



TERMS OF REFERENCE FOR LEGAL SERVICES:

1.1 Background Information

The Retirement Benefits Authority is a statutory body established under the Retirement Benefits Act, Cap 197 for the regulation, supervision and promotion of retirement benefits schemes and development of the sector. Section 5 of the Act sets out that the objects and functions of the Authority are to:

- a) regulate and supervise the establishment and management of retirement benefits schemes;
- b) protect the interest of members and sponsors of retirement benefits schemes;
- ba) approve trustees' remuneration approved by members during the annual general meeting after every three years;
- c) promote the development of the retirement benefits sector;
- d) advise the Minister on the national policy to be followed with regard to the retirement benefits schemes and to implement all government policies thereto;
- e) perform such other functions as are conferred on it by this Act or by any other written law.

Since its establishment, the Retirement Benefits Authority (RBA) has formulated and implemented strategic plans aimed at meeting its objective. RBAs vision is an inclusive, secure and growing retirement benefits sector, while its mission is to proactively promote savings for retirement in Kenya through safeguarding, supervising and facilitating the development of the retirement benefits sector. As RBA forges forward on its mandate, responsiveness, transparency and accountability, integrity and innovation are some of the core values that will propel us forward.

RBA wishes therefore to procure the services of a prequalified law firm to represent it in the Retirement Benefits Appeals Tribunal and other courts of law as dictated until final settlement.

1.2 Scope of work

1. Matter

- Legal counsel on the case
 - Client meetings with RBA and respondents where necessary
 - Filing court documents
 - Attendance of court hearings, mention, judgment
 - Correspondence and feedback on matter
 - Any other service related to legal counsel in the case
2. In the event that the matter at the High Court proceeds by way of further appeal or judicial review or otherwise, the law firm shall be tasked with handling that matter. The firm is expected to provide the same scope of services as will be provided during the time the matter is at the Tribunal.
3. The firm is expected to represent and advice the Authority in line with its statutory mandate as provided above.

1.2 Case Details

Petition No. 118 of 2020 Okiyah Omtatah Okoiti V RBA, Cabinet Secretary for the National Treasury, The Hon. Attorney General

The Authority has been served with the above matter and is listed for interparties hearings/ directions on Thursday **2nd April 2020**.

Issue

This case is centered on the advert RBA placed in the dailies as a Reminder Notice to Retirement Benefit Schemes – Filing of Scheme Accounts and Payment of the Retirement Benefits Levy.

The petitioner requests that the court do the following:

- a. Issue conservatory order suspending the advertorial the Notice published by RBA in the press;
- b. Issue a temporary order of prohibition prohibiting the RBA from proceeding to give effect to the Notice/ advert published in the press on 11th March 2020;
- c. Issue conservatory order suspending the application of and prohibiting RBA to give effect to sections 16, 34(4) of the Retirement Benefits Act, Regulation 39 of the Retirement Benefits (Occupational Retirement Benefits Scheme) Regulations 2000;

Regulation 32 of the Retirement Benefits (Individual Retirement Benefits Scheme) Regulations 2000; and Regulation 46 of the Retirement Benefits (Umbrella Retirement Benefits Scheme) Regulation 2017;

The petition avers that the matter is extremely urgent due to the deadlines for submitting audited accounts and payment of levy. The petitioner cites the current COVID-19 crisis and the measures to prevent its spread (such as stay at home and social distancing) as the reasons for which compliance is not possible. That RBA ought to have been cognizant of this like other regulators who have intervened to cushion their sectors from the effects of the lockdown due to COVID 19 thereby failing to cushion the industry by invoking section 59 of the Retirement Benefits Act.

The conservatory orders are requested to preserve the motion until the matter is heard and determined on its merits.

1.4 Evaluation Criteria

RBA will evaluate your proposal based on compliance with the below requirements. The following evaluation criteria will apply:

1.4.1 Mandatory Requirements:

Bids will be undertaken through the mandatory requirements. Firms that do not meet the mandatory requirements will not qualify to be evaluated further:

- i) Tax Compliance Certificate
- ii) Certificate of Incorporation
- iii) Advocate's Practicing Certificate (Current Year- 2020).

RBA reserves the right to authenticate the documents and information submitted. Any falsification will lead to automatic disqualification.

NO ADVANCE PAYMENT SHALL BE PROVIDED.

Interim fee notes can be forwarded for consideration based on work done and as provided for in the notification of award, if at all.