



The Voice of the Private Sector in Kenya

Kenya Private Sector Alliance (KEPSA)

In partnership with



Kenya Country Programme

Terms of Reference (TORs) for an End of Project Evaluation: Integrating Public- Private Sector Dialogue (PPD) for Trade and Investment in Kenya

June 2022

1. INTRODUCTION

1.1 Kenya Private Sector Alliance (KEPSA)

The Kenya Private Sector Alliance (KEPSA) is the apex body of the private sector in Kenya. KEPSA brings together local and foreign business associations, chambers of commerce, professional bodies, corporates, and multinational companies, MSMEs, and start-ups from all sectors of the economy in the country, representing over 1,000,000 businesses under one umbrella to enable them to speak with one voice when engaging government, development partners and other stakeholders on cross-cutting policy issues affecting private sector development.

KEPSA also implements programs that ensure the growth of business and social-economic development of the country. It also supports businesses with opportunities for training, networking, financial linkages, mentorship and coaching, access to markets, value chains, and access to investment opportunities with many partners around the world.

KEPSA's engagement platforms with government require leadership and coordination for effective advocacy. It is on this basis that we wish to hire the services of a Public Private Dialogue practitioner to Head the PPD department on a consultancy basis.

KEPSA's Strategic Focus is three-fold;

- (i) to conduct high-level advocacy on cross-cutting policy-related issues and ensuring Kenya is globally competitive in doing business,
- (ii) to coordinate the private sector in Kenya through various mechanisms to engage in advocacy to promote economic growth, and
- (iii) to develop and build the capacity of business membership organizations (BMOs) to strengthen them to grow and represent their sectors adequately.

1.2 TradeMark East Africa (TMEA)

TradeMark (Trade and Markets) East Africa is a multi-purpose donor funded, not-for-profit Aid for Trade organisation, established to support the growth of trade – both regional and international – in East Africa, even though the organization has recently expanded beyond East Africa. TMEA operates on a not-for-profit basis and is funded by the development agencies of the following countries: Belgium, Canada, Denmark, Finland, Netherlands, Norway, UK, and USA. TMEA works closely with East African Community (EAC) institutions, national governments, the private sector and civil society organisations to increase trade by unlocking economic potential through reducing barriers to trade and increased business competitiveness.

Established in 2010, TMEA supports a portfolio of programmes across the East Africa Community partner countries, working closely with our partners - the EAC Partner States, EAC Secretariat, the private sector and civil society - TMEA has made a significant contribution to this growth by delivering large scale impact in its highly successful first strategic phase which was completed in December 2017. From 2017, TMEA embarked on its second strategic phase, known as "Strategy 2", which seeks to increase trade by unlocking economic potential anchored on 2 key outcomes:

- Reduced barriers to trade; and,
- Improving business competitiveness.

Some of the key results from Strategy 1 include:

- Corridor Transit Time Reduction - based on the current monitoring data in the TMEA results meter, TMEA's estimates a reduction in the average time it takes to transport a container from Dar es Salaam or Mombasa ports to Bujumbura or Kigali, from 15.6% in June 2016 to 16.5% in June 2017 against the 15% target.
- Port time reductions – at the Mombasa Port, there has been a 52% reduction in import time (11.2 days in 2010 to 5.34 days in Sept 2017) and 59% reduction in export time (to 6.37 days in Sept 2017 from 15.4 days in 2010), TMEA has also catalysed over \$250m in berth upgrades from lenders (EIB & AFD). At the Dar-es-salaam port, there has been a 28% reduction in import time (11.6 days in June 2017 from 16 days in 2010) and 53% reduction in export time (6.8 days in June 2017 from 14.6 days in 2010), TMEA has also helped catalyse a \$350m loan from the World Bank for port upgrades.
- More efficient borders – on average, there has been over 70% decline on time through borders within the EAC region.
- Better trade infrastructure, e.g. at the ICD Nairobi, Mombasa Port link road, Port Reitz among others.
- Improved ICT to facilitate trade in all the EAC Partner States, including installing electronic single windows hence reducing clearing times, customs management systems, the green channels, trade portals, etc., all which have reduced the total cost of doing business.
- Institution Capacity Building, both private and public, leading to efficiencies, enhanced services and improved government revenues.
- Private Sector Engagement – TMEA has worked with the East Africa private sector business associations and federation, enhancing their role in public policy advocacy and improving the overall business environment in the region.

TMEA believes that there are a number of pathways from increased trade to sustainable, inclusive prosperity through, for example, job creation, poverty reduction, economic growth, increased government revenue, enhanced economic welfare, and greater economic resilience.

