



Transforming Urban Mobility

Kenya Urban Roads Authority

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TERMS OF REFERENCE FOR CONSULTANCY SERVICES TO DEVELOP ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM (ESMS) FOR KENYA URBAN ROADS AUTHORITY (KURA)

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT

A. BACKGROUND

The Ministry of Roads and Transport (MoR&T) has received financing from the International Development Association (IDA) (the “Bank”) in the form of a “credit” (hereinafter called “credit”) toward the cost of the Horn of Africa Gateway Development Project (HOAGDP). The Kenya National Highways Authority (KeNHA) on behalf of Kenya Urban Roads Authority (KURA), a Beneficiary Agency of the Government of Kenya under MoR&T, intends to use part of the proceeds of the credit for CONSULTANCY SERVICES TO DEVELOP AN ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM (ESMS) FOR KENYA URBAN ROADS AUTHORITY (KURA). The funds are linked to the project for THE EXTENSION OF MERU BYPASS (approximately 17.5 km). This proposed extension joins the Meru Bypass Roads that were financed under the National Urban Transport Improvement Project (NUTRIP). This would ensure the entire Meru Bypass Roads are tarmacked and interlinked.

Kenya Urban Roads Authority (KURA) is a State Corporation under the Ministry of Roads and Transport established under the Kenya Roads Act, 2007. The core mandate of KURA is the Management, Development, Rehabilitation, and Maintenance of National Urban Trunk Roads.

The establishment of KURA was part of the wider reforms to improve the running of the roads sub sector. This was done through defining clear mandates for every agency involved in the sector, establishing designated Authorities with specific focus on roads management and a need to manage road matters in a business-like manner for greater returns on investment.

Given the Authority’s position as the custodian of the of National Urban Trunk Roads and critical role in providing quality national urban trunk road network for sustainable social and economic development, it has a responsibility to manage and leverage resources in a way that promotes a healthy and sustainable environment.

KURA further recognizes that its activities have wider influence and impact on the environment and communities. The Authority is committed to continually improve its

environmental and social management of risks and impacts and performance in implementing Projects through Contractors, Supervising Consultants and Staff.

Additionally, KURA implements projects financed by the Government of Kenya as well as various Development Partners mostly implemented through third party Contractors and Supervising Consultants. The construction phase of these projects carries the highest risk of potential environmental and social risks and impacts on communities, people and the biophysical environment. Although KURA adheres to Kenya Laws and regulations in the management of social and environmental risks and has its guidelines and specifications for road construction, the use of different Contractors and Supervising Consultants poses challenges, due to lack of any well-tested technological systems and approaches in effectively managing environmental and social risk and impacts during pre-construction, construction and post-construction phases.

KURA acknowledges that often the lack of adequate environmental and social capacity needs as well as a robust and effective environmental and social, management system (ESMS) could lead to poor environmental and social performance in road construction, which can manifest in significant adverse environmental and social impacts on the biophysical and social environment, peoples and communities, as well as potential harm to people/population and reputational risk to KURA.

B. PURPOSE

The ESMS will serve as a framework that integrates environmental and social considerations into the planning, design, construction, operation, and maintenance of urban road projects undertaken by KURA. Developing an ESMS for KURA enhances the Authority's compliance with international standards; Implementation of the ESMS aligns KURA with international best practices and standards; and augment environmental and social sustainability in infrastructure projects. This ensures that projects meet stringent criteria related to environmental protection, social inclusion, and sustainable development.

KURA ESMS will provide its Board of Directors, staff, Contractors, and Supervising Consultants a documented and procedural system for the management of environmental and social risks associated with its Projects and operations.

KURA intends to obtain ISO 14001 certification in future.

C. OBJECTIVES

The aim of this Consultancy is to carry out a gap assessment and review of the existing KURA's Environmental and Social policies and management procedures, implementation, and compliance arrangements; support KURA to design fit for purpose Environmental and Social Management System (ESMS) and associated management procedures and plans. The ESMS will ensure environmental and social commitments and management programs are implemented, monitored, and re-evaluated throughout the life cycle of KURA's Projects,

meets the national regulations, and applicable Good International Industry Best Practices (GIIBP).

