



**OFFICE OF THE COUNTY ATTORNEY LEGAL
AFFAIRS OFFICE MANUAL**

TABLE OF CONTENTS

PROCEDURE	NUMBER	1:	CONTRACT	PREPARATION
.....		3		
PROCEDURE			NUMBER	2:
LITIGATION.....				5
PROCEDURE	NUMBER	3:	LEGISLATIVE	PROPOSALS AND POLICIES
.....		8		
PROCEDURE	NUMBER	4:	PROCESSING OF	ADVOCATES' FEE NOTES
.....		9		
PROCEDURE	NUMBER	5:	LEGAL	RESEARCH AND OPINIONS
.....		10		

PROCEDURE NUMBER 1: CONTRACT PREPARATION

1.1 PURPOSE

The Purpose of this procedure is to ensure timeliness, effectiveness, and consistency in preparation of Contract Documentation.

1.2 SCOPE

This procedure applies to processing of all Contracts within the County Government.

1.3 PRINCIPAL RESPONSIBILITY

The County Attorney and the Principal Legal Officer shall ensure that this procedure is adhered to.

Documents to be availed

- a) Bid documents of the successful bidders.
- b) Letter of Award and Acceptance
- c) Performance Bond, Advance Payment Guarantee, Professional Indemnity Cover, Contractors All Risk Cover

1.4 Procedure

1.4.1 The Contract making shall start with the CA /PLO receiving a notification of award of tender, Letter of Award, Letter of Acceptance, Tender Document and Contract Signing Form from the Director Supply Chain Management for a particular contract.

1.4.2 Upon receipt of the above documentation, the CA/PLO shall direct the LAA to assign a Contract Number to the Contract and verify the documentation.

1.4.3 In the event of an anomaly in the documentation, the same shall be referred to the Director Supply Chain Management with recommendations.

1.4.4 Where the Contract requires provision of Security documentation such as Performance bonds, the Director Supply Chain Management shall furnish the same as part of the documentation prior to preparation of the Contract and the LAA shall establish the authenticity/validity of the same from the issuing bank before execution of Contract.

1.4.5 Where the Contract requires provision of Professional Indemnity Cover and/or Third-Party Insurance Cover and or other forms of insurance covers the Director Supply Chain Management shall furnish the same as part of the documentation prior to preparation of the Contract and the LAA shall establish the authenticity/validity of the same from the issuing institution before execution of Contract.

1.4.6 In the event that the Security Documentation in 1.4.4 and 1.5.5 above is not valid, the CA/SLO shall advise the Director Supply Chain Management and user departments accordingly.

1.4.7 Upon receipt and authentication of all documentation, the CA/PLO shall proceed to prepare the Contract together with the contract signing form and forward it to the relevant Department for confirmation of technical details. The Department shall examine the same and return for execution if in agreement and/or amendment where necessary.

1.4.8 The LAA shall notify the Contractor/Consultant/Supplier when the Contract is ready for execution.

1.4.9 The CA, the PLO or any other CLO shall, before signing the contract establish that the execution is done by the Directors in the case of a limited liability company or by authorised officials in case of any other setup.

1.4.10 Where Directors or authorised officials are unable to attend to execute in person the respective entities shall furnish the requisite legal instruments authorising their representatives to sign, to the CA, the PLO or any other CLO before execution.

1.4.11 Upon execution of the Contract by all parties the same shall be sealed and copies forwarded to the Director Supply Chain Management for distribution; the original shall be retained for safe custody by the Chief Officer or the County Secretary as the case may be. The procedure is deemed complete.

PROCEDURE NUMBER 2: LITIGATION

2.1 PURPOSE

The Purpose of this procedure is to ensure timeliness, fairness, consistency and effectiveness in defending actions/suits brought against the County Government in Courts and other Tribunals.

2.2 PRINCIPAL RESPONSIBILITY

The County Attorney and the Senior Legal Officer shall ensure that this procedure is adhered to.

2.3 SCOPE

This procedure applies to all forms of Litigation brought against the County Government.

2.4 Introduction

The types of processes shall include: -

- a) Procedure when Case handled in-house.
- b) Procedure when external Counsel handle cases for the County Government

2.4.1 In house counsel handling cases for the County Government

2.4.1.1 The process shall start on receipt of Court pleadings served upon the office of the County secretary or CA/SLO.

2.4.1.2 Upon receipt of the Court pleadings the CA/SLO shall request for detailed instructions from the Department involved in the case.

