



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

Request for Expression of Interest

for:

Data Sub-Segment Market Review (Consulting Firm)

Contract No: KE-ICTA-393208-CS-QCBS

Issue Date: 23rd April 2024

Closing Date: 8th May 2024

Client:

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

Consulting Services for Data Sub-Segment Market Review (Consulting Firm)

1. Background

The Government of the Republic of Kenya (GoK) has received financing in the amount equivalent to US\$390 Million equivalent from the World Bank towards the cost of the first phase of the Kenya Digital Economy Acceleration Project and it intends to apply part of the proceeds to payments for goods, works, non-consulting services and consulting services to be procured under this project.

The project will include the following components.

1.1 Component 1: Digital Infrastructure and Services-The aim of this component is to increase access to high-speed internet for individuals, industry, and government—the ‘foundation of the foundations’ of a digital economy and strengthen Kenya’s role as regional digital leader—while leveraging investments from the private sector

1.2 Component 2. Digital Government and Services- This component will invest in the foundational digital services, platforms, architectures, and policies needed to transform the way the Government communicates and conducts its internal operations.

1.3 Component 3. Digital Skills and Markets- 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.

1.4 Component 4. Project Management- This component will support project implementation, coordination, for the Project Implementation Unit (PIU) within ICTA and capacity building.

1.5 Component 5: Contingent Emergency Response Components-This component will be activated in the event of an emergency.

The Gok intends to apply a portion of the proceeds of the Credit to cover activities under sub-components 1.4 (Strengthening the Digital Enabling Environment). The project aims to accelerate digital transformation at the regional level focusing on critical digital enablers that ‘future-proof’ economic growth and leveraging Kenya’s leadership role in the region to facilitate the adoption and implementation of regionally harmonized frameworks for digital integration.

2. OBJECTIVE OF ASSIGNMENT

The specific objective of this project is to assess the data sub-segment ecosystem in telecommunication services, to have a clear picture of the cost and market drivers, and to identify any regulatory interventions that may be required to make the offer of data services in Kenya more robust, more diverse and increasingly affordable. The data sub-segment, both fixed and mobile,

with respect to this market review encompasses the infrastructure and services that allow customers across the value chain, to obtain capacity, in terms of internet bandwidth in order to facilitate communication, transfer of media, or access to content via the Internet Protocol.

3. SCOPE OF SERVICES AND SPECIFIC TASKS

3.1 Scope

The scope of services include a review of all the services offered in the data sub-segment in the whole country which comprises of 47 counties of the Republic of Kenya.

The consultant is expected to undertake activities that will ensure outputs are consistent with professional and legal requirements. In addition, it is expected that outputs will be generated through a consultative process that guarantees authenticity and ownership.

3.2 Specific Tasks

The Authority seeks to engage a consulting firm, to provide consultancy services on the Data Sub-Segment Market review. The Consulting firm will be expected to undertake a market review in the data sub-segment. The specific tasks will be to:

1. Identify the different services across the data value chain and determine, cost drivers, pricing structures, considerations in product development
2. Benchmark Kenya's data services pricing models against representative selection of other countries.
3. Identify the different players across the value chain, and their respective market shares in Kenya.
4. Identify market trends and emerging issues in the data sub-segment in Kenya.
5. Analyze the impact pricing of data services in the context of competition issues arising due to convergence in digital technologies.
6. Identify the market barriers, if any, that influence pricing, competition and the growth of the players in the era of changing technologies.
7. Provide a proposal on the best ways by which the identified barriers and factors acting as a hindrance to growth can be considerably minimized or eliminated.
8. Identify specific stimulus that can be injected in the internet/data sub-segment in order to ensure that there is effective competition, accessibility, affordability and growth.
9. Review existing price comparison platforms/mediums in other markets and make recommendations on an appropriate mechanism to enhance transparency, help consumers make informed choices, and help the Authority monitor tariffs for communications services.
10. Ascertain costs of elements involved in various layers including methods of costing used for cost accumulation and techniques used for cost optimization and suggest methodologies for provision of affordable connectivity in line with the Authority's mandate.

- 11. Identify all cost drivers for the provision of data based on the various technical and business models, including assessing the empirical magnitude of the contribution of the respective drivers on the overall wholesale and retail prices for data services This is aimed at enhancing the affordability of Internet services and bridging the digital divide.
- 12. Recommend the optimal or appropriate and proportionate regulatory interventions to pricing issues identified within the existing regulatory and legal framework.
- 13. To recommend economic and fiscal incentives for proliferation of affordable data services in Kenya.
- 14. Examine advertising of data offers and the level of "honesty" in what is being said about the different price offers, including the expiration of data bundles.
- 15. Recommend any other relevant intervention(s) that would go along towards enhancing effective management of competition and affordability in the data segment in Kenya.

