



10 October 2023

MEMORANDUM

TO: MR SIBUSISO DHLADHLA
ACTING CHIEF EXECUTIVE OFFICER

FROM: MS THABISILE SHONGWE
SENIOR MANAGER: HRM&D

CC: MR TSHEOLA MATSEBE
CHIEF FINANCIAL OFFICER

**SUBJECT: REQUEST FOR THE APPOINTMENT OF PHUNGO INCORPORATED THROUGH
DEVIATION PROCESS.**

1. PURPOSE

The purpose of the motivation is to request the Acting Chief Executive Officer (ACEO) to consider and approve the appointment of Phungo Incorporated, due to the impracticality to appoint a new service provider.

2. BACKGROUND

Phungo Incorporated was appointed through a RFQ process with a threshold of a maximum amount of 1million rands to close the matter between NEHAWU on behalf of Thandi Mkhize vs Services SETA at Labour Court. The matter was thrown out of the Labour Court, but unfortunately NEHAWU on behalf of Thandi Mkhize applied for the reinstatement of the matter by the Labour Court.



3. SCM LEGISLATION /DELEGATION OF AUTHORITY

3.1 As provided on clause 18.2 of the Services SETA SCM Policy

If in a specific case it is impractical to invite competitive bids, the Chief Executive Officer may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Chief Executive Officer.

4. MOTIVATION

Phungo Incorporated has started representing the Services SETA at the Labour Court, and both parties are required to file the heads of arguments after Mkhize's attorneys have filed the reinstatement application for the review application. For continuity, the Services SETA still needs to be represented at the Labour Court and Phungo Incorporated have been handling the case and have knowledge of the matter. If we appoint a new law firm, it will be costly and delay the process.

5. FINANCIAL IMPLICATIONS

At the rates below.

6. LEGAL IMPLICATIONS

The requested deviation from normal procurement process is in line with the following acts and or regulations:

- PFMA
- SCM Policy
- SCM instruction notes



7. RECOMMENDATION

It is recommended that the Acting Chief Executive Officer (ACEO) considers and approves the request to appoint Phungo Incorporated for the provision of Services SETA's representation at Labour Court at the amount limited to two capacity fixed rate(s) below, all-inclusive VAT and other charges.

Capacity	Rate per Hour VAT Inclusive
Senior Partner /Director (20 years and more)	R 2,875.00
Senior Partner /Director (15 – 19 years)	R 2,300.00
Junior Partner/ Director 14 years and less	R 2,090.00
Senior Associate (5 years and more)	R 1,725.00
Associate /Professional Assistant (3 – 4 years)	R 1,380.00
Associate/ Professional Assistant (0 - 2 years)	R 1,150.00
Travelling Copies Faxes Telephone Company search	R 43.70

Services Sector Education & Training Authority (Services SETA)
15 Sherborne Road, Parktown, Gauteng; 2193
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Email: customercare@serviceseta.org.za
Website: www.serviceseta.org.za
Tel: 011 276 9600



REQUESTED BY:

THABISILE SHONGWE
SENIOR MANAGER: HRM&D

SUPPORTED/ ~~NOT SUPPORTED BY:~~

Legal Services to assist in determining the maximum amount

TSHEOLA MATSEBE
CHIEF FINANCIAL OFFICER

APPROVED/ ~~NOT APPROVED~~

SIBUSISO DHLADHLA
ACTING CHIEF EXECUTIVE OFFICER
DATE: 12/10/2023