

NOTICE 152 OF 2005**DEPARTMENT OF LABOUR****SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998) AS AMENDED****PROPOSED SERVICE LEVEL AGREEMENT REGULATIONS**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, acting in terms of section 36 of the Skills Development Act, 1998 (Act No. 97 of 1998) hereby publish for public comment proposed regulations on Service Level Agreement

Interested parties are invited to submit written comments on the proposed regulations within 21 days after the publication of this notice by:-

- a) Posting comments to: The Executive Officer
National Skills Authority
Ms. B. Bulunga
Department of Labour
Private Bag X 117
Pretoria
0001
- b) Fax comments to: The Executive Officer
National Skills Authority
(012) 309 4472
- c) Deliver comments to: Room 333
Third Floor
Laboria House Building
215 Schoeman Street
Pretoria
- d) E-mail to: bessie.bulunga@labour.gov.za /
sibongile.mashao@labour.gov.za

M.M.S MDLADLANA
MINISTER OF LABOUR, MP.

DEPARTMENT OF LABOUR
SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)
PROPOSED SERVICE LEVEL AGREEMENT
REGULATIONS

The Minister of Labour has under section **36** of the Skills Development Act, 1998 (Act No. 97 of 1998), and after consultation with the National Skills Authority, made the regulations in the Schedule.

SCHEDULE

Definitions

1. In this Schedule, any word or expression to which a meaning has been assigned in the **Act**, shall have the meaning so assigned, **unless** the context otherwise indicates -

"NSDS" means the national skills development strategy 2005 - 2010 contemplated in section 5(1)(a)(ii) of the Skills Development Act, 1998;

"the Act" means the Skills Development Act, 1998 (Act No. 97 of 1998).

"submit" means to serve by hand or registered post or to transmit by electronic mechanism as a result of which the recipient is capable of printing the communication;

Procedure for negotiating service level agreement with SETAs

2. The Director-General shall negotiate a service level agreement **annually with a SETA** as follows:

2.1 The Director-General shall calculate the proportion of estimated total SETA income to be earned by each individual SETA and express this proportion as a percentage of the total:

2.2 The Director-General shall then calculate, using the percentage referred to under 4.1, the portion of the national targets expressed in the National Skills Development Strategy that each SETA will be expected to deliver in total for the five years of the NSDS and for the following financial year;

2.3 The Director-General shall consolidate the targets relevant to each individual **SETA** into a draft Service Level Agreement, in the format indicated in the Annexure A1 which he/she shall circulate to each SETA no later than 4th March 2005 for the financial year 2005 / 2006 and by no later than the end of July in the preceding financial year for each subsequent financial year;

2.4 The SETA shall submit its proposed amendments to the Director-General on the draft Service Level Agreement, referred to under 4.3, after considering its sector skills plan by:

2.4.1 31st March 2005 for the financial year 2005 / 2006, which shall be deemed to be the SETA Strategic Plan for 2005 / 2006 as required by the PFMA;

2.4.2 No later than the end of September each year for the following financial years, which shall be the SETA Strategic Plan as required by the PFMA.

2.5 The Director-General and the SETA shall conclude and sign an annual Service Level Agreement no later than the end of April 2005 for the financial year 2005/2006 and no later than end of November each year for the following financial years;

2.6 Should no agreement be reached by the dates indicated in 4.5, section 10A(2) of the Act shall come *into* effect.

Performance Standards, Criteria and Targets

3.1 A service level agreement must be in the form set out in Annexure A.

3.2 A service level agreement must include a performance measurement schedule in the form set out in Annexure A1 that includes standards, criteria and targets for measuring and evaluating the SETA's performance of its functions in terms of the Act and its obligations in terms of the NSDS

3.3 The Director-General may require the SETA to submit relevant information in addition to that required in sub-regulation 3.1 and 3.2.

