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CONTENTS • INHOUD

No.

Page
No. Gazette
No.**GENERAL NOTICE****Higher Education and Training, Department of***General Notice*

- 261 Skills Development Act (97/1998): Call for comments on the draft regulations for the conditions of service and appointment of the CEO of a SETA.....

3 34231

GENERAL NOTICE

NOTICE 261 OF 2011

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)

CALL FOR COMMENTS ON THE DRAFT REGULATIONS FOR THE CONDITIONS OF SERVICE AND APPOINTMENT OF THE CEO OF A SETA

I, Bonginkosi Emmanuel Nzimande, Minister of Higher Education and Training, hereby intend to make Regulations in terms of sections 9(1); 13(2); 14(3A), read with section 36(s) of the Skills Development Act, 1998 (Act No. 97 of 1998) and after consultation with the National Skills Authority.

These Regulations provide a uniform framework for the recruitment and selection of a CEO, to enable the respective SETA's Accounting Authority to make a recommendation to me as Minister, for the appointment of the CEO, in accordance with the respective SETA's constitution. In addition, section 14(3),(3A) empowers me as Minister to prescribe limits to the costs of administration related to the salary band within which the CEO must be remunerated. These Regulations as contained in the Schedule are hereby published for comments.

All interested persons and organisations are invited to comment on the draft Regulations in writing, and to direct their comments to –

The Director-General, Private Bag X174, Pretoria, 0001, for attention: Mr VL Rikhotso, email Rikhotso.v@dhet.gov.za.

Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments.

The comments should reach the Department within 21 calendar days after publication of this Notice.

Bonginkosi Emmanuel Nzimande, MP
Minister of Higher Education and Training
16 April 2011

SCHEDULE

1. Definitions

Expressions and definitions in these Regulations have the same meanings as they have in the Act, unless contrary intention appears:

“**Accounting Authority**” means the board or other controlling body of the SETA;

“**CEO**” means the Chief Executive Officer of the SETA, as appointed in terms of the constitution of the respective SETA; and

“**the Act**” means the Skills Development Act, 1998 (Act 97 of 1998).

2. Key elements in the appointment process of a CEO

- (1) The Minister is responsible to appoint a CEO for the respective SETA, based on the three names recommended by the Accounting Authority in accordance with its constitution.
- (2) The Accounting Authority of a respective SETA must-
 - (a) follow a recruitment process;
 - (b) place a national advertisement to invite candidates to apply for the position;
 - (c) have a short listing process by which selected candidates can be interviewed;
 - (d) have a selection committee to select candidates to be interviewed;
 - (e) make a recommendation of three suitable candidates from which any one can be appointed by the Minister, after consultation with Cabinet and irrespective of the placement of the name in the list.
- (3) The respective Accounting Authority must evaluate and verify that all processes linked to the key elements, related to the identification of the three suitable candidates, have been complied with as prescribed by these Regulations and policies developed by the respective SETA.
- (4) The respective Accounting Authority must consider the identified suitable candidates presented by the selection committee and ensure that all three candidates have the necessary qualifications, experience and managerial skills needed for the incumbent in the post of a CEO for that SETA.
- (5) The Accounting Authority must develop policies which reflect specific timeframes for the implementation of the key elements contained in sub regulation (2).
- (6) The Accounting Authority must make a recommendation to the Minister within 6 months of taking office, after following a transparent process, recommend in writing three qualified or experienced and suitable candidates in accounting, financial and senior management matters for appointment to the position of the CEO by the Minister.

3. Recruitment

- (1) The recruitment of a CEO must be undertaken with a view to target the ideal applicant with the necessary training, skills, competence, potential, knowledge, experience and managerial skills needed for the post of the CEO in the SETA .
- (2) The Accounting Authority must develop a recruitment strategy which must consist of-
 - (a) nationwide recruitment;
 - (b) communication directives to ensure that the potential candidates can be reached; and
 - (c) adherence to employment equity, in particular the employment equity plan of the respective SETA and the identified targets within the plan.

