



Gallagher McDowall BPS Client Bulletin

As a result of *Regulation 187/17*¹, the accompanying Treasury Board Secretariat (TBS) *Directive*² and the related *Guide*³ issued on June 9, 2017, the process which Ontario broader public sector (BPS) employers must use to implement and subsequently administer their executive compensation programs under the *Broader Public Sector Executive Compensation Act, 2014* has become much more procedural and constrained than before.

The new procedures require all affected employers to file their proposed programs with their overseeing ministries (e.g. the Ministry of Advanced Education and Skills Development for universities) for review and approval before they can be posted for public comment. Submissions to the overseeing ministries must specifically include:

- Comparator organization identification and justification for each position or position class,
- Proposed maximum rate of increases in annual cash compensation for each executive position or for each position class while the program remains in effect, and
- Proposed maximum potential annual percentage increases to the total cash compensation “envelope” of the executive team as a whole.

The use of any comparators from outside an employer’s field of operation, from the private sector, or from outside of Canada must be approved by TBS **before** the proposed program can be submitted to the overseeing ministry. These instances are expected by TBS to be “rare”.

Once an employer’s proposed program has been reviewed and approved by the ministry, it can then be posted for public comment. Ministry approval will be required again before the final program can be implemented.

As a result of the increased level of scrutiny required by the approval process, the original September 5, 2017 implementation deadline no longer applies. Instead, draft programs are required to be submitted to the overseeing ministries by no later than September 29, 2017.

¹ <https://www.ontario.ca/laws/regulation/r17187>

² <https://www.ontario.ca/page/broader-public-sector-executive-compensation-program-directive>

³ <https://www.ontario.ca/page/broader-public-sector-executive-compensation-guide>

However, no deadlines have been set for subsequent ministry approvals, or for the implementation of the final plans.

Future annual increases in the executive compensation envelope after an employer's program has been implemented will be subject to overseeing ministry approval, and must take into consideration a number of factors which are set out in the Regulation.

Nominal annual updating of the compensation caps will be allowed without requiring ministry approval, provided the increases are compliant with factors set out in the Regulation.

Our Gallagher McDowall team of senior executive compensation consultants is carefully reviewing the implications of these developments for each of our clients, and taking into consideration our understanding of the government's expectations that executive compensation costs in the broader public sector in Ontario will be carefully managed going forward.

For further information on the latest developments, please contact Bob Levasseur, Domenico D'Alessandro, Nicole Watson or Ray Murrill:

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