Plans and Reports

4. A SETA **shall** submit to the Director-General the following plans and reports within the specified timeframes:

4.1 Quarterly Monitoring **Reports** inclusive of financial and non-financial reports – ten working days after end of June, September, December and April each year.

4.2 Quarterly Self-Assessment Performance **Reports** – ten working days after end of June, September, December and April each year.

4.3 Six monthly SETA Board/Council Member Database **Report** - ten working days after end of September and March each year.

4.4 Six monthly SETA Staff Database **Report** - ten working days **after** end of September and March each year.

4.5 Sector **Skills** Plan or Annual Update – before 31st August.

4.6 Draft Annual **Report** - before 31st July

4.7 Proposed Strategic Plan as required by PFMA – before 30th September

Short title

5. These Regulations are called the Service Level Agreement Regulations, 2005

Commencement

6. These Regulations come into effect on 4th March 2005

PROPOSED SERVICE LEVEL AGREEMENT

ENTERED INTO BY AND BETWEEN

DIRECTOR GENERAL: LABOUR

(hereinafter referred to as the "Director-General")

(duly represented by _____ in his/her capacity as _____
duly authorised thereto)

AND

(hereinafter referred to as "SETA")

(duly represented by _____, in his/her capacity as
_____, duly authorised thereto.)

1. Definitions

In this Agreement, unless inconsistent or otherwise indicated by the context -

“**Agreement**” means this service level agreement and includes the Annexures to this Agreement;

“**Director-General**” means the Director-General of Labour;

“**NSA**” means the National Skills Authority

“**NSDS**” means the national skills development strategy 2005 - 2010 contemplated in section 5(1)(a)(ii) of the SDA;

“**parties**” mean the signatories to this Agreement; and

“**SDA**” means the Skills Development Act, 1998 (Act No. 97 of 1998), as amended

“**submit**” means to **serve** by hand or registered post or to transmit by electronic mechanism as a result of which the recipient is capable of printing the communication;

2. Purpose of Agreement

The parties have entered into this annual agreement in order to determine:

- 2.1 the levels of service delivery required **of** the SETA in performing its statutory functions, meeting the NSDS targets and implementing its annual strategic plan,
- 2.2 the standards, criteria and targets for measuring and evaluating the SETA’s performance,
- 2.3 the plans and reports to be submitted by the SETA to the Director-General for purposes of measuring and evaluating the performance **of** the SETA’s obligations in terms of this Agreement; and
- 2.4 the assistance that the Director-General shall provide to the SETA in order to enable it to perform its functions.

3, Commencement and Duration of the Agreement

- 3.1 The terms and conditions of this Agreement shall commence on 1st April of each **year** and shall terminate on 31st March of the following **year**.

4. Obligations of the SETA

The SETA undertakes to:

- 4.1 respond to any written inquiry from the Department within twenty **(20)** working **days**
- 4.2 implement its annual service level agreement and

5. Obligations of the Director-General

The Director-General undertakes to:

- 5.1 consult the **SETA** on all relevant policy and operational matters that might affect the functioning of the SETA,
- 5.2 provide the SETA with:
- 5.2.1 required content, format and timeframes for submitting **any** report or plan that **SETAs** are required to submit in terms of this regulation.
- 5.2.2 written comments on all the plans and reports within one month of their submission to the Director-General; and
- 5.3 respond to any written inquiry from a SETA within twenty (20) working **days**.
- 5.4 convene regular meetings with the Chief Executive Officers, Chairpersons and other SETA officials as and when necessary, to consider operational matters and to provide fora for discussion of policy and implementation issues.

