Investment Committee have not given the SC a clarification as to whether the Investment is in line with the Investment Guidelines. And if it does not, if and how the Investment meets the objective of SZV and why it is an appropriate investment. I.e., that it meets the prudent person test. When making that determination, the SC would expect that the Director and Investment Committee at least analyze the following risk factors, and explain what the conclusions are and how they came to those conclusions:

- Does the Investment qualify as a low risk investment that will generate the required rate of return? Is a 6% rate of return acceptable in light of the (scope of) the Investment?
- The Investment Guidelines allow for a total investment asset mix in various categories, with maximums of 15% (strategic) and 10% (tactical) for real estate investments. Does the Investment exceed those thresholds?
- What is the risk profile of the Investment? E.g., the envisaged 6% net rate of return, how will that be realized and how likely is it that it will be realized?
- What are the other investment opportunities SZV has? Has SZV researched those opportunities? If there are other opportunities and they are not being pursued, why are they less attractive than the Investment (in light of possible risk associated with the Investment)?
- Does the Purchase Price reflect fair market value? Is it too high, taking into consideration possibly limited market for the NAB?
- Do the AOV surpluses allow for payment of the Purchase Price (cash and (partial) debt set-off) while safeguarding that the (payment and ratio) AOV obligations are met?
- **The Director**

The SC has noted that the Director has been in office since 1 December 2014. The appointment was not formalized via national decree based on article 6 section 3 of the SZV Ordinance. It is clear that the Director is for all intents and purposes acting as the director of SZV. It is the SC's view that anybody who substantively holds that position and acts accordingly (regardless of the basis for holding the position), is bound by the responsibilities and obligations that come with that position. The fact that there may not be a formal appointment does not mean that the substantive responsibilities and obligation do not apply to that person. If that were the case, the SC would consider the risk considerable that obligations, standards, and check and balances that are associated with certain positions could be circumvented by not formally appointing that person (and giving them meaningless discretionary titles such as 'deputy' and 'interim'). Meaning, in the SC's view, the Director is substantively governed by the rules and regulations that apply to the director of SZV, regardless of the absence of a formal appointment by national

SSMS
4

decree. It also means the Director has to be screened based on the 'Landsbesluit, Houdende Algemene Maatregelen van 21 februari 2012, ter aanwijzing van vertrouwensfuncties en ter vaststelling van regels ten aanzien van de wijze waarop veiligheidsonderzoeken worden gehouden' (the "**Decree**") and the National Ordinance Security Service (*Landsverordening Veiligheidsdienst*, "**NOSS**").

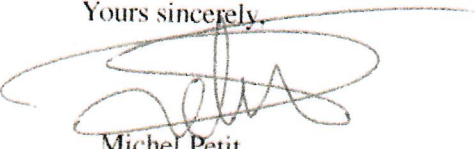
- **Recommendations**

Based on the aforementioned, the SC takes the liberty of making the following recommendations to your Excellency:

- Request the Director (and Investment Committee) to explain whether the Investment is in line with the Investment Guidelines. And if it is not, to explain and substantiate if and how the Investment meets the objective of SZV and why it is a (risk) appropriate investment. I.e., does the Investment meet the prudent-person test.
- Ensure that a national decree is enacted (based on article 25 of the AOV Ordinance) setting out the permissible investment parameters of the AOV funds.
- Enter into a performance contract with the Director based on article 19 of the SZV Ordinance.
- Inform the Director that he must to act (or cause the relevant SZV personnel to act) in line with the Investment Charter and to adhere to the Investment Guidelines. And to inform the Director that when the Director takes decisions that deviate from the Investment Charter, that the Director (and Investment Committee) is required to substantiate why such a deviation is justified and if and how the decision safeguards the objective of SZV. E.e., investments must always meet the prudent person standard.
- Request a screening of the Director based on the Decree and NOSS.
- Formalize the appointment of the Director via national decree based on article 6 section 3 of the SZV Ordinance.

The SC welcomes the opportunity to answer any questions your Excellency may have with respect to this report and the recommendations.

