REPUBLIC OF KENYA

COUNTRY: KENYA

PROJECT: KENYA DIGITAL ECONOMY ACCELERATION PROJECT (KDEAP)

IMPLEMENTING AGENCY: Information and Communications Technology Authority (ICTA)

PROJECT ID: P170941; Credit Numbers 7289-KE and 7290-KE

TERMS OF REFERENCE FOR:

Request for Expression of Interest

For:

Consulting Services for Provision of Policy, Legal and Institutional Framework for ICT (Consulting Firm)

Contract No: KE-ICTA-418668-CS-QCBS

Issue Date: 1st October 2024

Closing Date: 14th October 2024 at 1000Hrs East African Time

Client:
The Chief Executive Officer,
ICT Authority
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1. Introduction

The Government of the Republic of Kenya (GoK) has received a Credit from the International Development Association (IDA) towards the cost of the Kenya Digital Economy Acceleration Project (KDEAP). The project development objectives are to (a) expand access to broadband; (b) strengthen Kenya's connectivity with the region; (c) enhance government institutions, infrastructure and service digitization for improved service delivery; (d) enhance Kenya's capacity to drive regional data integration and (e) to boost digital skills, and access to affordable devices and to regional and global markets to position Kenya as a regional digital hub.

The overall project development objective is to expand access to high-speed internet, improve the quality and delivery of education and selected government services, and build skills for the regional digital economy.

The project has several components and will support various investments including expanding broadband coverage and access and enhancing the enabling environment for the digital economy, enhancing digital skills and markets, Increasing efficiency and security in government operations and Project Management.

The four components details are:

Component 1: Digital Infrastructure and Access. This component supports expands broadband coverage and access and enhances the enabling environment for the digital economy through two main interventions classified under five sub-components:

> *Sub-component 1.1: Extending the Reach of the Backbone Network (middle mile)*. This subcomponent aims to deepen the coverage of national broadband backbone networks by extending coverage to the ward level and by providing redundancy on key routes.

> *Sub-component 1.2: Increasing Last Mile Connectivity for Education*

> This subcomponent will support the expansion of lastmile internet connectivity for priority locations in the education sector, particularly in underserved rural areas.

> *Sub-component 1.3: Enhancing Government Connectivity*

This subcomponent aims to boost the level of internet connectivity provided to Government MCDAs in rural areas by extending last-mile connectivity and supplying them with pre-paid bandwidth under long-term supply agreements.

Sub-component 1.4: Strengthening the Digital Enabling Environment

This subcomponent will finance TA and capacity building to enhance the policy and regulatory environment for the digital sector in line with the evolving needs of a thriving digital economy.

Sub-component R1.5 Enhancing Regional Digital Infrastructure

This subcomponent will extend the efforts to enhance Kenya's backbone network (subcomponent 1.1) by strengthening its broadband connections with neighboring countries and increasing the number of fiber border crossings.

Component 2: Digital Government and Services

This component supports increasing efficiency and security in government operations. The component will invest in automating and digitizing selected government services while strengthening the legal and policy frameworks and the technical architecture needed to enable a whole-of-government transition to paperless Government.

Sub-component 2.1: Digitizing Selected Government Services. This subcomponent will provide end-to-end digitization for selected key government services.

Sub-component 2.2: Developing the Critical Enablers for Digital Government
This subcomponent will strengthen the technical, institutional, legal, and regulatory foundations that provide the enabling environment for internal efficiencies and collaboration across the government.

Sub-component R2.3: Enhancing Regional Data Governance. This regional subcomponent will seek to establish Kenya as a regional leading services provider through strengthening its data governance regime and capabilities in line with international and regional standards.

Component 3: Digital Skills and Markets

This component supports the enhancing digital skills, device affordability and eCommerce to support the digital economy.

This component aims to equip young Kenyans with digital skills and strengthen their abilities to access and compete in domestic and regional markets through supporting skills development, to study mechanisms to improve access to affordable devices and through enhancing the enabling environment for e-commerce to support Kenya's role as a regional digital hub.

Sub-component 3.1: Supporting Digital Literacy

This subcomponent, with MoE as an implementing partner, will strengthen digital literacy and digital skills programs including through the rollout of Phase 3 of the national DLP to junior secondary schools and TVETs, and capacity building and content development for teachers in teacher training colleges to leverage digital technologies. Strengthening digital skills and fostering a culture of innovation and collaboration will be critical to preparing young Kenyans for the workforce of the future.

Sub-component 3.2: Enhancing Employment-ready Digital Skills

This subcomponent will seek to provide Kenyans with advanced digital skills in line with emerging opportunities in the creative industry and the digital economy.

Sub-component 3.3: Promoting Device Affordability

This subcomponent will complement the work on digital skills development by studying the mechanisms for putting advanced digital devices in the hands of those who need them most.