6 Measuring and evaluating a SETA's performance

6.1 The SETA shall undertake a self assessment of its performance every quarter against the standards, criteria and targets in the form set out in a performance measurement schedule attached to this Service Level Agreement as Annexure A1

6.2 Performance results for each element on the performance measurement schedule shall be based on the following performance assessment scale:

Percentage Score	0% - 50%	51% - 99%	100%	101% - 150%	>150%
Rating	1	2	3	4	5
Performance Description	Performance is Poor	Performance is below Requirements	Performance meets Requirements	Performance is above Requirements	Performance is Excellent

6.3 The Director-General shall report the performance rating for each SETA on annual basis using the actual ratings achieved per element multiplied by a weighting factor for that element. All weighted rating results will be added together to arrive at a total performance assessment rating for the SETA. The weighting factors for each element will be issued by the Director-General after consultation with the NSA.

6.4 The following corrective actions shall be implemented based on the total aggregate performance assessment rating:

6.4.1 If a SETA performance assessment results in an aggregate rating of **1.00 – 1.99** the Minister shall invoke Section 14A of the Skills Development Amendment Act, Act No 31 of 2003, and issue the SETA a written instruction detailing the steps the SETA will be required to take to improve its performance.

6.4.2 If a SETA performance assessment results in an aggregate rating of **2.00 – 2.99** the SETA shall submit to the Director-General within thirty days of being advised of the aggregate rating a detailed report on the reasons why the SETA is performing below requirements and what action plans will be implemented to resolve the lack of performance.

7. Breach

In the event of a party breaching any of its obligations under this agreement and failing to remedy such breach within 7 (seven) days of being so requested, other party may:

- (a) cancel the agreement; and/or
- (b) claim damages; and/or
- (c) claim immediate specific performance of the defaulting party's obligation in terms hereof.

8. Non-Waiver

No waiver by either party with respect to a breach of any provision of the Agreement shall be construed as a waiver with respect to any continuing or subsequent breach of that provision, or as a waiver of any other right under this Agreement.

9 Applicable Law

This agreement shall be governed and interpreted in accordance with the law of the Republic of South Africa.

10. Domicilium and Notices

10.1 Each party will be entitled from time to time by written notice to the other **party or** change any of its domicilium addresses to any other address within the Republic of South Africa, provided that one of the addresses shall always be a street address at which the service of legal processes can be effected

10.2 Any notice which:

10.2.1 is delivered by hand at the addressee's domicilium address shall be deemed to have been received by the addressee at the time **of** delivery; or

10.2.2 is posted by pre-paid registered post from an address within the Republic of South Africa to the addressee, to have been received by the addressee on the seventh day after the date of posting;

10.2.3 if transmitted by telefax to the addressee at its domicilium, shall be deemed to have been received by the addressee on the date of transmission or, if the transmission is made outside of normal business hours, on the first business day following after the date **of** transmission;

10.2.4 The parties choose the following addresses for purposes of serving any notice, payment of money, serving of legal process or for any other purpose arising from this agreement:

Department of Labour

Street Address:

Laboria House

215 Schoeman Street

PRETORIA

Postal Address:

Private Bag X 117

PRETORIA

0001

TelephoneNo: (012) 309 4724

FascimileNo: (012) 309 4666

SETA

Street Address:

Postal Address

Telephone No:

FascimileNo:

11. General

11.1 This Agreement contains the entire understanding of the parties as to its subject matter. Neither party shall be bound by any condition, warranty, representation or undertaking of any kind, whether express or implied, except as set forth in this agreement;

SIGNED ON THIS _____ DAY OF _____ 2005

For and or behalf of the Department

1. WITNESS: _____

2. WITNESS: _____

SIGNED ON THIS _____ DAY _____ 2005.

For and on behalf of SETA

1. WITNESS: _____

2. WITNESS: _____

SETA / DoL Service Level Agreement for NSDS 2005 - 2006 – Performance Measurement Schedule – Annexure A1

No	NSDS Success Indicator & Target	SETA Target for 2005 – 2010 (Five Year Target and Outcomes)	SETA Target for 2005 – 2006 (Annual Target)	Performance Assessment Criteria	Projected Annual Budget per indicator aligned to PFMA multi year projections.*	Means of Verification Required	Assumptions

* The PFMA multi year projection of revenue and expenditure to be attached s an annexure.