Yours sincerely,



Michel Petit

Chairman of the supervisory Board of USZV
And on behalf of the Board





To:
The Minister of VSA
Mr. Emil Lee
Government Building
Philipsburg

Sint Maarten, July 27, 2016

Re.: Purchase of SMMC

Honorable Minister Lee,

SZV herewith officially informs you that it is willing to purchase the Sint Maarten Medical Center (the building and long-lease rights) against a (market) price to be established and SZV agrees that payment shall be applied to settle SMMC's social premium debts and tax debts.

SZV is furthermore willing to develop a new general hospital on the current hospital site. The development of the new hospital will be executed in consultation with the Sint Maarten Medical Center, the Minister of VSA and the Minister of Finance.

SZV kindly requests you to obtain approval from the council of Ministers for the above.

Awaiting your response, we remain,

Best regards,

On behalf of the Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen,
The interim director,

Glen A. Carty

This request has been discussed
and approved in the Council of
Ministers dated August 4th 2016.
Formal confirmation will be forthcoming.

 6/8/2016.

Minister of VSA
E. Lee
Government Building
Clem Labega Square
Sint Maarten

Sint Maarten August 5, 2016

Ref: New Hospital Project: approval for capital reserve and permit

Dear Mr. Lee,

We refer to the tripartite protocol dated March 26, 2015, the business-plan for the New General Hospital Project, the role USZV is taking in this Project and finally the approval of the Council of Ministers of August 4, 2016 approving the development of the New General Hospital by USZV and the acquisition by USZV of the existing medical center for the purpose of building the New General Hospital.

In order to participate in the financing of the New Hospital, USZV may need to form a restricted capital reserve to (co)finance this Project. Based on article 22 paragraph 6 of the National Ordinance on USZV (AB 2013, GT 69), USZV needs prior approval of the Minister to form this reserve.

For the event external financing for the New General Hospital project cannot be obtained, USZV has calculated that it may need an amount of ANG 144 million to cover the cost of the entire Project, including the tendering process for the selection of the consulting engineer, the selection of the contractor(s), the acquisition of the land where the hospital will be built and the design, build and maintenance phase including external financial- and legal (consulting) fees.

We herewith formally request your permission to form this restricted capital reserve for an amount of ANG 144 million for the purpose as described above.

We furthermore refer to the National ordinance of Healthcare Institutions (AB 2013, GT 755) and request you to grant USZV a permit to build a healthcare institution and purchase medical equipment exceeding the value of ANG 50,000.

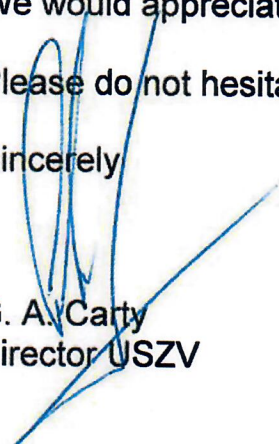


The Moratorium Permits Healthcare Institutions of July 6, 2016 is not applicable as the New General Hospital is being developed to guarantee the continuity of healthcare on Sint Maarten.

We would appreciate if we can receive your answer in writing on short notice.

Please do not hesitate to contact me if you need any additional information,

Sincerely



G. A. Carty
Director USZV



**Minister of
Public Health, Social Development
and Labor**

Emil Lee
Minister

Clem Labega Square
P.O. Box 943
Philipsburg
St. Maarten

T: +1721 542-2069
F: +1721 542-5694
E: emil.lee@sintmaartengov.org
W: <http://www.sintmaartengov.org>

To: Director of USZV
G.A. Carty
Sparrow Road
Philipsburg
Sint Maarten

Philipsburg, August 5, 2016

Subject: New Hospital Project: approval for capital reserve and permit

Div: 65158/16

Dear Mr. Carty,

In reference to your request dated August 5, 2016, you are hereby informed that based on approval granted to me by the Council of Ministers, I grant USZV permission to form a restricted capital reserve of ANG 144 million for the purpose described in your letter. This is to cover the costs of the entire project which includes the tendering process for the selection of consulting engineer, the selection of the contractor(s), land acquisition, design and the build and maintenance phase including external financial- and legal (consulting) fees.

As a result of this authorization I as Minister do also grant USZV permission to build a healthcare institution and purchase medical equipment exceeding the value of ANG 50,000 as is required by the National Ordinance on Healthcare Institutions (AB 2013, GT 755).