Sub-component R3.4: Positioning Kenya as a Regional Digital Hub

This regional subcomponent will seek to position Kenya as a regional hub for software development and promotion of digital content.

Component 4: Program Management

This component will support project implementation, coordination, and capacity building for the Project Implementation Unit (PIU).

4.1: Project Implementation Support

The PIU will be situated in the ICTA, which is a specialized agency of MICDE, and which will draw upon expertise and staff from MICDE, MOE and other MCDAs. At

a minimum, this will initially include support for a dedicated project manager, procurement and financial management specialists, and environmental and social specialists. Other positions, for instance, technical specialists, M&E, gender, communications, etc. may be added later. It will also provide support for office equipment, incremental operating costs, and audits.

R4.2: Management of Regional Activities
The PIU will also manage the regional activities under the project, as covered in sub-components R1.5, R2.3 and R3.4.

KDEAP will be led by the Ministry of Information, Communication and the Digital Economy (MICDE) through the ICT Authority as the implementer. A Project Implementation Unit (PIU) will be set up at the ICT Authority which will be responsible for overall implementation, fiduciary, Environment and Social Framework (ESF) compliance for the project. PIU staff will draw upon experts from MICDE, MoE and other MCDA.

The ICT Authority intends to apply a portion of the proceeds of the Credit towards procuring a **consultant firm to provide policy and institutional framework for ICT**

2. The objective of the Assignment
The primary objective of the assignment is the development of proposals for a policy, legal and institutional framework that facilitates digitization and recognizes the centrality of information security in this process.

3. Scope of Services and specific tasks

The consultant will undertake the task in one phase as follows:

An assessment of the existing legislative and policy framework that enables and supports digitization, developing amendments and consolidation of laws and policies to support digitization and identifying an institutional framework for digitization.

The consultant will undertake the following tasks**:**
   a) Undertake a diagnostic of the current legal and policy framework in Kenya that which enables digitization and information security.
   b) Undertake analysis of the law and whether it supports or hinders digitization.

c) Identify the stakeholders who are essential in the success of digitization and how they are to be engaged.
d) Engage the stakeholders who are essential in the successful implementation of the proposed framework in public and private sector.

e) Propose amendments to the policy and legal framework.
f) Propose an institutional framework to support the process.

Preparation of proposed amendments to the legal and policy framework

a) Engage all relevant stakeholders on policy and legal proposals, including through an online consultation process and open stakeholder meetings.
b) Propose suitable wording of the policy and legal provisions.
c) Prepare the necessary paperwork to support the proposals including the justification of proposals and reports of engagements with stakeholders.

4. Duration and Location of the Assignment

The duration of the assignment will be Nine (9) calendar Months from contract commencement date.

The position shall be based in ICT Authority, 12th floor Telposta Towers, Nairobi, Kenya with travels as required country-wide to review the project progress.

5.0 Reporting and Deliverables

The following are the key deliverables.
Table 1: Reporting requirements

Output/Report	Description of output	Timeline for submission of output from date of commencement of the Assignment	Number and Format of reports presentation

Inception Report	The Consultancy firm will have the first meeting with ICTA and share a report on workplan, methodology and the team among other inaugural items before commencing the assignment.	1 Month	3 hardcopies, 2 electronic copies [Flash drive+Online Repository]
Policy & Legal Review Report	The Consultant will share the detailed report that summarises the existing legal and institutional framework that supports digitization in government and information security.	3 months	3 hardcopies, 2 electronic copies [Flash drive+Online Repository]
Stakeholder engangement report	Identified and enganged key stakeholder in and digitization and information security. The report should incorporate stakeholder feedback and proposals. Institutional mapping	6 months	3 hardcopies, 2 electronic copies [Flash drive+Online Repository]
Final Report: Policy and legal proposals	Analysis of policy and legal provisions in Commonwealth Jurisdictions. Proposed provisions on policy and law Proposed institutional framework	9 months	3 hardcopies, 2 electronic copies [Flash drive+Online Repository]

All draft and final reports (2 original hard copy and 1 hard copy and a digital copy) shall be submitted in the prescribed format to:

The Chief Executive Officer,
ICT Authority
Telposta Towers 12th Floor, Kenyatta Ave
PO Box 27150 – 00100
Nairobi Kenya
Tel: +254 20 2089061/ 2211960 Fax: +254 20 2211960
Email: procurement@ict.go.ke , info@icta.go.ke
Website: www.icta.go.ke

Attention:
The Project Coordinator
KDEAP

Upon submission of every report, the consultant is expected to make a presentation of the submitted report to the Client in a scheduled meeting. The acceptance of the report shall be recorded in the minutes of the meeting.