4. DURATION AND LOCATION OF THE ASSIGNMENT

The duration of the assignment shall be thirteen (13) months from contract commencement date. The location of the assignment will be in Republic of Kenya.

5. REPORTING REQUIREMENTS AND TIMELINES FOR EXPECTED DELIVERABLES

The consultant shall submit the reports as detailed in the table below.

Table 1: Reporting requirements and timelines for deliverables/outputs

OUTPUTS/ DELIVERABLES	DESCRIPTION	TIMELINE FOR SUBMISSION OF DELIVERABLES AFTER CONTRACT COMMENCEMENT	Format of presentation
Inception Report and slide deck	The purpose of this report is to present an overview of the recent trends in the data segment in the country highlighting the regulatory framework and the level of market development including competition in the industry. The report will also give a comparative analysis of the recent developments of the sub-sector	1 month	8 hard copies and 2 digital copies

OUTPUTS/ DELIVERABLES	DESCRIPTION	TIMELINE FOR SUBMISSION OF DELIVERABLES AFTER CONTRACT COMMENCEMENT	Format of presentation
	in Kenya and other countries in the region and the world. Further, the consultant will outline the methodology to be used in carrying out the study provide a justification as to why undertaking the study is necessary for the development of the sub-sector.		
Progress Report 1	The consultant will furnish the Authority on the progress of the study through regular reports after every milestone. In this report, the consultant will provide at minimum details of stakeholders engaged, some details of their findings based on stakeholder engagements and benchmarks, and to highlight the status of the project to ensure that it is on track. In addition, the report can highlight any challenges faced and how the consultant intends to mitigate those challenges.	3 months	8 hard copies and 2 digital copies
Progress Report 2	The consultant will furnish the Authority on the progress of the study through regular reports after every milestone. This report will be a build up to the draft final report, and the consultant will provide a status on achievement of at least 50 percent of the terms of reference.	4 months	8 hard copies and 2 digital copies

OUTPUTS/ DELIVERABLES	DESCRIPTION	TIMELINE FOR SUBMISSION OF DELIVERABLES AFTER CONTRACT COMMENCEMENT	Format of presentation
Interim report	This will be a draft final report on the development in the data segment based on the research undertaken during this period and the status of competition. It is expected that the report will cover all players in the market and should adhere to the Terms of Reference as outlined by the Authority. The consultant will be expected to present this report in the final workshop attended by all stakeholders.	6 months	8 hard copies and 2 digital copies
Final report and a slide deck, 1 stakeholder dissemination workshop	The final report and slide deck will be developed as per the TORs and will have addressed any comments emanating from the stakeholder's workshop. All the deliverables shall be properties of the Republic of Kenya under the custody of the Authority.	13 months	8 hard copies and 2 digital copies

The specified copies (1 original copy, 3 hard copies and 1 digital copy) of each of the listed reports shall be sent to the client at the following address:

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

And additional four (4) hard copies and a digital copy of each required deliverable to the address below:

Director General

Communications Authority of Kenya

CA Centre, along Waiyaki Way

P. O. Box 14448

Nairobi 00800, Kenya

Email: dg@ca.go.ke

Tel: 0703 042 000

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. PAYMENT SCHEDULE

The proposed payment schedules based on satisfactory performance of the contract which will be negotiated with the successful consultant will be as presented in Table 2 below.

Table 2: Proposed payment schedule

S/No.	Deliverables	Timelines after contract commencement	Percentage of the contract amount
1.	Submission and Acceptance of Inception Report & Slide Deck	2 Weeks	10%
2.	Submission and Acceptance of Progress Report 1	3 months	15%
3.	Submission and Acceptance of Progress Report 2	4 months	15%
4.	Submission and Acceptance of Interim Report	6 months	30%

5.	Submission and Acceptance of Final Report and Slide Deck	13 months	30%
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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.

7. MINIMUM REQUIREMENTS FOR CONSULTANT’S QUALIFICATIONS AND EXPERIENCE

The consulting firm will be required to have a multi-disciplinary team including legal, policy and regulatory experts and economists, with deep experience in the Kenyan legal, institutional and regulatory ecosystem.

The minimum requirements for the Consultant’s qualifications and experience is as follows:

- 1) **Core business and years in business:** The firm shall be registered/incorporated as a consulting firm with core business in the field of Telecoms, Digital Access Advisory and Research projects or equivalent for a minimum period of ten (10) years.
- 2) **Relevant experience:** The firm shall demonstrate as having successfully executed and completed at least two (2) assignments of similar nature, and complexity and in a similar operating environment in the last eight years. Details of similar assignments, with the name and address of the client, scope, value, and period should be provided and submitted.
- 3) **Technical and managerial capability of the firm:** The firm shall demonstrate as having the requisite technical capacity and managerial capacity to undertake the assignment in the submitted company profile(s).