4. Methods of Recruitment

- (1) The method of recruitment used must not discriminate against prospective candidates, and should be advertised nationwide.
- (2) The Accounting Authority must publish an advertisement complying with the statutory prescripts.
- (3) Notwithstanding sub regulation (2) the Accounting Authority may identify suitable candidates that may be approached and encouraged to apply for the advertised post.
- (4) The Accounting Authority must communicate the publication of the advertisement in sub regulation (2) to the relevant constituencies within the socio-economic sector for which the SETA is established.

5. Advertising of the post of CEO

- (1) The Accounting Authority must determine the composite requirements for employment of the CEO on the basis of the functions of a CEO as determined in the constitution of the SETA.
- (2) The Accounting Authority must publish an advertisement in which the following particulars must be reflected-
 - (a) Job title, grade and SETA
 - (b) Place to be stationed
 - (c) Core functions and inherent requirement of the post
 - (d) All inclusive remuneration package
 - (e) Contact person to whom enquiries can be addressed
 - (f) Closing date
 - (g) Notification that the post of the CEO is a contract appointment and this appointment is directly linked to the term of office of the Accounting Authority of the respective SETA.
 - (h) Notification that the CEO will have to enter into an employment and an indication of the contract period
 - (i) That all shortlisted candidates will be subject to security vetting
 - (j) Notification that the CEO will be required to disclose her/his financial interests in accordance with the prescribed regulations and form.
 - (k) As an equity employer the SETA will give preference to people with disabilities.

6. Short listing and Selection

- (1) The executive committee of a SETA as established in terms of its constitution is responsible for the pre-selection and short listing of candidates.
- (2) The selection process commences after the closing date of the advertisement.
- (3) The executive committee must-
 - (a) verify the qualifications and work record of short listed candidates, especially the three candidates nominated for appointment;
 - (b) identify criteria by which candidates who do not comply with the requirements of the post of CO can be eliminated;
 - (c) identify a shortlist of candidates to be invited for interviews;
 - (d) interview the short listed candidates to identify three suitable candidates for recommendation to the Minister for appointment.
- (4) During the pre-selection and short listing candidates can be eliminated by using legends related to the advertised requirements for the post such as:
 - (a) lack of specific knowledge, competencies or high level skills
 - (b) lack of identified managerial skills
 - (c) lack of proven high level communication skills; and
 - (d) candidate does not comply with requirements with regard to the educational qualifications.
- (5) During the selection process, care should be taken that all candidates are provided equal opportunities. This implies that they must be evaluated against the same requirements and criteria implying that they be asked the same questions and be subjected to the same testing.
- (6) The three candidates recommended to the Minister for appointment must be subjected to a professional competency assessment as identified by the Accounting Authority
- (7) An executive committee must record the reasons for its decisions. These records together with all the information on the pre-selection process should be filed properly so that queries can be responded to.

7. Salary band to the post of a CEO

The salary band of a CEO is equivalent to that of a Director-General in the public service.

8. Conditions of Service

- (1) The Accounting Authority must determine conditions of service and salary ranges for the CEO within the scope of the salary band, as prescribed by Regulation 7.
- (2) The conditions of service determined by the Accounting Authority must be in proportion with the conditions of service applicable to the equivalent post of a Director-General in the public service.
- (3) The Accounting Authority, when determining the conditions of service, must include the following:
 - (a) an ethical code of conduct for the CEO;
 - (b) the grounds for suspension of a CEO;

- (c) disciplinary procedures, including the identification of misconduct offences;
 - (d) probation period; and
 - (e) incapacity code in respect of ill health.
- (4) The Accounting Authority must submit the conditions of service applicable to a CEO to the Minister for approval before implementation.

9. Transitional Arrangements

- (1) Chief Executive Officers whose contracts of employment have not lapsed by the commencement date of these Regulations, will continue to be employed in terms of the remuneration package and conditions of service of their respective contracts, until the expiry dates of the contracts.
- (2) If there is a need to extend the period of the employment contract referred to in sub Regulation (1), the terms and conditions as contemplated in Regulations 7 and 8 must be complied with.
- (3) The conditions of service to be determined by the Accounting Authority in terms of Regulation 8, must be finalised and approved by not later than 31 August 2011.

Short title and commencement

These Regulations are called the Regulations for the conditions of service and appointment of the CEO of a SETA and will come into operation on date of promulgation of these Regulations in a *Government Gazette*.