6.0 Payment Schedule/Remuneration

Table 2: Proposed payment schedule

S/No.	Deliverables	Timelines after contract commencement	Percentage of the contract amount
1.	Submission and Acceptance of Inception Report	1 Month	10%
2.	Submission and Acceptance of policy and legal review report	3 Months	30%
3.	Sumission and Acceptance of Stakeholder engangement report	6 Months	30%
4.	Submission and Acceptance of Final report: policy and legal proposal	9 Months	30%

7.0   Minimum qualification and experience requirements

The shortlisting criteria for the Consulting Firm will involve the following:

i.   **Core business and years in business:** A law firm registered/incorporated with core business in providing consulting services in telecoms, digital access advisory and research or related services for a period of at least Seven (7) years

ii.   **Relevant experience:** The firm shall demonstrate as having successfully executed and completed at least two (2) assignments of similar nature, complexity and in a similar operating environment in the last Seven (7) years. Details of the assignments (name and address of the client, scope, value, and period) should be provided.

iii. **Technical and managerial capability of the firm:** The firm shall demonstrate having the requisite technical and managerial capacity to undertake the assignment (attach company profile).

8.0 Team composition and minimum qualification and experience requirements for the key experts

The Consultant shall demonstrate well qualified and experienced professionals as required and appropriate for execution of the assignment. The Consultant will be required to have a multi-disciplinary team including legal, policy and regulatory experts and economists. They should possess necessary resources to undertake services of such nature including equipment and software required to execute the assignment. The key professionals/expert shall personally carry out (with assistance of other non-key experts and staff deemed appropriate) the services as described in this TOR. The key experts to be provided by the Consultants for this assignment are as follows: -

Table 3: Team composition and minimum qualification and experience requirements for key experts

No.	Key Experts
1.	**Team Leader** i. A minimum of masters degree in Law from a university/institution recognized in Kenya. ii. Demonstrate general knowledge and experience of at least ten (10) years in the Information Communication Technology (ICT) sector. iii. At least Eight(8) years' specific experience in policy and legislative drafting in related field in Kenya or globally. iv. Must have a practising licence as an advocate of High Court of Kenya.
2.	**Information Security expert** i. A minimum of master's degree in computer science, cybersecurity, science/technology and or relevant fields. ii. Minimum 10 years of general experience in information Security. iii. Minimu of 5 years experience in managing and implementing cybersecurity strategies related projects in developing countries would be an advantage.

	iv. Certifications such as CISSP,CISM, or GCIH and internationally recognized SOC Aauditor certification will be an added advantage.
	
	ICT Expert
	  i. A minimum of a Bachelor's degree in Telecoms/Electrical engineering or related field from university recognized in Kenya.
	  ii. A minimum of eight (8) years of general experience of ICT regulation in emerging and frontier markets, experience in regulation around disruptive technologies, with at least two prior assignments in Sub-Saharan Africa.
	  iii. Specific experience of 5 years in projects focused on ICT sector development in emerging and frontier markets.

3.	**Legislative Drafter**
	  i. A minimum of a Bachelors degree in law from a recognized university in Kenya.
	  ii. A minimum of 5 years of experience in legislative drafting.
	  iii. Advocate of the High Court of Kenya preferably with certification or training in legislative drafting

4.	**Collaboration and Public Engagement specialist**
	  i. A minimum bachelor's degree in public administration, economics, international development, law or social science. A recognized certification in collaboration and public engagement
	  ii. A minimum of 7 years of experience in stakeholder/public engagement and sensitization, experience in Kenya is preferred.
	  iii. A minimum of 5 years demonstrable technical expertise and working knowledge of participatory processes and methodologies.

5.	**Governance and policy expert**
	  i. A minimum of a bachelor's degree in public policy, political science, law, economics, international relations, or a related discipline.
	  ii. Minimum seven (7) years general work experience in governance, policy analysis, public administration, or a related field.
	  iii. A minimum of three (3) years of experience in developing, implementing, and evaluating policies and procedures.

9.0 Estimated time inputs for key experts

The number of key experts and the estimated time input for each key expert for the assignment are presented in Table 3.

Table 3: Estimated Time Inputs for Key Experts

S/No	Key Experts	No	Estimated Time Input (staff-months)
1)	Team Leader	1	9
2)	Information Security expert	1	3
3)	ICT Expert	1	3
4)	Legislative drafter	1	3
5)	Collaboration and Public Engagement Specialists	1	3
6)	Governance and Policy Expert	1	3
Total		6	24

10. Responsibilities of the Client
The client will provide all available existing information including the communication strategy, data, reports and clips and will assist the Consultant in obtaining other relevant information and materials from governmental institutions and agencies where necessary.

11. Responsibilities of the Consultant
The Consultant shall be responsible for their own transport, accommodation, insurance, Airtime and other associated costs.

The Consultant is expected to undertake activities that will ensure that outputs are consistent with the professional and legal requirements. All outputs will be presented using modern techniques/technology It is also required that the data is generated through a consultative process that guarantees authenticity and ownership.