Sincerely,



Minister of Public Health, Social Development, and Labor (VSA)
Mr. Emil Lee

Cc: Council of Ministers St. Maarten
Secretary General of Ministry VSA
Head Department of Public Health

Clem Labega Square
P.O. Box 943
Philipsburg
Sint Maarten



**Minister of
Public Health, Social Development
and Labor**

Emil Lee
Minister

Clem Labega Square
P.O. Box 943
Philipsburg
St. Maarten

T: +1721 542-2069
F: +1721 542-5694
E: emil.lee@sintmaartengov.org
W: <http://www.sintmaartengov.org>

To: Director of USZV
G.A. Carty
Sparrow Road
Philipsburg, Sint Maarten

Sint Maarten, September 12, 2016

DIV # 6827

Dear Mr. Carty,

I refer to the presentation that was made on Thursday September 8, 2016 to the council of Ministers about the status of the development New General Hospital. It was presented that the DBM contract will now be signed between the Sint Maarten Medical Center and the contractor, while USZV will co-finance the project with other financiers as a special third party project that falls within the sector of activities of USZV. I understood that the business case is built on a guarantee of return on investment of the (social) funds at 6% p.a.

I welcome this turn of events and in view of this, I give permission for a reduced restricted capital reserve to the tune of 1/3rd of the total project cost of the ANG 144 million as estimated with a maximum of ANG 50 million.

In order not to delay the development of the New General Hospital, as a critical part of our health care infrastructure and to keep our health care cost manageable, I authorize USZV to make advance payments as a part of this financing arrangement to the Sint Maarten Medical Center to pay for the design phase of the DBM contract.

As a consequence of this development, the permission granted to USZV in my letter dated August 5, 2016, (Div. 6515B/16) to form a full restricted capital reserve, is herewith revoked and replaced with the permission outlined above.

I take this opportunity to emphasize that any USZV decisions that could have a financial impact on the social funds, should meet all laws, internal rules, regulations and investment policies relevant to USZV.

Sincerely


The Minister of VSA
E. Lee

Clem Labega Square
P.O. Box 943
Philipsburg
Sint Maarten

2016- 2017 Performance Agreement

as referred to in Article 19, paragraph 1 of the Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen

This agreement is entered into on September 22, 2016, by and between:

**The Minister of Public Health, Social Development and Labour, hereinafter referred to as:
"Minister of VSA;**

-and-

The Director of the Implementing Body Social and Health Insurances, established in the Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen "USZV", situated in Philipsburg, Sint Maarten, hereinafter referred to as "the Director":

CONSIDERING THAT:

- a. The Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen (AB 2013, GT no. 69), hereinafter referred to as "the National Ordinance" regulates among other things the administrative and financial relations between the Minister of VSA and USZV, and formalizes this relationship by means of this performance agreement. The operational independence of USZV is also established therein;**
- b. By virtue of Article 19, paragraph 1 of the National Ordinance, each year the Minister of VSA will enter into a performance agreement with the Director, in which the quantitative, qualitative and financial standards and targets are set out;**
- c. This performance agreement will provide measures in case of non-compliance wherever necessary within the stipulations laid down in or by virtue of the National Ordinance, and will contain agreements on interim amendments in connection with changing insights and conditions, or in the event one of the conditions referred to in Article 19, paragraph 3 or 4 of the National Ordinance arises;**
- d. The present performance agreement will be established taking into account the adopted budgetary framework of USZV, as indicated in Article 19, paragraph 2 of the National Ordinance, the Strategic Plan, the Blue Print and Roadmap 2016-2020 which are integrated into the approved budget. The approved budget is attached as appendix I;**
- e. The Director will do everything within his power to achieve the performance targets as laid out in the National Ordinance on an annual basis. The Minister of VSA will make every effort to ensure that within his power he will achieve the targets adopted in this performance**

agreement.

f. Obligations which are applicable under the National Ordinance or under other legal regulations for the Minister of VSA and USZV, will remain in full force and effect.

PARTIES HEREBY AGREE ON THE FOLLOWING:

Article 1 Performance Agreement Topics of a Quantitative nature:

1. The handling of the funds administered by USZV with due care is a direct function of the Director. This applies to both the social insurance funds entrusted into the Director's care, but also to the operational funds of USZV.

