

REPORT TO THE MINISTER OF FINANCE: APPOINTMENT OF COMMISSIONER OF THE SOUTH AFRICAN REVENUE SERVICE

REPORT OF THE SELECTION PANEL FOR COMMISSIONER OF SARS

21 MARCH 2019

The Minister of Finance, Mr Tito Mboweni, appointed this selection Panel to interview and recommend to the President of the Republic of South Africa a shortlist of candidates for the position of the Commissioner of the South African Revenue Service (SARS). The vacant post of Commissioner of SARS was advertised in the media and online on 16 December 2018, with the closing date on 18 January 2019.

The Nugent Commission Report (Second Interim Report of the Commission of Inquiry into Tax Administration and Governance by the SARS) of 9 November 2018 recommended that the process to be followed by the President for the appointment of the Commissioner of SARS (refer to paragraph [40] on pages 186-187 and paragraph 16.3 on pages 197-198 in the Report) should be transparent, and this involved the appointment of a selection panel whose members “...*should be apolitical and not answerable to any constituency, and should be persons of high standing who are able to inspire confidence across the tax-paying spectrum*”. The criteria against which shortlisted applicants should be evaluated for suitability are also outlined in the Report.

The President approved that the Minister of Finance oversee the initial steps of the appointment process, including the appointment of the selection panel (the Panel), the shortlisting of names by the Panel for interviewing, and to submit its recommendations to the Minister, a list of suitable and competent persons for the consideration of the President to appoint as Commissioner of SARS.

This selection Panel was appointed for this purpose, to provide an independent, unbiased and transparent procedure of assessing applicants.

1. Constitution of the Panel

1.1. The following persons were appointed as members of the Panel by the Minister of Finance:

- (i) Chair of the Panel: Mr. Trevor Manuel

- (ii). Ms. Angela Bester
- (iii). Justice Dennis Davis
- (iv). Ms. Sindi Mabaso-Koyana
- (v). Mr. Ismail Momoniat
- (vi). Ms. Thandi Orleyn
- (vii). Mr. Fezekile Tshiqi

1.2. The Panel adopted its Terms of Reference (Annex A) on 4 February 2019, including procedural stipulations, evaluation criteria, decision making rules and deliverables.

1.3. In assembling the Panel and asking for any declarations of interest from Panel members before the Panel considered the list of applicants, no conflicts of interest were identified that would require any Panel to recuse themselves entirely from the work of the Panel. In addition, after candidates were shortlisted, members of the Panel were requested to declare any interests, and none were considered by the Panel to present conflicts of interest.

1.4. The National Treasury provided administrative and secretarial support for the Panel, under the supervision of Mr Momoniat and Ms Patricia Tomotomo (head of HR at National Treasury). A working team of senior officials was assembled to process all applications for submission to the Panel.

2. Shortlisting process

2.1. The Panel's meeting of 4 February 2019 aimed to identify a shortlist of candidates to be interviewed.

2.2. In total there were 82 applicants. By 18 January 2019 National Treasury received 70 applications and a further 12 applicants were sourced from recruitment agencies.

2.3. The Panel assessed the working groups' initial classification of the 82 applicants in the following groups:

- Ineligible (8 applicants): Candidates who do not meet the criteria stated in the advertisement.

- Irrelevant or insufficient experience (29 applicants): Candidates who would not have gained adequate exposure or developed requisite competencies, given the nature or level of their work experience.
- Incomparable scope (10 applicants): Applicants whose experience to date would not have prepared them adequately for the complexity and size of operations of SARS.
- Candidates with good potential (10 applicants): Applicants whom the working group recommends the Panel assess due to their potential (i.e. no technical criteria for elimination, but subject to discretion of Panel). Panel selected two applicants from this list for consideration into the interview stage.
- SARS applicants (16 applicants): A separate list for the Panel's consideration of SARS employees, officials from the Office of the Tax Ombud and, where identifiable, ex-employees of SARS for the last 8 years. SARS performs a number of unique functions, and applicants who work(ed) for SARS best positioned to have gained exposure required for the post. The Panel also considered whether there were any adverse findings by the Nugent Commission regarding any applicants.
- Initial shortlist (15 applicants – with some overlaps with other categories): Applicants whose credentials indicate that they have the requisite skills and experience relative to the advertisement. At Panel's discretion, to identify strongest candidates for interviewing.

