



**Ministry of Lands, Public Works, Housing and
Urban Development**
State Department for Housing and Urban Development



Project Name: Second Kenya Urban Support Program (KUSP2)

Project ID: P177048

Terms of reference for conducting an Annual Performance Assessment 1 (APA 1) of the 45 counties participating in the second Kenya Urban Support Program (KUSP II), for UIG

1. BACKGROUND

The Government of Kenya through the State Department for Housing and Urban Development is preparing the second phase of the Kenya Urban Support Program (KUSP), as a follow up to Kenya Urban Support Program (KUSP), to be financed in part by the World Bank. While KUSP investments which have been implemented in the 59 municipalities across the 45 counties have recorded tremendous success, the impact of the investments in the lives of the people cannot be overemphasized. Over 300 projects comprising of waste management (liquid and solid), storm water drainage infrastructure, connectivity (roads, NMT and others), fire and disaster management facilities/equipment and, urban socio-economic infrastructure such as markets have been implemented. These interventions have improved health and livelihoods of people across the country.

Despite the remarkable performance of KUSP, the 2019 census demonstrates that, there is rapid urbanization which continues to be a challenge to managers of the devolved units. There is therefore a deliberate need to direct resources towards urban development in order to achieve the aspirations of making Kenya a upper middle-income nation by the year 2030. KUSP II therefore aims to build on the achievements and lessons learned from both the Kenya Devolution Support Program (KDSP) and Kenya Urban Support Program (KUSP).

Just like KUSP, KUSP II will support the implementation of the Second Kenya Urban Program 2022 – 2027 (KenUP2). KenUP2's core components include: urban space and planning; urban economies and urban livelihoods including the private sector and competitiveness; urban infrastructure and service delivery; building climate resilience; governance, institutions and finance; and policy development.

KUSP II at the sub-national level has two funding windows, namely, Urban Institutional Grants (UIG), Window for refugees and host communities (WHR) UIG, Urban Development Grants (UDG) and WHR UDG which have minimum conditions (MCs) and performance standards (PSs) that counties/municipalities must meet in order to access funding. Consequently, all eligible municipalities will have to undergo an annual performance assessment (APA) to qualify for funding. The APA 1 will ascertain the level of counties preparedness and commitment to the program.

2. PRINCIPLES OF KUSP II

2.1. Program Development Objective. The program development objective is to strengthen the capacity of counties and urban institutions to: (i) improve the delivery and resilience of urban

services; (ii) enhance private sector engagement; and (iii) support the transition of refugee camps into integrated host community and refugee settlements.

2.2. Program Description. The program will support activities at two (2) levels:

- i. Component 1 - National level activities related to program management, technical support and capacity building activities which will account for 10% of the financing (Investment Project Financing (IPF) US\$20M, US\$10M Window for Host communities and Refugees (WHR), and US\$10M Government of Kenya (GoK)).
- ii. Component 2 - County level investments and activities which will account for 90% of the funding (Performance for Results (PforR) US\$180M, US\$40M WHR, and US\$94M GoK)
- iii. Component 3 – WHR Urban Institutional development and investments (PforR, US\$40M WHR) will establish and strengthen urban institutions and improve access to infrastructure services in refugee hosting areas, through performance grants (WHR UDG and WHR UIG) accessed based on compliance with WHR MCs and PSs.

The program will support 45 counties (excluding Nairobi and Mombasa) and the eligible urban areas under Component 2 - PforR, while all counties would be eligible for technical assistance and capacity building under Component 1 - IPF.

2.2.1. Component 1 (IPF) – National level activities

The Program will focus on four (4) result areas: (i) Strengthened Institutions for Urban Service Delivery; (ii) Integrated Planning for Inclusive and Resilient Urban Areas; (iii) More Inclusive and Resilient Urban Infrastructure and Services; and (iv) Improved Private Sector Engagement.

Results Area 1: Strengthened institutions for urban service delivery.

The proposed operation will finance, incentivize, and support the implementation of interventions for improved institutions for municipal service delivery.

Results Area 2 : Integrated Planning for Inclusive and Resilient Urban Areas.

