

THE CATHOLIC UNIVERSITY OF EASTERN AFRICA



FACULTY OF LAW

CONTINUING PROFESSIONAL DEVELOPMENT, PROJECTS AND RESEARCH

TRAINING NOTICE

Procurement of Legal Services and Remuneration of Advocates by Public Institutions (2 LSK CLE POINTS)

26th & 27th JULY 2018 CUEA LANGATA CAMPUS

Ksh 18,560/- (Inclusive of all taxes and day delegate conference costs)

About this seminar

It is not in doubt that the procurement of legal services by the public sector and the remuneration of advocates thus procured has been the subject of much formal and informal discourse. But critical legal, ethical and policy issues on that important subject refuse to go away, and constantly appear to defy resolution, if a review of the jurisprudence from the courts and an increasing concern about the correct interpretation of the effect of section 45(2) of the Anti-Corruption and Economic Crimes Act on failing to comply with public finance management and public procurement procedures on such procurements and remuneration is anything to go by.

Whether it is the choice of the procurement method, the procurement process itself, the development of specifications, the evaluation of bids, actual or perceived undercutting arising from service level agreements, the limits of the advocates lien and its recognised potential to damage a client's cause, the fairness of remuneration, the procedure on recovery of fees or the powers and discretion of the taxing officer, the jury is still out on many aspects of those issues carefully identified and selected for discussion in this course.

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This two-day seminar provides a much-needed opportunity for further discourse on those issues by key stakeholders in the process. Led by Messrs Charles B G Ouma and Mwaniki Gachuba, a panel of acknowledged academics and practitioners spearhead a robust exploration and discussion of emerging trends patterns and themes with a view to settling or at least clarifying the debate on some of the issues of interest to clients and service providers alike. Representatives of key watchdog institutions such as the Law Society of Kenya, the Advocates Disciplinary Tribunal, the Public Procurement Regulatory Authority and the Ethics and Anti-Corruption Commission shed much needed light on the compliance issues arising and the consequences of non-compliance.

Seminar Objectives

At the end of the seminar, it is expected that the participants should show mastery of the legal, ethical, policy and institutional framework on the procurement of and remuneration for legal services by the public sector and accordingly be able to;

- **Undertake** statutorily compliant procurement of legal services in the public sector
- **Apply** the public finance management principles to the remuneration for legal services
- **Identify, recognize and resolve** ethical issues on the procurement and remuneration of advocates
- **Evaluate** claims on advocate's fees using the remuneration order
- **Determine** the circumstances under which advocates may be entitled to fees above or below the scale fees
- **Prosecute or defend** proceedings on advocate's remuneration
- **Render** advice on disputes arising from advocate's remuneration

Who should attend?

- Advocates in private practice
- In-House Counsel
- Members of administrative tribunals that use the Advocates Remuneration Order as a basis of determining the cost of proceedings in those tribunals.
- Academics

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The discussion is pitched for advocates who have practiced for five years and above but advocates of fewer years standing need not be discouraged from attending as the course presents an excellent opportunity to test recent learning and learn from the experiences the older professional siblings. This seminar can be tailored to suit the unique circumstances of an institutional in-house legal team. When tailored to meet specific needs, the discussion can be pitched to accommodate the needs of both legal and non-legal professionals such as finance managers, procurement personnel and other middle to senior level managers who regularly have to deal with issues of procurement of, and remuneration for legal services.

Application Procedure

Application: Application forms may be obtained from the **Catholic University of Eastern Africa Langata Campus (Registry)** or downloaded from the www.cuea.edu.

Duly completed application forms or confirmation of attendance should be submitted seven days before the course begins to facilitate logistical arrangements

For Course enquiries please contact Charles B G Ouma (HOD, CUEA CPD (+254 (0) 713 937 282) (ext 1550 on CUEA numbers) email charles.ouma@cuea.edu ,Dr Maurice Ajwang Owuor (Dean Faculty of Law)(1541) or Agnes Ext 1541 and Jacynter Ext 1545 on +254 -724-253-733/4. You may also email us at cueacpd@cuea.edu or visit our website: www.cuea.edu