2.4. The Panel identified a preliminary shortlist of 9 candidates for interviewing, subject to further checks outlined in 2.5 below.

2.5. The Panel requested confirmation that all candidates were in fact interested in this position. It was necessary, especially in relation to names sourced by recruitment agencies. As a consequence of this enquiry, one potential candidate indicated unavailability, while another faced allegations of improper financial conducts (not finalised at the time¹).

2.6. At this point the Panel narrowed the appropriate criteria for consideration. This included:

Whether the candidate is capable of being a change agent and turn-around specialist; that is successfully turning around and promoting constructive change to a very large and complex organisation.

2.6.1. Whether the candidate had experience of leadership of a large organization and, if so, the size and complexity thereof.

¹ These proceedings were finalised by the time that the panel formulated its recommendations. The panel's selection remained unchanged by these findings.

- 2.6.2. Whether the candidate has the requisite skills to take tough decisions including dealing with non-performing staff and, if necessary, make decisive changes to the organization.
 - 2.6.3. The ability of the candidate to withstand political pressure and thus promote and protect the appropriate level of operational autonomy of SARS.
 - 2.6.4. Knowledge of the business of SARS - without having to be a 'tax expert'. The candidate would also need to understand fiduciary responsibilities as accounting authority of SARS.
 - 2.6.5. Whether the candidate the ability to appreciate the big picture – a vision of the largest revenue collection agency on the African Continent. It would be a requirement that the SARS Commissioner be able to hold her/his own in international forums.
- 2.7. After careful perusal of the remaining CVs and deliberations between Panel members, seven candidates were unanimously selected for interviewing.

3. Interview process

- 3.1. Candidates were contacted to schedule interviews. Five interviews took place on Saturday, 9 February 2019. Two candidates were traveling abroad during this time, one of whom later withdrew her application. The last interview took place on 21 February 2019. A total of six candidates were therefore interviewed.
- 3.2. The interviews proceeded well. Candidates were invited to prepare a presentation to indicate their proposed plan to address SARS' challenges. This was followed by questions posed by the Panel to interrogate the presentation, and to confirm information and views of the interviewees.
- 3.3. Before the interviews were conducted, members of the Panel disclosed whether they had any close relationship with any of the candidates for interview. The Chair of the Panel, declared that one of the candidates worked under him in a past capacity, and he is still on friendly terms with the candidate. The Chair proposed to be an observer only during the interview of this candidate, and did not pose any questions. The Panel did not view the relationship as a conflict of interest, but accepted his recusal during the interview.
- 3.4. The Panel discussed two matters to ensure robustness of the interview process.
 - 3.4.1. The advertisement was placed in the middle of December 2018, when potential candidates may not have been aware of the advertisement. Four considerations satisfied the Panel that the advertisement served its purpose: (i) the importance of appointing a new Commissioner

to lead SARS as soon as due process allows, (ii) the well-publicised nature of the vacancy, (iii) closing date in the third week of January 2019, and (iv) the ability to make a firm recommendation based on the applications received.

3.4.2. The Panel discussed their desire to identify strong female candidates. Two strong female candidates were interviewed, and a third short-listed female candidate withdrew her application shortly before her scheduled interview. The Panel identified empowerment and development of strong female executives as a key consideration for a new Commissioner for SARS.

3.5. Upon completion of the interviews, and application of the criteria in paragraph 2.6, three candidates emerged as the strongest contenders from the interview process. The Panel agreed to perform an enhanced reference check on these three candidates before making final recommendations, over and above the standard government checks and requirements for SARS' recruitment processes. The Panel therefore recommended that the following candidates proceed to competency testing, namely Mr Edward Kieswetter, Mr Nathaniel Mabetwa and Mr Mark Kingon.

3.6. The three candidates all comply with the criteria recommended by the Nugent Commission, namely:

- *“he or she must be, and must be reputed to be, of unblemished integrity;*
- *he or she must have proven experience of managing a large organization at a high level; and*
- *he or she must not be aligned to any constituency, and if so aligned, he or she must renounce that alliance upon appointment.”*

4. Standard reference checks

The National Treasury HR team performed all the required checks, and no information emerged that would alter the recommendations of the Panel. The required security checks by the State Security Agency were also completed, and no information emerged that would alter the recommendations of the Panel.

