



**REPUBLIC OF KENYA**  
**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING & URBAN DEVELOPMENT**  
**State Department for Housing and Urban Development**  
**Second Kenya Urban Support Program (KUSP 2)**  
**Project No.: P177048**  
**Credit No.: 7349-KE; 7350-KE; IDA Grant Number E208-KE**

**Terms of Reference**  
**for**  
**Consultancy Services for a Legal and Policy advisor (Individual Consultant)**  
**Contract No.: KE-MOTI-409421-CS-INDV**

**March, 2024**

**Client:**  
Principal Secretary  
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## **1. Background**

The Kenya National Urban Development Policy (NUDP), formally launched in early 2016, envisions secure, well governed, competitive and sustainable urban areas and cities, and aims to facilitate sustainable urbanization through good governance and the delivery of accessible quality and efficient infrastructure and services. The Government in 2017 developed Kenya Urban Program (KenUP), a five (5) year program, as one of the programs to implement and operationalize aspects of the National Urban Development Policy with a clear focus on Kenya’s urban areas. The total cost for the program was estimated at USD 1 billion.

Through its support to the urban sector in Kenya, the World Bank, in collaboration with the then Ministry of Transport, Infrastructure, Housing and Urban Development (MTIHUD), prepared the Kenya Urban Support Program (KUSP) at a cost of USD300million, which supported the implementation of KenUP. KUSP became “effective” on 11<sup>th</sup> January 2018 and ended on 31<sup>st</sup> December 2023. KUSP has established and strengthened urban management institutions through county governments. It has been delivered through three windows: Window 1 at the National Government through the Urban Development Department (UDD) of the State Department for Housing and Urban Development (\$30.3m). County governments have received capacity-building funding through window 2 (\$22.2m). The bulk of the funding has been for urban infrastructure through urban boards under window 3 (\$247.5m).

As the first phase of KenUP ended in 2022, the Government of Kenya developed the second Kenya Urban Programme (KenUP2) strategy which is a deliberate government-led process of coordinating and rallying various actors for a common goal/vision for the desired resource mobilization to fund the National Urban Development Policy (NUDP) strategies in a set period of the next cycle of 5 years, horizon from July 2022.

As a continuation of its support to the urban sector in Kenya, the World Bank, together with the State Department for Housing and Urban Development (SDHUD) in the Ministry of Lands, Public Works, Housing and Urban Development (MLPWHUD), has prepared the Second Kenya Urban Support Program (KUSP2) at a cost of USD 350million (approved by the WB Board of Directors on June 15, 2023), which will support the implementation of KenUP2.

KUSP2 will be implemented in 45 counties and 79 municipalities including 2 refugee hosting urban areas under the SDHUD in liaison with the Council of Governors (CoG) and the Department of Refugee Services (DRS). The Program Development Objective (PDO) is to strengthen the capacities of urban institutions to:

- (i) Improve the delivery and resilience of urban infrastructure and services
- (ii) Enhance private sector engagement in urban planning, and
- (iii) Support the transition of refugee camps into integrated host communities and refugee settlements.

The program objective will be achieved through five main result areas: 1. Strengthened institutions for urban service delivery; 2. Integrated planning for Inclusive and resilient urban areas; 3. Inclusive and resilient urban infrastructure & services; 4. Improved private sector engagement/involvement; and 5. Improved integrated development between refugees and host communities.

The Government of Kenya, through SDHUD, now intends to use part of the KUSP2 funds to finance the Consultancy Services for a legal and policy advisor as an Individual Consultant.

The Consultant is expected to provide advice and guidance on the implementation and operationalization of KUSP II program in line with national policy priorities and agendas.

## **2. Objectives of the assignment**

The main objectives of the consultancy services are:

- a) Provide legal and policy advice on the implementation and operationalization of KUSP II program result areas and components in line with national policy priorities and agendas in the urban development sector. This will include providing advice aimed at ensuring that KUSP II initiatives, programs and projects are fully aligned with the program development objectives, KenUP2 vision as well as national policy priorities in the urban development sector.
- b) Monitor, review and evaluate all ongoing initiatives, programs and projects in terms of their contribution to the KUSP II program development objectives, as well as national policy priorities and agendas in the housing and urban development sector.
- c) Provide support so as to ensure that KUSP II initiatives, programs and projects are implemented efficiently, synergistically, and efficiently so as to deliver optimal policy-relevant results. This will be critical for ensuring the program's contributions and activities build up on the strategic objectives of the State Department and are additive to the plans and initiatives of other programs.

## **3. Scope of the consulting services and specific tasks**

### **3.1 Scope of Consulting Services**

The Consultant shall offer sound legal, policy advice and strategic guidance to the State Department and in particular to the NPTC in order to ensure compliance with legal and policy requirements guiding the implementation of KUSP II initiatives, programs and projects that are fully aligned with the program development objectives, as well as national policy priorities and agendas in the urban development sector such as KenUP2.

The Consultant shall guide in areas of policy and legal review to ensure that there is harmony and consistency with existing laws and regulations. The consultants will also review all contracts to ensure that they are well aligned to the financial manual and persisting procurement laws and regulations.

