
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF COMMUNICATIONS**NOTICE 437 OF 2016****MINISTRY: COMMUNICATIONS
REPUBLIC OF SOUTH AFRICA**

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Independent Communication Authority of South Africa Act 13 of 2000

Public nomination to serve as a member of the Evaluation Panel for the ICASA Council.

I, Azwihangwisi Faith Muthambi, Minister of Communications, hereby in terms of section 6A (4) of the Independent Communication Authority of South Africa Act 13 of 2000, request the public to nominate persons to serve on the Evaluation Panel to evaluate the performance of the Chairperson and other councillors of ICASA.

The evaluation panel shall consist of seven (7) members, one of which will be designated as the chairperson. The members of the Evaluation Panel, shall be appointed by the minister in consultation with the national assembly and will have the necessary skills, knowledge, qualifications and experience in the ICT sector.

The terms of reference outlining the functions of the evaluation panel are hereby attached and available on the department's website www.doc.gov.za. Nominations to serve on the Evaluation Panel must reach the Ministry of Communications within 30 days after publication of the gazette.

Nominations must be forwarded to:

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**MS AF MUTHAMBI, MP
MINISTER OF COMMUNICATIONS**

DATE 2016.06.20

TERMS OF REFERENCE FOR THE EVALUATION PANEL

1. INTRODUCTION

- 1.1 Section 6A (1) of the ICASA Act, 13 of 2000 as amended, stipulates that the Minister must in consultation with the National Assembly, establish a performance management system to monitor and evaluate the performance of the chairperson and the other councillors.
- 1.2 The ICASA Act further stipulates that the performance management system must, inter alia, set key performance indicators as a yardstick for measuring performance; set measurable performance targets as well as set a procedure to measure and review performance at least once a year.

2. NAME

The structure to evaluate the performance of the Chairperson and the other councillors of ICASA will be called the Evaluation Panel.

3. MEASURING AND EVALUATING THE PERFORMANCE OF THE CHAIRPERSON AND THE OTHER COUNCILLORS OF ICASA

- 3.1 Section 6A (3) provides that as soon as is practicable after appointment of the Chairperson and the other councillors, a performance agreement must be concluded between the Chairperson or the councillors and the Ministers.
- 3.2 The spirit of section 6A of the act is to ensure that ICASA'S performance is measured and that the ICASA Chairperson and the other councillors discharge their responsibilities in a transparent and accountable manner.
- 3.3 The Performance Management System for the Chairperson and other councillors of ICASA, as adopted by the National Assembly, is a robust mechanism that will evaluate and measure performance of the ICASA Council with the view to enabling a constructive engagement and provision of better rationality in respect of resource allocation so that funds are allocated where they are most likely to maximise the achievement of set outcomes.

- 3.4 The Performance Management System will take into account issues of compliance and time-frames. This system therefore will link directly with the targets and key performance indicators as stipulated in the Annual Work-Plan of the independent Authority.
- 3.5 In Addition, the rating system to be adopted by the Evaluation Panel should, as contemplated in Section 6A (4) of the ICASA Act, link with turnaround times and compliance aspects of the work of the ICASA Council.
- 3.6 The Evaluation of the Chairperson and the other councillors will be aligned to the planning cycle of the government. As such, the performance management cycle of the ICASA Council will be linked to the Authority's financial year cycle.
- 3.7 The information to be used during the review session will include, but is not limited to, the performance management system, performance agreements as signed; the Authority's strategic plan; stakeholder survey reports and any other information that may be deemed necessary.
- 3.8 The Chairperson and individual councillors will be required to submit their individual performance reports prior to the sitting of the Evaluation Panel. During the performance review session, the Chairperson and councillors will be required to provide oral submissions in respect of their performance assessments.

4. FUNCTION OF THE EVALUATION PANEL

- 4.1 The Evaluation Panel will evaluate the performance of the Chairperson and other councillors, based, inter alia, on the verbal and written submissions made by the ICASA Council.
- 4.2 Following the evaluation of the Chairperson and other councillors of ICASA, the Evaluation Panel shall submit a report to the National Assembly within seven (7) working days for consideration. The evaluation process shall be fair, objective and honest.
- 4.3 The terms of office of the members of the evaluation panel shall be three years as from the date of his or her appointment. Members of the panel may, at any time, provide written notice to tender their resignation from the panel. Members of the Evaluation Panel, who will be appointed by Notice in the Gazette, may be re-appointed by the Minister, in consultation with the National Assembly.