The proposed operation will finance, incentivize and support the implementation of reforms and other interventions that clarify roles and responsibilities in urban development, strengthen the management and financing of urban areas, improve land use planning, plan implementation and monitoring, improve the management of public lands, and enhance stakeholder participation in planning processes.

Result Areas 3 : More inclusive and resilient urban infrastructure and services.

The proposed operation will provide support for improving access to and coverage of key municipal services, as well as for strengthening the resilience and sustainability of urban infrastructure.

Result Areas 4: Improved private sector engagement.

The proposed operation will incentivize and support interventions that focus on identifying and, when feasible, removing barriers to firm competitiveness.

Result Area 5: Improved Integrated Development between refugees and the host communities

The proposed operation will incentivize participating counties for supporting the transition of refugee camps into integrated host community and refugee settlements, through inter alia, the establishment and capacity building of unified urban institutions to lead joint planning, infrastructure and service delivery and interventions supporting economic activity and social cohesion.

2.2.2. Component 2 (PforR) – County level investment and activities

KUSP II will provide county governments and their respective urban institutions with two types of grants: Urban Institutional Grants (UIG) and Urban Development Grants (UDG). The grants will be accessed based on counties/urban institutions compliance with MCs and the extent to which they have achieved

PSs. MCs and PSs will be measured through an Annual Performance Assessments (APAs) just as reiterated in the background above. In addition, the Program will provide a further US\$40 million grant under the Refugee Window to be accessed and implemented by the two eligible counties of Turkana and Garissa through the WHR UIG and WHR UDG with different conditions.

Urban Institutional Grants (UIGs)

The program will support eligible counties through UIG of about \$200,000 per annum per County to encourage counties to finance institutional and capacity building activities to address urban governance and development challenges and build awareness of private sector diagnostics.

Urban Development Grants (UDGs)

KUSP II will provide financing for investments in urban infrastructure and service delivery, within a defined investment menu, available to counties/urban areas that comply with strictly applied MCs and PSs. The total amount will be split into a ratio of 70:30. The initial 70% will be a linear function based on the score obtained and on the basis of the number of urban residents according to the 2019 population census. The remaining 30% will be allocated as a bonus to the urban boards that performed better than the average, to be distributed following an exponential formula.

It is important to underline that MCs must be met fully (as agreed for the first year) before PSs scores apply thus the need for the first APA

2.2.3. Component 3 (PforR) – WHR Urban institutional development and investments

Component 3 will aim to establish and strengthen urban institutions and improve access to infrastructure services in refugee hosting areas in Kakuma-Kalobeyei and Dadaab. Support to the refugee hosting counties will include an Urban Institutional Grant (WHR UIG) and an Urban Development Grant (WHR UDG). The definition of the MC and PS is unique to the refugee window, due to their specific situation. Both grants will be disbursed based on the APA process as part of the overall Program APA.

The WHR UIG will be accessed by qualifying refugee hosting counties - currently Turkana and Garissa - to support capacity building activities in selected municipal core competence areas. To access the WHR UIGs, County governments will need to comply with MC. Failure to satisfy any MC will disqualify the county from accessing the WHR UIG grant.

The WHR UDG will enable beneficiary urban boards to finance critical infrastructure investments that improve the accessibility and quality of basic services for both refugees and host communities. Urban boards will need to comply with all MC to qualify for their annual WHR UDG. If any of the two urban boards meet all the MCs, they will receive an initial allocation of 50% of their indicative formula based WHR UDG ceiling. The urban boards that meet the MCs may qualify to receive additional financing upon meeting the WHR UDG performance standards .

3. OBJECTIVE OF THE ASSIGNMENT

The primary objective of the consultancy is to assess the eligibility of counties and municipalities with respect to the **Minimum Conditions** applicable to **UIGs and WHR UIGs**. Counties that demonstrate compliance with these Minimum Conditions will qualify for their UIG allocations in FY 2023/24.

This APA report will establish a performance baseline (in year 1) and then allow for the updating (in each of the subsequent years) for all 45 counties and their eligible urban institutions concerning the UIG.

The assessment framework is captured in table 2 & 3 below.

4. SCOPE OF SERVICES AND SPECIFIC TASKS

The scope of the consultancy services will **cover 45 counties** (excluding the city counties of Nairobi and Mombasa). The consultant will be expected to assess county compliance with UIG Minimum Conditions (MCs) for the first APA for them to be eligible for UIG funding in FY 2023/24.