The objective of this assignment is to support KURA with the development of a tailored ESMS in compliance with the local and national environmental and social laws and regulation and Good International Industry Practice (GIIP) to adequately manage environmental and social (E&S) risks associated with its Projects and operations. The assignment seeks to develop, support KURA in setting up a fit-for-purpose ESMS, to align with international good practice for E&S management and requirements set out in the World Bank Environmental and Social Standards. This includes support on ensuring that the ESMS is suitably tailored to KURA's context and provides practical guidance / support on how diligent E&S management will be implemented in practise.

On this basis, the assignment is intended to:

1. support KURA in developing a tailored ESMS to conform to Good International Industry practice and manage material E&S risks and opportunities associated with its Projects and operations.
2. propose a practical action plan to support KURA in the implementation of the ESMS (including development of supporting procedures and tools to aid implementation), as well as guidance on training / capacity building activities to ensure successful implementation; and
3. provide support and guidance (including support in the development of tools and templates, carrying out training, directing teams to relevant online training courses, etc.) in the piloting and rollout of the newly established ESMS,

The consultant is expected to work in close collaboration with KURA and wherever possible build on existing policies and procedures. This requires a good understanding by the consultant of KURA's mandate and services provided, its existing and pipeline portfolio, and resources available at KURA Management team. It also requires a sound understanding of the transport sector and relevant national and local E&S laws and regulations in Kenya. KURA operates across Kenya, and it will be important to ensure that potential negative E&S risks and impacts associated with its Projects and activities are minimized, while striving to enhance benefits for local communities and the environment, through the ESMS.

D. REFERENCE FRAMEWORK

The assignment will be conducted according to the following relevant E&S standards and guidelines:

- Applicable local and national environmental and social laws and regulation of Kenya
- ISO 14001 Environmental management systems
- Applicable Good International Industry practices including, but not limited to:
 - World Bank Environmental and Social Standards;

- World Bank Group's General Environmental and Health and Safety (EHS) Guidelines; and
- Fundamental Conventions of the International Labour Organization (ILO).

E. ESMS REQUIREMENTS

The ESMS shall be tailored to KURA's operational requirements, portfolio, and its management structure and at the same time meet the expectations and E&S requirements of potential lenders such as the World Bank and other multilateral financing institutions.

The ESMS will establish and elaborate KURA's procedures for identifying, assessing, and managing E&S risks of its Projects, define the decision-making process, describe the roles, responsibilities and capacity needs of staff for doing so, and will set the documentation and record keeping requirements.

The ESMS will also provide guidance on how to screen Projects, categorize them based on their E&S risk, conduct Environmental and Social Impact Assessment (ESIA), develop and implement mitigation plans (i.e., E&S Action Plans (ESAP), and monitor E&S performance. The focus of the ESMS should be on how Projects and operations align with KURA's E&S policies and procedures of, as well as assessing the extent to which set E&S standards are implemented at project level. This includes categorizing projects and assessing the adequacy of Project's E&S management.

▪ Key factors of a successful ESMS implementation

Tailor-made E&S policies & procedures are dependent on:

- E&S requirements and risks and impacts associated with KURA mandate and Projects
- Organisational structure and systems (E&S awareness, and capacity as well as past and present E&S performance and existing risk management procedures).
- Buy-in from KURA's top management.
- Allocation of resources (both financial and personnel).

F. SCOPE OF THE WORK AND TASKS

The scope of work will include the following:

1. Carrying out institutional needs' capacity assessment of KURA environmental and social safeguards unit;
2. Independently assess KURA's current environmental and social, policies against applicable national laws and regulations, applicable Good International Industry Best Practices (GIIBP), identify compliance gaps and recommend necessary corrective and gap filling action plans; and
3. Design an ESMS for KURA through consultations processes with relevant stakeholders.

The details of the activities of the scope of works are as below:

i. Project Initiation and Information Request

Organize a kick call with KURA's management upon receiving authorization. During the initial kick off call with KURA, the Consultant will establish liaison procedures and communication protocols, arrange for efficient information exchange. The process for validating the ESMS the ESMS will also be agreed.

The Consultant will request E&S information from KURA including existing E&S procedures.