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SEMINAR PROGRAMME

DAY 1		
Time	Activity/Topic	Facilitator/Moderator
08.00-08.30	Arrival and preliminaries	CHARLES B G OUMA & CUEA CPD
08.30-09.00	Opening Remarks/Introductions/Leveling of expectation	
09.00-09.15	The Advocate-Client Relationship <ul style="list-style-type: none">• Implications of the status of advocates on advocates remuneration Current issues on advocates' remuneration <ul style="list-style-type: none">• Ethical issues<ul style="list-style-type: none">• Responsibility to Act• Undercutting• Fairness• Sharing profits with unqualified persons• Champerty and maintenance• Contingency• Remuneration of advocates in the employ of unqualified persons• Costs awarded to advocates in the employment of unqualified persons(in-House Counsel)	CHARLES B G OUMA

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	<ul style="list-style-type: none"> • Remuneration of para-legal staff 	
0915:10.30	<ul style="list-style-type: none"> • Public Policy issues <ul style="list-style-type: none"> • To regulate or not to regulate • Public Procurement • Public Finance • Access to justice • Ethics and Anti-Corruption 	LSK PPRA EACC
10.30-11.00	Health Break	
11.00-01.00	Procuring Legal Services in Public Institutions <ul style="list-style-type: none"> • Compliance issues in the procurement of legal services by public institutions 	MWANIKI GACHUBA
	Procuring Legal Services in Public Institutions <ul style="list-style-type: none"> • Roles and Responsibilities • Choice of Method • Evaluation Criteria <ul style="list-style-type: none"> • Technical evaluation • Financial evaluation 	MWANIKI GACHUBA
	Procurement of Legal Services by Public Institutions <ul style="list-style-type: none"> • Contract Administration 	MWANIKI GACHUBA

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	<ul style="list-style-type: none"> • Dispute resolution • Inspection and acceptance • Payment 	
01.00-02.00	Health Break	
02.00-02.45	<p>Remuneration of advocates in the employ of unqualified persons(in-House Counsel)</p> <ul style="list-style-type: none"> • Law Societies position on salaried employment • Power of chief Justice to fix remuneration • Costs awarded to advocates in the employment of unqualified persons(in-House Counsel) • Calculating Profit Costs 	TBA
02.45-03.30	<p>Methods of fixing advocates remuneration</p> <ul style="list-style-type: none"> • The ARO • Powers of taxing officer. • Discretion of taxing officer • Agreements on remuneration/Service level agreements • Liberty to elect to charge under Schedule V; election to be 	TBA

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	<p>communicated to client in writing.</p> <ul style="list-style-type: none"> • Invalid agreements • Power of the court to review agreements on remuneration • Consequences of invalidity • Interest on costs <p>Security for costs</p>	
03.30-04.00	<p>Liability for payment of costs</p> <p>When costs in High Court may be restricted to subordinate courts' scale.</p> <p>Liability of advocates for payment of costs</p> <p>Limitation on costs.</p>	TBA
Day 2		
0830-09.15	<p>Exceptional dispatch, special fees and exceptional circumstances</p> <ul style="list-style-type: none"> • Additional remuneration for exceptional dispatch. • Special fee for exceptional importance and complexity • Costs of more than one advocate. • Costs of Queen's Counsel and junior counsel 	TBA

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	<ul style="list-style-type: none"> • Costs where same advocate is employed by two or more plaintiffs or defendants • Costs where there has been a change of advocates • Where more than one-sixth taxed off. 	
0915-10.00	Expenses chargeable in addition to remuneration. <ul style="list-style-type: none"> • Witness expenses. • Vouchers to be produced • Costs improperly incurred by advocate. 	TBA
10.00-10.30	Health Break	TBA
10.30-11.15	Liens and Charging orders Power of court to order advocate to deliver his bill and to deliver up deed	TBA
11.15-11.30	Procedure on recovery of costs	TBA
11.30-12.15	Recourse: Reference Appeal and Review Limits of time for taxation	TBA
12.15-01.00	Professional sanctions	ADT
01.00-02.00	Health Break	TBA

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02.00-03.15	Trends, patterns and themes-Lessons from the courts	CHARLESB.G. OUMA & MWANIKI GACHUBA
03.15-04.00	Wrap up and closing	CHARLES B G OUMA & CUEA CPD

PREPARED BY

CHARLES B G OUMA