### **3.2 Specific Tasks**

The Consultant is expected to provide legal and policy support on key projects by undertaking the following specific tasks:

The scope of work for this role includes, but is not limited to:

- a) Conduct a comprehensive legislative and regulatory review and diagnostic of existing projects, programs, and initiatives under the KUSP II and identify major legal and policy gaps and risks in implementation especially within KUSP II. Thereafter, Develop a legal and policy roadmap in respect of programs, initiatives, and projects under KUSP II.
- b) Support the implementation of laws governing urban planning and development/ Recommend proposed legislative changes in respect of the Urban Areas and Cities Act (UACA), Urban Areas and Cities Regulations in order to give full effect to UACA as well as charters for Cities and Municipalities that will go a long way in guiding the Cities and municipalities on the conferment of special city or municipality status.
- c) Provide guidance on legal aspects for the harmonization of laws guiding urban planning and development including the Physical Land Use Planning Act, UACA and the County Government Act.
- d) Support in the provision of Departmental initiatives, programs, and projects with policy, technical, and implementation support in order to assist in their full alignment and coordination with respect to KUSP II as well as the national urban development policy priorities and agendas, including KenUP2.
- e) Participate in technical and supervision missions to support the implementation of the Program.
- f) Facilitate delivery of training to municipalities on legal aspects related to municipal management and service delivery.
- g) Provide advise on the operationalization of the PFM Act and other statutes impacting on the program.
- h) Advise on grievances handling from a legal perspective
- i) Provide legal advisory on establishment of the national urban observatory. Perform any other duties as reasonably requested by the KUSP II Program Coordinator.

### **4. Duration and location of the assignment**

This program shall be implemented for five (5) years. The consultant will be contracted for an initial period of twelve (12) months. It is intended that thereafter the provision of the services will be **extended** for a further twelve (12) months subject to satisfactory performance and business need following annual reviews by the office of the Program Coordinator, availability of funds and continuation of the program.

The Consultant will generally be based in Nairobi (Kenya) at the offices of KUSP II. The position may however involve travels to the participating counties. All such travel shall be approved in advance by the Coordinator.

## **5. Reporting**

The Consultant will report directly to the KUSP II Coordinator and there shall be no subordinate staff management responsibilities.

The Consultant will generally work from Monday to Friday 0800h to 1700h on a **full-time basis for a max. of 20 working days per month.**

The consultant shall be responsible for providing services in line with the ToR.

## **Deliverables**

The following deliverables are expected from the consultant:

- a) Monthly Reports covering tasks outlined under scope of services and specific tasks, and submit them to the Coordinator.
- b) Jointly developed work plans and implementation plans for tasks under the program
- c) Diagnostic and legal reports related to critical urban development sector issues.
- d) Draft primary and secondary legislation related to interventions on enabling environment for projects and sector work.
- e) Framework agreements, legal instruments, and related documentation for anticipated transactions.
- f) Ad hoc legal opinions and reports as needed.

All reports will be submitted within 7 days after the end of reporting month or period in hard and soft copies (in Microsoft Word, Excel, or Power Point, or in any other format as may be deemed appropriate by the Coordinator).

These reports will accompany **the consultant's timesheet for payment.**

## **6. Payment schedule/Remuneration**

Payment will be monthly upon submission and approval of the monthly reports, timesheets, and invoice.

The Consultant will be remunerated based on a monthly rate, which will be negotiated with the successful candidate during the contract negotiations. Remuneration will be based on national

competitive rates, commensurate with the selected candidate's area of expertise and work experience provided has satisfactorily fulfilled all requirements.

Any eligible and approved reimbursable expense shall be paid upon submission and approval of relevant verifiable supporting documentation and receipts

## **7. Minimum requirements for Consultant's qualifications and experience**

**Qualifications:** At least a Master of Law or other similar relevant qualification from an institution recognized in Kenya. Registered with the relevant body of the profession and in possession of a valid annual practicing license.

**General experience:** At least 10 years of demonstrable general experience relevant to the assignment.

**Specific experience:** Demonstrate having worked on two (2) similar assignments at similar capacity, with at least one (1) assignment in the last five years and knowledge and experience in Kenya Government and World Bank operations

## **8. Management and accountability of the assignment**

The Ministry of Lands, Public Works, and Housing and Urban Development is the Client for these services. The Principal Secretary, SDHUD has appointed a Program Coordinator (for KUSP II) to whom the Consultant will report on all contractual matters.

The Program Coordinator will also be responsible for all payments to the consultant once the work has been accepted and cleared for payment by the Head of Planning component. The Consultant will report on all technical matters to the program coordinator.

## **9. Obligations of the Client**

The Client will provide the following support to the Consultant:

- a) Office space, office equipment (shared printer, copier, scanner), stationery, internet access, and transport services for official use in delivery of the services.
- b) All available relevant documentation to the consultant, such as the Project Appraisal Document, Periodic reports, Implementation Manual, etc.
- c) Contacts of key stakeholders.
- d) Introductory letters to key stakeholders to facilitate communication.
- e) Facilitate review and dissemination meetings with key stakeholders; and
- f) Facilitate liaison with other program implementing partners.

## **10. Obligations of the Consultant**

The Consultant shall be responsible for the provision of own computer, with requisite software to perform the assigned duties, own transport, accommodation, insurance, communication, and other associated costs.

The consultant is expected to undertake activities that will ensure that outputs are consistent with the professional and legal requirements.

**11. Confidentiality, propriety rights of Client in reports and records.**

All the reports, data, and information developed, collected, or obtained from implementing agencies etc., Client, and other Institutions during this exercise shall belong to the Client. No use shall be made of them without prior written authorization from the Client.

At the end of the Services, the Consultant shall relinquish all data, manuals, reports and information (including the database, codes, and related documentation) to the Client and shall make no use of them in any other assignment without prior written authority from the Client.