

NEWSLETTER

INTERNATIONAL

 ENGLISH VERSION

CHINA



EXECUTIVE RECRUITMENT IN THE CHINESE PROVINCES



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“MOBILITY IN CHINA IS INHERENTLY LOW”

How does recruiting for an executive position in the provinces differ from the sourcing of candidates in the big cities?

International companies almost always select the candidates who understand the principles of working in international companies, when recruiting for management positions. In big cities like Shanghai, Beijing, Guangzhou and Shenzhen, quite many candidates can be found with experience of working in international companies, whereas in the provincial cities, the picture is quite different.

The companies in these places are trying to source staff, but it is almost impossible to find candidates locally with the required experience in cross-cultural communication and foreign language skills. Should it prove impossible to find a suitable candidate from the few candidates available locally, then a candidate must be sourced from another province and then be encouraged to relocate. Unfortunately, mobility in China is inherently low, and people’s willingness to move from the industrial and cultural centres to the remote provinces is even lower.

Despite this, how can you recruit for management positions in the provinces?

Cooperation with an executive search firm is almost inevitable. These firms will first check if there are any suitable candidates in the international companies locally, while simultaneously launching a country-wide direct search to source suitably qualified candidates in other cities, who would be prepared to relocate to the location in question.

In Shanghai or Beijing, perhaps, suitable candidates may be found relatively easily. However, the challenge is also to source those candidates, who are, in principle, prepared to relocate.

From a business perspective, local employees have their advantages. When an applicant is new to a place, there is always the risk that they will view their job in the provinces as a temporary position and in the medium term, will endeavour to return back to their native region, often for family reasons.

Sometimes, however, it’s necessary to recruit skilled staff from other regions of the country into the local workforce. Therefore succession planning must be in place to ensure high potential local employees learn enough from the “outsider” during her tenure, and thus the “experience and passion for coaching” must be a key selection criterion for the candidate.

How much time should be scheduled for the search process?

A country-wide search for candidates is both costly and time consuming. In comparison with a restricted locally-based search, an additional four weeks at least should be set aside, to source possible candidates and arrange detailed interviews with them.

Do executive-level staff earn less in the provinces than in the big cities?

A candidate requires a tangible reason to relocate to another city, and their incentive for relocating is partly financial. In the provincial towns, therefore, there are almost two job markets: the local personnel market and the market for managers and professionals from other provinces. ►



Henry Zhu

Assignment Director, Shanghai
CT Executive Search/Jin Du
Management Consulting
Partners

Remuneration is significantly higher for non-local managers and professionals, than the conventional salary in that given location, and is not lower, than, let's say, in Shanghai. The Chinese from the industrial centres, who are prepared to relocate to the more remote towns and cities, feel like expats in their own country and therefore require a correspondingly high salary for their work. In addition to high remuneration, these candidates expect that the company will support them with regard to arranging accommodation and mobility, for example, providing them with an apartment, a company car and occasional paid flights back home.

DRAFTING OF EMPLOYMENT CONTRACTS IN CHINA

In the Chinese province it is still common practice to employ staff without written employment contracts. However, this practice cannot be recommended.

By now even in the rather remote parts of China employees are increasingly aware that in the event an employer fails to sign a written employment contract within 30 days from the commencement of the employment relationship, the employee is entitled to double monthly remuneration and after one year the employment term is regarded open-ended. Against this background it is highly recommended to enter written employment contracts without exception and also ensure an expired fix term contract is renewed in writing if the employment shall be continued.

The Chinese Labor Contract Law already sets forth the required extent of the contracts; authorities also provide templates which might be used as a basis in the drafting process, but should be amended in accordance with the individual requirements. In the following some practical hints are given, that should be taken into account when drafting employment contracts.

Fixed-Term Contracts

From employer's perspective, the termination of an unlimited employment contract under Chinese Law is oftentimes a complicated and costly process. Against this background, many companies prefer to employ their employees on a fixed term basis, in order to have the option to end the employment upon expiration of the respective term against the statutory severance payment. When considering stipulating a fixed term contract though, it has to be taken into account that under PRC Law upon expiration of the second fixed term contract and in the event both parties intend to continue the employment relationship, an employee is entitled to request an open-ended contract. Moreover, in certain regions of China the courts construe the respective regulation in a way that upon execution of the second fixed-term contract, in fact an open ended contract is entered. This basically means, that in those regions a fixed term contract may only be entered once. Therefore, we recommend to determine the local practice with the competent authorities prior to the conclusion of a contract and thereupon closely consider the contract term. ►

ANALYSIS



Sebastian Wiendieck

Partner & Head of the Legal Department, Rödl & Partner Shanghai

Probation

The stipulation of a probation period is always recommended, since it gives a company the opportunity to test an employee in practice and, in the event the recruitment requirements are not met, terminate the contract relatively uncomplicated without any severance payment. Concerning the maximum duration of the probation period, such limits depend on the employment term. In the event an employee is employed for less than one year, the corresponding probation period must not exceed one month. An employment term of less than three years enables an employer to stipulate a probation period of up to two month, whereas an employment term of three years and above allows a probation period of up to six month. In order to have the opportunity to assess an employee over a longer period, it is therefore recommendable to employ on a fixed term basis of at least three years.

Regular Working Hours and Overtime Payment

Regarding the regular working hours, the PRC law provides a standardized system that in principle applies to factory workers as well as general managers and sets the limits at 8 hours per day and 40 hours per week. In the event those limits are exceeded, employers are required to compensate the overtime work at 150% of the base salary, on weekends and national holidays at 200% respectively 300% of the base. To prevent such claims particular from senior management staff, it is advisable to stipulate a "non-fixed hour system" for those employees in the contract. Hereby the standard hour system as well as the rules on overtime payment will be prevented from being applicable. It has to be noted though, that the effective stipulation of such non-fixed hour system requires prior approval of the competent local authority. Concerning the specific positions in a company to which such system is applicable as well as further prerequisites, due to the different regional practices among Chinese authorities it is recommended to inquire at the competent authorities.

Regarding the working hour system of employees, not belonging to the senior management, it is also possible to agree on certain flexibilities to the regular working hour system, although in principle it is not allowed to fully abandon working hours. In those cases to prevent over time hours and corresponding compensation payments, it might be advisable to stipulate a clause in the contract under which overtime work requires the written consent of the employer.



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HELSINKI

Partner Office
Paciuksenkatu 27
00271 Helsinki, Finland

MOSCOW

CT Executive Search LLC
Central Office
Shlyuzovaya nab. 8,1
115114 Moscow, Russia
Telephone: +7 499 678 2111
E-Mail: office@ct-executive.com

TEHRAN

CT Executive Search
Iran Desk
Teheran/Berlin/Moscow

SHANGHAI

Partner Office
Suite 919, 993 West Nanjing Rd.
Shanghai 200041, China

BERLIN

CT Executive Search LLC Liaison Office
10117 Berlin, Germany

NEW DELHI

Partner Office
301 Eros Corporate Tower
Nehru Place
New Delhi 110 019

BANGALORE

Partner Office
DBS House,
No 26, No 404,
Cunningham Road
Bangalore - 560 052.