8. TEAM COMPOSITION AND MINIMUM QUALIFICATION AND EXPERIENCE REQUIREMENTS FOR THE KEY EXPERTS

The Consultants shall be well qualified and experienced professionals as required and appropriate for completion of the exercise. 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.	Consultant Team
1)	<p>The team leader:</p> <ul style="list-style-type: none"> i. A minimum of a master’s degree in Engineering, Economics, Law and Regulations, Policy Development and Management, and Finance from a university recognised in Kenya. ii. A minimum of ten (10) years of general experience in ICT Sector. iii. Specific experience in at least three prior assignments in leading projects focused on ICT sector development in emerging and frontier markets, and at least two prior assignments working directly with government entities.
2)	<p>Key Experts</p> <p>Must have a deep understanding of and familiarity with costing and pricing models. The experts must demonstrate their adequacy in carrying out the assignment: education, training experience in the specific ICT sector, field, subject and relevant to the project.</p> <ul style="list-style-type: none"> i. Economics Expert: <ul style="list-style-type: none"> a. They must have a minimum of a Bachelor’s degree in the respective relevant field from a recognized University. b. A minimum of five (5) years general experience providing advisory/consultancy services on Telecoms, Pricing, Costing, Digital Access Advisory and Research projects. c. Specific experience of at least two (2) prior assignments in projects focused on ICT sector development in emerging and frontier markets, and at least one (1) prior assignment working directly with government entities. ii. ICT Technical Regulation Expert: <ul style="list-style-type: none"> a. They must have a minimum of a Bachelor’s degree in the respective relevant field from a recognized University. b. A minimum of five (5) years general experience providing advisory/consultancy services on Telecoms, Pricing, Costing, Digital Access Advisory and Research projects.

	<p>c. Specific experience of at least two (2) prior assignments in projects focused on ICT sector development in emerging and frontier markets, and at least one (1) prior assignment working directly with government entities.</p> <p>iii. Legal Expert:</p> <p>a. They must have a minimum of a Bachelor’s degree in the respective relevant field from a recognized University.</p> <p>b. A minimum of five (5) years general experience providing advisory/consultancy services on Telecoms, Pricing, Costing, Digital Access Advisory and Research projects.</p> <p>c. Specific experience of at least two (2) prior assignments in projects focused on ICT sector development in emerging and frontier markets, and at least one (1) prior assignment working directly with government entities.</p> <p>iv. Finance Expert:</p> <p>a. They must have a minimum of a Bachelor’s degree in the respective relevant field from a recognized University.</p> <p>b. A minimum of five (5) years general experience providing advisory/consultancy services on Telecoms, Pricing, Costing, Digital Access Advisory and Research projects.</p> <p>c. Specific experience of at least two (2) prior assignments in projects focused on ICT sector development in emerging and frontier markets, and at least one (1) prior assignment working directly with government entities.</p>
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9. 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 4.

Table 4: Estimated Time Inputs for Key Experts

S/No	Key and support Staff	No	Estimated Time Input (staff-months)
1)	Lead Consultant	1	13
2)	Economics Expert	1	10
3)	ICT Technical Regulation Expert	1	10

4)	Legal Expert	1	5
5)	Finance Expert	1	5
Total		5	43

10. OBLIGATION OF THE CLIENT

The Ministry of ICT and the Digital Economy (MICDE), the ICT Authority (ICTA) and the Communications Authority of Kenya (CA), with support from the World Bank, shall provide the following to the best of their ability:

1. Data, studies and literature considered relevant for accomplishing identified tasks;
2. Access to key officials within the relevant Ministries and other relevant official entities, including operators, regulators and/or any others as applicable;
3. Help convene key stakeholders and support cooperation with the Government of Kenya and other organizations whose activities and programs may be considered relevant to this project, to enable the consultants to have access to the information necessary to carry out their work program;
4. Provide timely feedback on deliverables.

11. OBLIGATIONS OF THE CONSULTANT

The consultancy must ensure that the tasks identified above are performed in a result-oriented manner with the sole objective of achieving outputs and outcomes expected from the assignment as has been described in the details above. The consultancy is encouraged to utilize local expertise where appropriate.

The Consultant shall be responsible for the provision of all the necessary resources to carry out the services such as international travel, project transportation for visits in counties, subsistence allowances, accommodation, information technology, and means for communications, reporting materials, insurance and any other required resources. 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.