2.4.1.4 Upon receipt of the detailed instructions from the user Department, the CA/SLO shall take the necessary steps to file all the pleadings required in the matter and ensure Court attendance to defend the County Government.

2.4.1.4 In the event that a decision is made to settle the matter out of Court, the CA/SLO shall contact the claimant and/or his or her lawyers and work out an agreement in consultation with the user department.

2.4.1.5 The CA/SLO shall ensure regular briefing of the user departments on the Court proceedings.

2.4.1.6 The CA/SLO shall prepare a Court Attendance report to be filed in the relevant case file after every Court attendance.

2.4.1.7 Upon judgement or ruling, the CA/SLO shall inform the user Department and the County Secretary of the decision of the Court for information and action.

2.4.1.8 The CA/SLO in consultation with the user department shall make a decision whether to appeal or to abide by the Court's decision.

2.4.2 External counsel handling cases for the County Government

2.4.2.1 This shall start on receipt of Court pleadings served upon the office of the County secretary or CA/SLO.

2.4.2.2 Upon receipt of the Court pleadings the CA/SLO shall initiate the appointment process to instruct an Advocate from the prequalified list of Advocates. The CA/SLO will ensure that external counsel selected is in good standing, has not been found guilty of professional misconduct and has no pending matter before the Advocates Disciplinary Tribunal and is the best suited to defend the interests of the County Government.

2.4.2.3 The CA/SLO shall issue a letter of Instruction to the Advocate appointed to handle the matter. The Counsel, once appointed are required to file a Memorandum of Appearance and/or Notice of Appointment and any other pleading necessary as the case may be immediately or soon after receipt of instructions so as to comply with prescribed timelines under the law.

2.4.2.4 The CA/SLO or CLO shall hold pre-trial briefing with the user Department, prospective witnesses and external Counsel in order to adequately prepare for Court matters/hearing.

2.4.2.5 Upon attendance by the external Counsel and submission of the status report to the CA/SLO, the CA/SLO shall update the User Department on notable progress in the matter.

2.4.2.6 In the event a settlement is proposed to be entered into by consent, the CA/SLO shall discuss the terms of the same with the External Counsel before the Consent is signed and filed in Court. Such terms shall be agreeable to the instructing Department.

2.4.2.7 The CA/SLO shall receive continuous updates on the matter, until the same is concluded from the appointed Counsel.

2.4.2.8 At the conclusion of the case, and where a judgment is not in favour of the County Government; if in the opinion of the external counsel, the CA/SLO and the user department, an Appeal should be lodged against the Judgment or Ruling, the CA/SLO shall immediately notify the External Counsel to file a Notice of Appeal or Memorandum of Appeal (as the case may require).

2.4.2.9 Upon judgement, the external counsel shall supply a certified copy of the judgment/ruling together with a decree, certificate of costs and certificate of order as the case may be.

2.4.2.10 The CA/SLO shall notify the Chief Officer of the user Department of the decision of the Court for information and action.

2.4.2.11 Where judgment/ruling requires settlement of a decretal amount, the CA/SLO shall advise the Chief Officer of the user Department and/or the Accounting officer responsible for settlement of legal claims to settle the decretal amount without undue delay.

2.4.2.12 The advisory for settlement of the decretal amount shall be accompanied by certified copies of the judgment/ruling, decree, certificate of costs and certificate of order.

2.4.2.13 Upon settlement of the decretal amount the Accounting Officer responsible for settlement of legal claims shall provide the CA/SLO with the relevant payment voucher and payment advice for filing by the CLA in the respective file.

2.4.2.14 The CLA shall file the Court files in the bulk filing system in the Legal office and the procedure shall be deemed complete.

PROCEDURE NUMBER 3: LEGISLATIVE PROPOSALS AND POLICIES

3.1 PURPOSE

The Purpose of this procedure is to provide for the process of proposing legislation and preparation of legislative proposals and policies.

3.2 SCOPE

This procedure applies to preparation of legislative proposals and policies.

3.3 PROCEDURE

3.3.1 Upon receipt of a request for technical assistance the CA/SLO shall conduct a factual background check into the area of legislation and other related areas.