1.1 Operational budget:

Regarding the portion of the funds, which have been allocated for the operational budget of the USZV. This amount has been approved by the Minister of VSA in the budget document submitted for 2017, and any substantial changes to the amounts projected in the approved budget must be reported to the Minister of VSA immediately.

There has been quite some discussion that the amounts apportioned and derived from each of the funds for the purpose of allocation to the operational budget of the USZV can and should be looked at with the objective to more fairly distribute the costs of the funds across the operational budget. The Minister of VSA finds this to be of such a critical nature that a time limit of the end of December, 2016 be placed upon having the Director submit this information for review and approval to the Minister of VSA. This report shall include:

- (a) a detailed report on the current basis for the calculation of the current allocation of the funds expenses;
- (b) what the new allocation would look like; and
- (c) the supporting basis for the reallocation so that this may be immediately be incorporated in the operational budget for 2017.

The Minister of VSA finds that the amount of money spent annually on operational expenses are high. The Minister of VSA recognizes that the key factors driving expenses, such as rent, additional personnel costs associated with improving automation, and consultants for setting up basic programs that can still be attributed to the startup nature of the USZV are ones that can and should be reduced over time. The approved budget for 2017 has an expense to income ratio of approximately 11%. The Minister of VSA strongly advises the Director to maintain this ratio as a maximum for at least the year 2018 and to put into effect planning to reduce this ratio downwards to 9% over the

next 4 years, with the objective to lower this ratio even further in succeeding years provided this ratio is a common ratio in the industry adjusted for the specifics of the Sint Maarten society.

1.2 Performance of the Social Funds

1.2.1 Regarding the performance of the social funds returns themselves: The Minister of VSA requires the Director to establish a definitive review of the companies that have been exercising this task on behalf of USZV. A further description of this process will be detailed in the section on the financial aspects of this agreement.

1.2.2 The Director will submit a procurement proposal before June 2017 to realize draft legislation to implement a so called 'Swingfund' or 'Equalization Reserve Fund' (in Dutch: "Schommelfonds"), that will enable that the reserves of different funds can be used to replenish deficits in other funds, if needed. If the NHI legislation will be implemented by June 2017, this will no longer be necessary in which event the minister of VSA will inform the director accordingly.

1.2.3 On or before December 31, 2016 the Director will submit a definitive plan of approach for approval by the Minister of VSA for the reporting of information regarding the 10% co-pay to General Affairs for those civil servants at the 90% coverage level, starting with the year 2016. If at all possible the goal will be to also provide this for the year 2015.

1.3 Restricted Capital budget.

1.3.1 The Minister has approved for UUSZV to form a restricted capital reserve from surplus AOV funds for the purpose of participation in the financing of the new General hospital for Sint Maarten. The restricted reserve is capped at ANG 50 million guilders. The minimum return on financing / investment must be 6% net and all returns and capital repayment should return into the AOV fund over a period of maximum 20 years. All internal investment policies must be followed. The return must be within the 10% margin of the benchmark as stated in the investment policy.

Article 2 Performance agreement topics of a qualitative nature

2.1. To improve on the overall customer service levels based on the USZV's Strategic Plan/ Roadmap.

The Director USZV will undertake all necessary efforts to establish a minimum customer satisfaction grade of at least 6.0 on a scale from 0-10 for all public services;

2.2 To implement the approved restructuring plan "version 3.0" on both the personnel and IT level.

2.2.1 The minimum milestones to be realized by the end of January 2017 are:

- 1. Completion of a further developed/enhanced customer oriented USZV website;**
- 2. Implemented digital medical referral process.**

2.2.2 The Director will submit a plan of approach for the implementation of the digital medical referral process as mentioned under article 2, paragraph 2.2.1.2, before the end of December, 2016

2.3 Before the end of December 2016, the Director will send a draft national decree and elucidation to legalize and optimize the medical referral procedure, and implement a medical quality control and cost control mechanism for the entire health care chain within the legal framework of USZV.

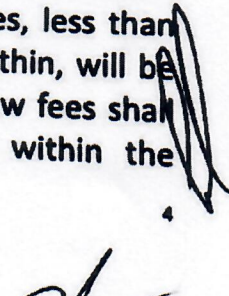
2.4 The overall satisfaction levels of the public with the services offered by the USZV is considered by the Minister of VSA to be low. Processes must continue to be streamlined. The Director will include the target 'customer focused' as a mandatory key indicator in the performance agreement of all employees. The organization must perform at "meet expectation" or above. The Director will report on this twice per year.