The Consultant will **collect and submit to the SDHUD all documentary evidence to substantiate the APA results.**

The draft assessment results will be shared simultaneously with the World Bank and the government. The UIG APA report will be subjected to a **Quality Assurance Review (QAR)** which will sample counties and municipalities to assess the veracity of the results. If the UIG APA results are different from the QAR results, the later will prevail. The Final APA results subjected to the QAR will be further endorsed by the KUSP2 Project Steering Committee (PSC). Based on the final APA results, Government of Kenya (GoK) through National Treasury will send a Results Achievement Notification summarizing how the Program DLIs have been met. The Bank will retain the right to make the final decision on whether a DLI has been achieved or not.

4.1. Specific Tasks

Specific tasks to be undertaken under the consulting services contract are as follows:

- (1) Conduct an assessment in all 45 counties in order to collect data on the performance of each county government (and any urban institutions established by those counties), to be measured in terms of compliance with UIG Minimum Conditions for the first year.
- (2) Analyze all field data in order to assess the performance of each county.
- (3) Following the above, provide a detailed, county-by-county, list of:

For UIGs:

- MCs that have been met at the time of assessment;
 - MCs that had not been met at the time of assessment and identify what needs to be done in order to meet them;
- (4) Compute the total allocation per County to be disbursed based on APA results,
 - (5) Compute the total of DLI1 and DLI6 amount which should be disbursed based on APA results,
 - (6) **Strict adherence to the work plan agreed** with the Client in the Final Inception Report is important because the APA is an input to the process of deciding on allocation of funds and it will have an impact on the County/ municipal planning and budgeting process.

5. DURATION OF THE ASSIGNMENT

The assignment is envisaged to take (1) month from the contract commencement date.

6. REPORTING REQUIREMENTS AND TIMELINES FOR DELIVERABLES

The consultant shall submit the following reports. The specified copies of each of the listed reports shall be sent to the Client:

- (a) Inception Report, outlining the consultants' understanding of the assignment and proposed approach and methodology to meeting the ToRs requirements;
- (b) Draft assessment report for each county, detailing:
 - compliance (or non-compliance) with UIG MCs; and
 - documentary evidence submitted by the counties in order to meet UIG.
- (c) Final assessment report:
 - detailing compliance (or non-compliance) with UIG MCs, based on the documentary evidence submitted by Counties;
 - Final compilation of documentary evidence (in soft copy) categorized by county/municipality to back the Final APA results.

Schedule of Deliverables

Table 1: Reporting requirements

S/No.	Deliverables	Timelines after contract commencement	Format of submission
1.	Inception Report, outlining the consultants' understanding of the assignment and proposed approach to meeting the ToRs requirements	1 week	4 hard copies and a soft copy
2.	Draft APA report (with draft compendium of documentary evidence (in soft copy))	3 weeks	4 hard copies and a soft copy
3.	Final APA report (with accompanying final compendium of documentary evidence (in soft copy))	4 weeks	4 hard copies and a soft copy

7. PERFORMANCE REQUIREMENTS

The consultant shall determine how best to convey each county's APA, in the light of the following MCs and their indicators (*will be finalized prior to commencing the assignment*).

PforR UIG MCs are as follows: (*Note: These are subject to adjustments prior to commencing the assignment and final ones will be reflected in the Program Operations Manual approved by the World Bank*)

Table 2: PforR UIG Minimum Conditions (MCs)

Minimum Condition	Indicator
MC1: County government has committed itself to participate in KUSP2	The County Governor has signed an Intergovernmental Agreement stating that the county will participate in KUSP2 and adhere to its POM. <i>Note: The agreement will be signed between the county and National Treasury</i>
MC2: County government has drawn up (and is implementing) its County Urban Institutional Development Strategy (CUIDS) ¹ that integrates aspects of climate resilience and disaster risk management	<input type="checkbox"/> County government has prepared a CUIDS approved by the county executive. (The CUIDS includes the county's climate risk profile) <input type="checkbox"/> County government has included the proposed UIG activities in the County Integrated Development Plan and Budget.