3.3.2 When necessary, the CA/SLO shall seek clarification from the instructing department on policy issues and any necessary information on the intended legislation.

3.3.3 The consultation may go beyond the instructing department to other departments that may be affected by a policy or those with an implementing role in the intended legislation.

3.3.4 The CA/SLO shall after the consultation, make a draft that is clear on the policy intentions of the instructing department

3.3.5 The CA/SLO may then undertake a comparative research to ensure that the draft legislative instrument benefits from national and international best practices and further that the draft legislative instrument conforms to the letter and spirit of the Constitution.

3.3.6 The CA/SLO shall devise ways around any problems that may arise out of the proposal and harmonize any departmental conflicts in content and policy.

3.3.7 After the draft has been subjected to public participation or stakeholder engagement the CA/SLO shall after considering the stakeholders' input incorporate any amendments before forwarding the final draft to the relevant Country Executive Committee member for presentation before the ExCom.

PROCEDURE NUMBER 4: PROCESSING OF ADVOCATE'S FEE NOTES 4.0 4.1

4.1 PURPOSE

The Purpose of this procedure is to ensure timeliness, accuracy, efficiency and consistency when processing Advocates fee notes.

4.2 SCOPE

This procedure applies to processing of all fee notes raised by Advocates acting on behalf of the County Government.

4.3 PROCEDURE

4.3.1 This shall start by the CA/SLO drafting an SLA in consultation with the Advocate appointed to act on behalf of the County Government.

4.3.2 Once there is an agreement as to the fees payable and the schedule of repayment (in accordance with the Advocates Remuneration Order, the CA/SLO shall forward the SLA to the Advocate for execution and return to him/her.

4.3.3 Upon receipt of the signed SLA from the advocate, the CA/SLO shall sign the agreement and the CLA shall file it in the respective file.

4.3.4 Upon receipt of a fee note from the Advocate, the CA/SLO shall verify the same by ensuring that it is in accordance with the SLA and the Advocates Remuneration Order.

4.3.5 Upon verification and/or amendment of the fee note, the CA/SLO shall attach the SLA to the fee note and vide a memo to the Accounting Officer advice for payment by the Finance Department.

4.3.6 Upon payment of legal fees, the Accounting Officer responsible for payment of legal fees shall forward to the CA/SLO a copy of the payment voucher and payment advice for filing by the CLA in the respective file.

4.3.7 Upon receipt of the cheque and/or wire of the transfer of funds into the Advocate's firm's account, the firm shall issue a receipt acknowledging payment of legal fees which shall be filed in the respective file. The procedure shall be deemed complete.

PROCEDURE NUMBER 5: LEGAL RESEARCH AND OPINIONS

5.1 PURPOSE

The Purpose of this procedure is to ensure timeliness, accuracy, efficiency and consistency when preparing legal opinions and conducting legal research.

5.2 SCOPE

This procedure applies to all forms of research that is undertaken in the Legal Office and legal opinions sought by user departments.

5.3 Introduction

The types of process shall include: -

- a) Legal Opinions done in-house
- b) Legal opinions done by external counsel

5.4 Legal Opinions done In-House

5.4.1 This shall start with the CA/CLO receiving a request from the Department seeking legal advice.

5.4.2 The CA/CLO shall then request for detailed instructions where necessary from the Department seeking detailed advice.

5.4.3 Upon receipt of the instructions, the CA/CLO shall research on pertinent legal issues on the area on which advice is sought.

5.4.4 The CA/CLO shall draft an opinion detailing the basis for the legal advice prepared and citing the relevant law and authorities on the subject where necessary.

5.4.5 The CA/CLO shall upon finalization of the legal opinion communicate to the Department seeking the Legal Opinion/Advice by sending to the relevant department a copy of the opinion.

5.5 Legal opinions done by external counsel

5.5.1 This shall start with the CA/CLO receiving a request from the Department seeking legal advice.

5.5.2 The CLO shall then request for detailed instructions where necessary from the Department seeking advice.

5.5.3 Upon receipt of the instructions, the CA, based on the complexity of the matter, instruct the CLO to issue instructions to an advocate with expertise on the area.

5.5.4 Upon receipt of a legal opinion on the matter, Procedure Number 4 will apply as far as payment of legal fees is concerned.