Deliverables:

- Minutes of kick-off call and agreed plans;
- E&S Information Request List; and
- Inception Report.

ii. E&S Documentation Review and Management Interviews

The Consultant shall review all pertinent existing documentation and shall critically verify the scope of services. Undertake a gap analysis against the ESMS requirements and based on this gap analysis, define an approach to the development and implementation of the ESMS including clearly defined roles and responsibilities for the Consultant and KURA. As part of the gap analysis, review the organizational capacity and structure at KURA to provide recommendations on how this should be enhanced/amended to ensure that KURA is able to effectively implement the ESMS. This is to include an assessment of the financial resources required in support of such.

Based on a detailed review of documentation and initial discussion with KURA, the Consultant shall establish a work plan that will detail the planned assignment (including workdays envisioned) of the consultant as well as resources required, indicating key activities, schedules, and outcomes during the assignment.

Deliverables:

- Gap Assessment Report; and
- ESMS Work Plan.

iii. ESMS Development

Based on the outcomes of the above, provide support KURA in the development of the ESMS including compilation of the necessary policies, plans, procedures, work instructions and registers. The ESMS should be documented in an ESMS manual.

As part of the ESMS, develop subject specific E&S management and monitoring programs or plans aligned with national legislation and GIIP. The E&S management and monitoring

programs should include all Project activities and are to be applied during design, construction, operations, and decommissioning where applicable.

Deliverables:

- Draft ESMS elements and supporting documents.

iv. ESMS Implementation Support

The consultant shall assist KURA by condensing the implementation actions into a concise Action Plan to guide the implementation and rollout of the ESMS. The Action Plan should contain, as a minimum, the following elements:

- clear description of the actions and why they are required
- prioritization of actions;
- necessary responsibilities;
- required resources (staff and budget);
- interdependencies, and internal decision-making requirements, including timing; and
- realistic timeframes for the completion of the actions (with the emphasis on achieving compliance as soon as possible);
- A plan outlining training needs and activities to build internal capacity for ESMS implementation.

Deliverables:

- ESMS Action Plan

Note that the output of this assignment will be used to inform setting up and establishment of a computerized/ software system for the implementation of the ESMS containing the agreed upon plans, policies, procedures, monitoring and evaluation methodologies for KURA. It is expected that a separated consultant will be engaged in achieving this. Therefore, as part of the ESMS implementation support, the selected consultant will liaise with the software developer toward achieving this objective.

G. SUPERVISION AND COORDINATION

The KURA's Deputy Director (Environmental and Social Safeguards) will act as focal point for this Consultancy. He will coordinate in order to provide all the information that may be required for the successful development of this work.

Key stakeholders will be included in the process, such as Contractors/Supervising Consultants, relevant regulatory institutions, beneficiary communities, other cooperation agencies, local environmental and social experts, and other partners, as considered necessary through calls and email exchanges.

Interim products and reports will be revised and approved by the Deputy Director (Environmental and Social Safeguards) and the Director General. The Consultant is expected to be available to undertake continuous dialogue as necessary with KURA, and any technical advisors to the process. The final products and report will be approved by the Board of Directors. Meetings and workshops will be carried out through physical meetings, joint calls, or internet-based remote meeting platforms.

H. ASSIGNMENT DURATION AND SCHEDULE

It is expected that this Consultancy will be for one year and commence two weeks from the date of signing of the contract. In addition, the Consultant is expected to present timeline allocation for the assignment and any assumptions made regarding the level of effort indicated in the ToRs. It is expected that the key members of the of the Consultant team shall not change throughout the duration of the contract. Any staff changes will require KURA's approval.

I. DELIVERABLES

The Consultant will submit to KURA the following deliverables:

S/No.	Milestone/Deliverable	Duration from Commencement
1.	Minutes of kick-off call and agreed plans. E&S Information Request List	End of Week 2
2.	Inception Report: detailing how the KURA ESMS will be developed, implementation plan, understanding of the assignment, overview of how key tasks will be accomplished, outline of a work plan for this assignment, indicating activities, schedules and outcomes in the course of the task, methodology and status of mobilisation.	End of Week 4
3.	Gap Assessment Report: to be prepared after review of E&S document, site visit and management interviews	End of Week 8
4.	Draft ESMS: Development: policies, procedures and supporting tools	End of Week 16
5.	Draft ESMS Validation Workshop: The Consultant will prepare a validation workshop for the discussion of the Draft ESMS with KURA Management and any relevant stakeholders. The workshop agenda, workshop material and workshop presentations will be agreed upon with KURA Management and at minimum should address the contents of the Draft ESMS.	End of Week 18
6.	Final Version of ESMS: Based on the Draft ESMS and the results of the Validation Workshop including the board and senior management	End of Week 20

