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Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE SOLICITOR-GENERAL

PRESS STATEMENT

Date: 05 March 2024

Office of the Solicitor-General Addresses Justice Motha's Concerns and Propels Transformation in Legal Practices

The Office of the Solicitor-General acknowledges the concerns raised by Justice Mandlenkosi Motha regarding the representation of previously disadvantaged individuals within the legal profession. Justice Motha's directive, urging an examination of the absence of diversity among legal practitioners, underscores a critical need for transformation within our legal system. In responding to these concerns, the Office of the Solicitor-General is committed to fostering a legal profession that reflects the principles of diversity, inclusion, and equity.

Key Integration of Benefits:

1. Inclusivity and Diversity:

The Legal Sector Code and Briefing and Outsourcing Policy are designed to foster inclusivity by providing opportunities for previously disadvantaged individuals and firms in state legal work, thus cultivating a diverse legal community.

2. Addressing Historical Imbalances:

These transformative policies actively address historical imbalances within the legal profession, acknowledging past injustices and committing to rectify systemic disparities.

3. Empowerment of the Legal Profession:

Both frameworks aim to empower the legal profession by creating opportunities for a diverse range of practitioners. Empowerment contributes to a more dynamic, skilled, and representative legal workforce.

4. Social Cohesion and Unity:

The Legal Sector Code and the Briefing and Outsourcing Policy contribute significantly to social cohesion by ensuring legal opportunities are accessible to individuals across diverse demographic groups. This promotes unity within our society.

5. Transparent and Accountable Practices:

Both policies uphold the principles of good governance by fostering transparency, accountability, and prudent resource use. This contributes to ethical practices within government departments and legal entities.

6. Effective Functioning of the Legal System:

The shared objectives of these frameworks contribute to the effective functioning of the legal system, ensuring fair treatment, access to justice, and overall efficiency in legal processes.

Concrete Actions and Commitments:

- 1. Continuous Policy Enhancement:**
The Office of the Solicitor-General commits to continuous enhancement of existing policies, including the Legal Sector Code and Briefing and Outsourcing Policy, to address evolving challenges and ensure their effectiveness.
- 2. Stakeholder Collaboration:**
We will actively collaborate with legal practitioners, associations, and stakeholders to create an inclusive environment. This collaboration is pivotal in achieving our shared goals of transformation.
- 3. Empowerment Through Training within State Attorney Offices:**
Initiatives for training and mentorship programs to empower individuals appointed within the Offices of State Attorney shall be enhanced. This training aims to deepen their understanding of the transformative agenda related to briefing and outsourcing of state legal work, ensuring adherence to Standard Operating Procedures at all material times. This comprehensive approach will foster skill development and career advancement within a framework that aligns with our commitment to transformation and inclusivity.
- 4. Robust Monitoring and Reporting:**
The Office of the Solicitor-General will implement robust monitoring and reporting mechanisms to track progress, ensuring that the transformative objectives are being met and sustained.
- 5. Milestones achieved:**
In light of the challenges faced by the Offices of State Attorney up to 2019, significant progress and milestones have been achieved since the establishment of the Office of the Solicitor-General and the appointment of Heads of Offices of State Attorney effective 2020. These achievements serve as a foundation for improvement, further reinforced by the approval of the Briefing and Outsourcing of State Legal Work policy during the current dispensation. We are committed to building upon these accomplishments to foster positive change and transformation within the legal profession.

BRIEFING AND OUTSOURCING OF STATE LEGAL WORK

SECTION A – NATIONAL BRIEFS ISSUED

(1) % OF BRIEFS ISSUED TO PDI LEGAL PRACTITIONERS:

The percentage of briefs issued to Previously Disadvantaged Individuals (PDI) has consistently exceeded the targeted percentage, showcasing a commitment to inclusivity. The actual percentage has increased steadily over the years, reaching an impressive 95% in 2023/2024.

Percentage of Briefs to PDI Legal Practitioners:

- **2019/2020:** Actual - 93%, Target - 83%
- **2020/2021:** Actual - 89%, Target - 83%
- **2021/2022:** Actual - 92%, Target - 83%
- **2022/2023:** Actual - 94%, Target - 83%
- **2023/2024:** Actual - 95%, Target - 83%

(2) % OF BRIEFS ISSUED TO FEMALE LEGAL PRACTITIONERS:

The percentage of briefs issued to female legal practitioners has generally met or exceeded the target, indicating strides in promoting gender diversity. The actual percentage increased from 39% in 2019/2020 to 42% in 2023/2024.

Percentage of Briefs to Female Legal Practitioners:

- **2019/2020:** Actual - 39%, Target - 39%
- **2020/2021:** Actual - 36%, Target - N/A
- **2021/2022:** Actual - 40%, Target - 40%

- **2022/2023:** Actual - 42%, Target - 40%
- **2023/2024:** Actual - 42%, Target - 41%

(3) **BRIEFS ISSUED BY STATE ATTORNEY PRETORIA:**

The total number of briefs issued by the State Attorney Pretoria has shown variations over the years. Notably, the number of briefs to PDI and female practitioners increased in 2023/2024 compared to the previous year.