- 4.4 The Minister may fill a casual vacancy on the panel, in consultation with the National Assembly, in which event the new panel member will hold office for the rest of the period of the predecessor's term of office.
- 4.5 Members of the Evaluation Panel must not have a conflict of interest whilst serving in this capacity as it could impair an individual's ability to perform his or her duties and responsibilities objectively. In this regard, the conflict of interest is defined as follows: the member is an un-rehabilitated insolvent; has been declared by court to be mentally ill or disordered, has at any time been convicted, whether in the Republic or elsewhere of theft, fraud, forgery or any other offence involving dishonesty; has at any time been removed from an office or trust on account of misconduct and had direct or indirect interest in conflict with the business of ICASA.
- 4.6 No member of the Evaluation Panel shall serve for more than two terms.
- 4.7 Conflict of interest in this regard is defined as any situation in which a member of the Evaluation Panel is in a position to exploit his or her capacity in some way, including influencing the decisions of the panel, for their personal benefits.
- 4.8 The Minister may, in consultation with the National Assembly, remove a member of the Evaluation Panel from office, due to misconduct, conflict of interest or inability to perform his or her duties efficiently or for engaging in any activity that may undermine the functions of the Evaluation Panel.

5. FUNDING

- 5.1 Costs incurred by the Evaluation Panel shall be funded by the Department.

6. COMPOSITION OF THE EVALUATION PANEL

- 6.1 Section 6A (4) requires that the Minister in consultation with the National Assembly constitute a panel to evaluate the performance of the chairperson or the other councillors. The evaluation Panel must consist of seven (7) members, one of which be designated as chairperson.
- 6.2 At least five (5) members of the Evaluation panel, one of which designated as chairperson, must be present for the meeting to quorate.

- 6.3 The mix of skills sets and perspectives in the evaluation panel is very important given that the performance evaluation of the ICASA Council is not only about monitoring what has been done but rather should be geared more towards providing guidance for future ICT and postal policies; assessing the relevance and appropriateness of strategies and programmes, as well as dealing with all types of impact including unintended and unexpected consequences.
- 6.4 Respected experts from academia shall possess appropriate competencies and high level of experience in the field of information and Communication Technologies.
- 6.5 In this regard, the panel must be broadly representative of the various racial groups of the Republic and both males and females must be represented.
- 6.6 The panel must also have the necessary skills, knowledge, qualifications and experience to serve on the panel.
- 6.7 The panel should be constituted in the following manner:-
- 6.7.1 A retired High Court Judge;
 - 6.7.2 A representative from the office of the Auditor- General
 - 6.7.3 At least two representatives from organised consumer groups (civil society);
 - 6.7.4 Independent consultation/experts in the electronic communications, broadcasting or postal sector.

7. MEETING OF THE EVALUATION PANEL

- 7.1 The members of the Evaluation Panel shall meet as often as it is necessary.
- 7.2 The Chairperson must preside at the meetings at times.
- 7.3 Meetings of members shall be governed by a majority vote of all voting members at any duly convened meeting, provided that a quorum of one-third of the voting members are present at that meeting.
- 7.4 At any meeting, resolution put to the vote of the meeting must be decided by show of hands.
- 7.5 No member may nominate a representative to attend the meeting on his or her behalf.

8. SECRETARIAT

8.1 All administrative, financial and logistical matters related to the Evaluation Panel's work will be managed by a dedicated Secretariat provided by the Department of Communications.

8.2 Overall administrative support to the Evaluation Panel includes:

8.2.1 Organising the meeting of the Evaluation Panel; and

8.2.2 Logistical arrangements of the Evaluation Panel

9. REMUNERATION OF THE EVALUATION PANEL

9.1 In line with sound governance practices and provisions of application national Legislation and regulation, the remuneration of the members of the Evaluation Panel will be determined by the Minister of Communications.