S/No.	Milestone/Deliverable	Duration from Commencement
7.	Updated Training Plans and Training Curricula: Update tools and guidance documents, additional guidance documents which may be developed based on requirements identified during training events and training reports.	End of Week 25
8.	Field testing of the ESMS and mentoring of KURA Environment and Social Safeguards Department Staff for 6 months in the deployment of the ESMS. Continuous monitoring and evaluation on the system performance, identifying any areas of improvements and giving further recommendations including on readiness for ISO 14001 certification.	End of Week 28

J. REPORTING OBLIGATIONS

All the reports for this assignment must be submitted to KURA for review and approval. The Deputy Director (Environmental and Social Safeguards) will be the Principal Contact for the assignment and will manage the contract execution.

K. KURA SUPPORT TO THE CONSULTANT

The Client will provide introductory letters or organize meeting for the Consultant where there is need to consultant other organizations. KURA will provide relevant documents to the Consultant such as:

- i. KURA Environmental and Social Policies, Management Procedures and Environmental and Health and Safety Guidelines;
- ii. Applicable National Environmental and Social (including Occupational Health and Safety) laws and regulations as well as policies;
- iii. Applicable Good International Industry Best Practices (GIIBP), including safeguard policies and performance standards of multilateral financial institutions (MFIs);
- iv. KURA will also organize internal meetings with staff and management for consultations and presentations of findings by the Consultant; and
- v. Access to sampled existing sites, contractors and supervising consultants and associated contract documents.

L. CONSULTANT COMPOSITION AND QUALIFICATIONS

The Consulting firm should have been in operation with experience in working with Environmental, Social, Health and Safety Management Systems for a period of at least Ten

(10) years advising and working with various institutions and organizations. The Consulting Firm must have delivered at least three (3) similar assignments in the past.

M. KEY EXPERTS

The Consulting Firm should have a team of experts composed of technical and non-technical experts. The key technical experts should include:

a) Team Leader

Team Leader should have a minimum fifteen (15) years professional experience working with large infrastructure projects and with proven experience in designing and implementing Environmental, Social, Health and Safety Management Systems leading to certification and carrying out Environmental, Social, Health and Safety Due Diligence for similar institutions/entities, experience with Safeguards Policies and Performance Standards of MFIs. Knowledge and experience working with universally accepted standards e.g., ISO 9001; ISO14001; and ISO 45001. He/She should possess at least Master's degree in either Environmental Science, Environmental Engineering, Environmental Management, Environmental Economics, Social Science, Social Development, Occupational Health and Safety or relevant degree from a recognized University with experience working in in Sub Sahara Africa. Finally, the team leader should have specific experience in delivering at least three similar assignments.

b) Environmental Specialist

He/She must possess a Degree in Environmental Sciences or Natural Sciences with at least Ten (10) years' professional experience carrying out Environmental and Social (Impact) Assessments, implementation and monitoring of environmental and social management plans, designing and implementing Environmental, Social, Health and Safety Management Systems and must have worked in at least three (3) assignments of similar nature in the past. He/she will be familiar with Safeguards Policies and/or Performance Standards of MFIs.

c) Social Development Specialist

He/She must possess a Master's Degree in Social Sciences, Social Development from a recognized University with at least ten (10) years professional experience in Social (Impact) Assessment, Land Acquisition and Involuntary Resettlement, Stakeholder Engagement and Grievance Redress Mechanism. The specialist should have both international and local practical experience with implementation of Safeguards Policies and Performance Standards of MFIs.

d) Health and Safety Specialist

He/She must possess a Master's Degree in Health Sciences, Health Engineering, Public Health, Environment or Health and Safety from a recognized University with at least ten (10)

years professional experience in designing and implementing Health, Safety and Environment (HSE) management systems, carrying out HSE risk assessment/audits. The specialist should have both international experiences working in large infrastructure projects, and has working knowledge with environmental, health and safety guidelines/procedures from MFIs and international development agencies. The expert must be a registered HSE expert with a reputable International Professional Association.