5. Competency testing

Standard competency tests were performed to assess conceptual abilities to solve complex problems, behavioural patterns, personal preferences and work style, and emotional and social stability. The

resulting report by Joint Prosperity informed the Panel's views on the suitability of the candidates and assisted in identifying the strongest candidate.

The tests did not reveal any matters that would lead to disqualification of any candidates. These psychometric tests elaborated on the aptitude of various candidates to matters conceptual, technical and leadership.

6. Enhanced reference checks

The panel requested National Treasury HR team to perform an additional set of reference checks, akin to a 360 degree review to obtain feedback from candidates' managers, peers and staff. At least 3 references were received for each of the candidates.

This information was used to refine the Panel's recommendation, and confirmed that the strongest candidates were indeed identified from the interview process. No information emerged that indicated that any of the candidates would be wholly unsuitable for the position. It also aided the Panel to assess the candidates' strengths and areas for development relative to each other, based on independent views.

7. Arriving at recommendations

7.1. The Panel considered all information before them

7.2. In its deliberations which were aimed at arriving at the best possible recommendation, the Panel took particular account of the following:

- 7.2.1. The importance for a new Commissioner to approach challenges faced by SARS in an emphatic manner, and in particular the balancing of the twin objectives of restoring revenue collection and organisational change. It is imperative during the period of this appointment that SARS emerges as a stronger organisation; hence the need that the chosen candidate possess the ability to lead the SARS of tomorrow, in addition to the challenges SARS currently faces. Of importance in this connection is the need for the new Commissioner to possess a strong orientation to technology and innovation.
- 7.2.2. A new Commissioner's management style would leave an indelible mark on the character of SARS, due to the scope of the transition that is required. The Panel considered the known

management styles of the candidates relative to the style most suitable for SARS' current needs, namely decisive and transformative leadership, with particular attention to building a succession plan; in particular a pipeline of future leaders for the organisation.

7.2.3. A new Commissioner would have to balance the interests of disparate stakeholders, requiring excellent interpersonal skills along with a track record of managing difficult stakeholder relations and possess an ability to resist extraneous pressures.

7.3. The Panel notes that whilst the President is vested with the power to appoint the Commissioner in terms of the SARS Act, the President does not have the power to appoint any other official at SARS. This is a power that vests solely with the Commissioner, who is responsible for "the organisation and control of the staff" (s9(2)(b) of the SARS Act) and has the power to appoint all other employees of SARS, subject to specific agreement on the terms and conditions of employment of senior managers. The Panel has therefore not made any further recommendations on the employment of any other candidate, but would like to note that some of the candidates it considered have great potential to strengthen the current management of SARS, and will forward such advice to the new Commissioner, for his or her attention.

8. Recommendation(s)

8.1. Panel unanimously recommends Mr Edward Kieswetter as by far the best and preferred candidate.

8.2. Based on what is known to the Panel of candidates' qualifications, experience, management style, track record and competencies, the Panel is of the view that Mr Kieswetter (CV attached) is best suited to the position of Commissioner for SARS. In the Panel's considered opinion, Mr Kieswetter has the strongest likelihood of achieving success in the following endeavours:

- Restoring revenue collection
- Restructuring SARS in a coherent and efficient manner
- Direct SARS operations toward innovation and a strong future-orientation
- Developing and nurturing future leaders for the organisation
- Making firm and tough decisions timeously and holistically, while maintaining strong relations with stakeholders
- Restoring SARS' credibility and integrity

- 8.3. Mr Kingon is recommended as an alternative, should the President not favour the Panel's preferred candidate.
- 8.4. There are no dissenting views, minority opinions or conditional terms on recommendation above.
- 8.5. The Panel would also like to strongly recommend that the new Commissioner develop a succession plan for SARS. In particular, there is a need to identify, empower and develop strong female executives in the top management of SARS.
- 8.6. The Panel also recommends contacting the other interviewed candidates to express their appreciation, and to encourage them to apply for any future senior posts that may be advertised by SARS.