WHR UIG MCs are as follows: (*Note: These will apply for the municipalities of Kakuma-Kalobeyei and Daadab*)

Table 3: WHR UIG Minimum Conditions (MCs)

Minimum Condition	Indicator
MC1: County government has committed itself to participation in KUSP2	The County Governor has signed a Participation Agreement with the SDHUD stating that the county government will participate in KUSP2 and adhere to its POM. Participation Agreement is required once at the beginning and will remain effective throughout the Program.
MC2: County government has drawn up (and is implementing) its County Urban Institutional Development Strategy (CUIDS) that integrate aspects of climate resilience	<input type="checkbox"/> County government has prepared a CUIDS (that is reflected in the County Integrated Development Plan).

¹ The CUIDS will outline the county's overall approach to the management of urban areas within its jurisdiction, define the process the county will follow to integrate urban development into county-wide planning that incorporates climate resilience and inclusivity considerations and prepare an annual action plan and budget for achieving its objectives.

and disaster risk management, and sustainable development of refugee hosting areas.	<input type="checkbox"/> County government has prepared an annual CIDP & Budget for FY 23/24 that includes a proposal for use of the UIG.
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8. PAYMENT SCHEDULE

The proposed payment schedules for APA 1 based on satisfactory performance which will be negotiated with the successful consulting firm will be as presented in Table 4 below.

Table 4: Proposed payment schedule for APA 1

S/No.	Deliverables	Timelines after contract commencement	Percentage of the contract amount for APA 1
1.	Inception Report, outlining the consultants' understanding of the assignment and proposed approach to meeting the ToRs requirements	1 week	100%
2.	Draft APA report (with draft compendium of documentary evidence (in soft copy))	3 weeks	
3.	Final APA report (with accompanying final compendium of documentary evidence (in soft copy))	4 weeks	

9. MANAGEMENT AND ACCOUNTABILITY OF THE ASSIGNMENT

The Ministry of Lands, Public Works, Housing and Urban Development, through the State Department for Housing and Urban Development, is the client for the consultancy services. In terms of performance and deliverables, the consultant will carry out the assignment under the direction of, and report to the Program Coordinator in Urban Development Department.

The Results Area 1 Head (RA1) will oversee the day-to-day implementation and coordination of the assignment with support from grants management officer and key relevant staff. The consultant shall work closely with this team to ensure timely delivery of the outputs.

10. MINIMUM REQUIREMENTS FOR CONSULTANT'S QUALIFICATIONS & EXPERIENCE

The consultant shall be well qualified and experienced as required and appropriate for execution of the assignment. The consultant should possess necessary technical capacity and resources to perform the assignment of such nature including relevant equipment and software.

The consultant should have a post-graduate degree in public administration, Urban Planning/Development/Management, public finance or in related field from a university recognized in Kenya.

General experience: He/she should have at least 15 years of experience in working on public administration and/or public sector service delivery, with demonstrated experience in working at the sub-national level.

Specific experience: The consultant should demonstrate experience in undertaking performance appraisals in donor funded projects of similar magnitude in the 5 years. Experience in working with World Bank programs will be an added advantage.

11. RESPONSIBILITIES OF THE CLIENT

The Client will avail all relevant documents to the consultants and will facilitate coordination with the counties. Documents to be provided by the client will include:

- i. Project appraisal document (PAD)
- ii. Project operations manual (POM)
- iii. Any other material considered relevant during the procurement process.
- iv. To provide quality control during implementation

12. RESPONSIBILITIES OF THE CONSULTANT

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, and are provided in a timely manner.

13. CONFIDENTIALITY AND DATA OWNERSHIP

The consultant shall adhere to the World Bank Data Privacy and Protection regulations and all the relevant confidentiality and data ownership laws and regulations of Kenya through the consultancy period and will protect the confidentiality of participating counties at all stages. All data is confidential and is the property of the Ministry of Land, Public works, Housing and Urban Development. No data or other information from this consulting services contract will be released to third parties without the written prior approval of the Ministry.

The consultant will provide all reports and deliverables in English. All documents are proprietary to and shall be collected and stored at the State Department of Housing and Urban Development (SDHUD) for future reference. The consultant may not distribute any data collected under the APA process to any entity, without express written prior approval from the Client.