2.5 Since the inception of the USZV, the OZR medical payments for the civil servants and the indigent population has been handled via a loosely defined service level agreement. Under this agreement the USZV has not charged expenses for the handling of the OZR services and in return, government has not billed USZV for services such as the collection of the AVBZ for example. Parties agree to work together to better define this financial aspect in order to include this in future budgets. The Director will submit a service level agreement proposal by February 15, 2017.

Article 3 Performance agreement topics of a financial nature

3.1 The USZV receives its entire operating capital as a percentage of the social premiums revenues, which it collects and also administers. A plan to reduce housing costs by a minimum of 20% and payroll costs by the objectives mentioned in the Blueprint over a maximum period of 5 years shall be put in place by the May 1, 2017.

3.2 Return on investment on the funds have been below par for an extended period. Each of the investment companies now providing services for USZV will be evaluated against benchmark performances of the indices within which the funds have been invested. Each company performing 2 or more percent including their fees, less than benchmark performance of the indices they have been tasked to work within, will be terminated. Passive strategies that perform to the relevant indices with low fees shall be sought to replace these financial advisors. As much as possible within the



the US dollar against which the currency is fixed. This evaluation shall be completed prior to the end of December 2016 and if necessary replacement, low fee investment houses will replace those which have underperformed.

3.3 The Director shall annually no later than July of each year prepare a benchmarking report on best practices within the Caribbean Kingdom islands of Sint Maarten, Aruba, Curacao and the BES by organizations with similar objectives to determine best practices and investigate ways and means to cooperate on cooperative purchasing of services and goods within the scope of the social funds purposes. This is subject to the availability of information and cooperation from the other countries within the Kingdom.

3.4 The Director will continue to explore the financial benefits to the health funds via cooperation with French Saint Martin.

Article 4 Compliance

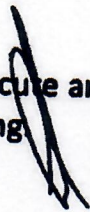
4.1 Following the hearing from the Supervisory Board, The Director USZV will report on the compliance of this performance agreement to the Minister of VSA bi-annually.

4.2. Upon request, the Director will provide all information to the Minister of VSA, as far as this is required for the execution of the activities of the Minister within the scope of this performance agreement.

4.3. In the event the Director fails to comply with any of its obligations under the terms of this performance agreement, the Minister of VSA may proceed to take measures against the Director in accordance with the law.

4.4. Before the Minister of VSA urges the Director to comply with the obligations under this performance agreement, the director will be offered the opportunity to explain in a meeting the reason why it was impossible for him to comply with the performance agreement. The Minister of VSA will offer the Director a reasonable period of time to still comply with the obligations before any measures will be taken against him and/or USZV.

4.5 The director may at all times refuse to execute an instruction or request if the legal basis for such an instruction or request is lacking



Article 5 Amendments

5.1 Interim amendment to this performance agreement shall always take place in the event of:

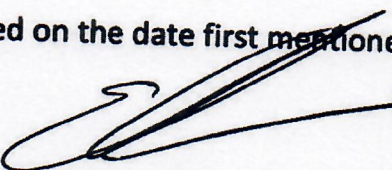
- a. either an expansion or reduction of the tasks assigned to USZV
- b. a significant change of: i. The legislation or organizational structure, or ii. The budget;
- c. a significant change of circumstances which have consequences for the execution of this performance agreement.

5.2 Should one or more of the conditions, as referred to in article 5.1 arise, parties will consult each other on the need to amend this performance agreement within four (4) weeks, as of the date of one party's written notification to the other parties.

5.3 Any amendment to this performance agreement resulting from this consultation will require the written consent of all parties.

5.4 The amendment signed by all parties will be annexed to this performance agreement.

As signed on the date first mentioned above,


Minister of Public Health, Social Development and Labour




Director Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen

Copies are to be sent to:
The Secretary-General of Public Health, Social Development and Labour;
The Department of Public Health;
The Department of Social Development;
The Department of Labour;
The Director USZV
The Supervisory Board USZV