TOTAL SECTION B – VALUE OF BRIEFS ISSUED

4. **VALUE OF BRIEFS PAID TO PDI LEGAL PRACTITIONERS:**

The total value of briefs paid to PDI legal practitioners has consistently exceeded the target, demonstrating a commitment to financial inclusion. The actual percentage increased from 83% in 2019/2020 to 87% in 2023/2024.

Total Value of Briefs to PDI Legal Practitioners:

- **2019/2020:** Actual - 83%, Target - 82%
- **2020/2021:** Actual - 80%, Target - 80%
- **2021/2022:** Actual - 83%, Target - 83%
- **2022/2023:** Actual - 86%, Target - 83%
- **2023/2024:** Actual - 87%, Target - 83%

Total Value of Briefs Issued (2023/2024):

The total cost for the procurement of state legal services. However, we can calculate the cumulative total value of briefs issued to PDI (Previously Disadvantaged Individuals) legal practitioners and female legal practitioners for the most recent year, which is 2023/2024.

(1) Total Value of Briefs to PDI Legal Practitioners: R914,317,805.55

(2) Total Value of Briefs to Female Legal Practitioners: R306,809,232.81

Intimated Total Cost for Procurement of State Legal Services (2023/2024):

R914,317,805.55(PDI)+R306,809,232.81(Female)

Total Estimated Cost: R1,221,127,038.36

Therefore, based on the provided figures, the intimated total cost for the procurement of state legal services for the year 2023/2024 is approximately R1,221,127,038.36 (as at end Q3).

5. **TOTAL VALUE OF BRIEFS PAID TO FEMALE LEGAL PRACTITIONERS:**

The total value of briefs paid to female legal practitioners has generally met or slightly fallen below the target. However, the actual percentage remained steady at around 29%, showing some improvement over the years.

Total Value of Briefs to Female Legal Practitioners:

- **2019/2020:** Actual - 26%, Target - 27%
- **2020/2021:** Actual - 29%, Target - 29%
- **2021/2022:** Actual - 29%, Target - 29%
- **2022/2023:** Actual - 30%, Target - 28%
- **2023/2024:** Actual - 29%, Target - 30%

6. **VALUE OF BRIEFS ISSUED BY STATE ATTORNEY PRETORIA:**

The total value of briefs issued by the State Attorney Pretoria has increased over the years. Notably, the value of briefs to PDI practitioners increased in 2023/2024, while the value to female practitioners decreased, however, this trend might change before the financial year end.

Value of Briefs Issued by State Attorney Pretoria (2023/2024):

- **Total Value: R459m**
- PDI: R383m
- Female: R119m
- White Male: R75m

Key Observations:

- There is a commendable increase in the percentage of briefs issued to PDI legal practitioners and female legal practitioners over the years, indicating a positive trend towards diversity and inclusion.
- The State Attorney Pretoria has shown improvements in both the number and value of briefs issued to PDI practitioners, showcasing a commitment to addressing historical imbalances.
- Efforts should be directed towards achieving and surpassing the target percentage for briefs issued to female legal practitioners, ensuring sustained progress in gender diversity.

The statistics reflect a proactive approach in addressing historical imbalances and fostering diversity within the legal profession, although continued efforts are required to enhance gender inclusivity.

Transformative Strides and Statistical Insights (2019-2024):

The statistical information from 2019 to 2024 reflects the Office of the Solicitor-General's substantial strides towards transformation. Notably, the percentage of briefs issued to PDI legal practitioners consistently exceeds targets, reaching 95% in 2023/2024, surpassing the 83% target. Similarly, the value of briefs to PDI practitioners has consistently surpassed targets, reaching an impressive 87% in 2023/2024.

The Office of the Solicitor-General recognizes the transformative imperatives and affirms its dedication to transformative actions that align with the virtues and objectives of the Briefing and Outsourcing Policy. The commitment to promoting diversity, addressing historical imbalances, and enriching the legal profession is evident in the implemented policies and the tangible progress demonstrated in the statistical data.

The strides made thus far underscore our unwavering dedication to substantive changes in briefing and outsourcing practices, fostering an inclusive legal landscape. The Office of the Solicitor-General remains steadfast in its commitment to a legal profession that mirrors the diversity of our nation.

The Office of the Solicitor-General is steadfast in its commitment to a legal profession that mirrors the diversity of our nation. We recognize the imperatives set forth by the social discourses triggered by Justice Motha's inquiry and affirm our dedication to taking concrete actions that align with the benefits and objectives of the Briefing and Outsourcing of State Legal Work Policy. This commitment is central to our vision of a legal system that upholds the principles of diversity, inclusion, and equity.

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Issued by the Office of the Solicitor-General

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