2. BACKGROUND AND CONTEXT

2.1 “Integrating Public-Private Sector Dialogue (PPD) for Trade and Investment in Kenya” Project

The “**Integrating Public-Private Sector Dialogue (PPD) for Trade and Investment in Kenya**” programme was designed to enhance alignment, coordination, collaboration and reduce duplication of efforts within TMEA, reducing risk and strengthen TMEA's work streams in Strategy II. TMEA and its partner identified challenges that formed the proactive sub-national, national and regional agenda for trade and investment. The programme was designed as a cross-cutting component to complement Outcome I and II interventions to support reforms, with the focus being on implementation and enforcement of the law through multiple PPD frameworks that work towards resolving business environment issues.

At the National and sub-national level; the programme was to focus on direct, indirect and invisible costs of energy, transport and logistics, poor infrastructure, regulation and compliance, taxes, sector and investment-specific incentives.

The programme was designed to also provide for a framework to resolve issues around preferential trade agreements with the primary focus being the EAC and bilateral engagements. These include unique regional challenges in Transport and Logistics (Road, Rail, Water and Air), Trade Facilitation, Customs, Standards & SPS and NTBs. Resolution of NTBs was to have the highest priority. Beyond the traditional approach of working through the National Monitoring Committees (NMC), the Project provided for bilateral and direct Head of State intervention, the programme also made provisions for ad-hoc coalitions to address critical issues that might not feature in regional or national priorities or thematic areas.

2.2 The Need for Intervention

To strengthen and sustain Kenya's trade and investment; it was critical that an enabling environment be in place to guarantee growth and predictability. Public-Private Sector Dialogue can play a crucial role in addressing constraints, providing short-term stimulus with long-term impact and contribute to economic growth and poverty reduction. The programme would advocate for legal reforms, implementation and enforcement of laws across all arms of government, address the weak institutional and technical capacity of Private Sector Organisations as a prerequisite for a results-driven public-private sector dialogue.

TMEA already has a strong track record in supporting public-private sector participation in trade and catalysing national and regional business reforms in Strategy I. TMEA therefore, has a comparative advantage that can trigger numerous and far-reaching impact with a focused advocacy agenda.

2.3 Implementing Partners

As the lead apex body of the private sector in Kenya, the Kenya Private Sector Alliance (KEPSA) was selected to be the Lead Private Sector Coalition Partner. KEPSA worked in close collaboration with the Kenya Association of Manufacturers (KAM), the Kenya National Chamber of Commerce and Industry (KNCCI), the African Cotton & Textile Industries Federation (ACTIF), the Kenya Transporters Association (KTA), and the Shippers Council of East Africa (SCEA). Other partners include the Fresh Produce Exporters Association of Kenya (FPEAK) and other sector-based organisations and industry champions who are all members of KEPSA. Civil Society Organisations and Business Associations representing foreign companies in Kenya, i.e. American Chamber of Commerce, British Chamber of Commerce, Netherlands Business Network, Danish Business Network, French Chamber of Commerce in Kenya amongst others, were incorporated in the coalition.

2.4 Purpose of the Programme Intervention

The “**Integrating Public-Private Sector Dialogue (PPD) for Trade and Investment in Kenya**” project has been implemented by KEPSA for 3 years from October 2019 to 2022 June as phase one of a 5-year program support. The general objective is for the end of project evaluation is to generate information and knowledge on key learnings of the project based on the results and outcomes from the various interventions.

The evaluation will collect, collate and analyze data to investigate if there has been **improved trading standards and reduced Non-Tariff Barriers (NTBs)** as well as to investigate if there has been an **improvement in the trade regulatory environment** in Kenya.

The evaluation will take a forward-looking approach, with intend to inform the successful phase of the program.

3. OBJECTIVES OF THE ASSIGNMENT

3.1 General Objective

The main objective of the study is to undertake a survey to collect, collate and analyze data to investigate if there has been **improved trading standards and reduced Non-Tariff Barriers (NTBs)** as well as to investigate if there has been an **improvement in the trade regulatory environment** in Kenya as result of this programme being implemented. The baseline year is 2019, and the consultant will compare the various indicators (as outlined in the project documents) for this base year against the current year (i.e. as of June 2022).

3.2 Specific Objectives of the Study

The specific objectives of the two assessment strands are as follows:

A. Improved trading standards and reduced NTBs

Under this outcome, the consultant will:

1. Measure the number of NTBs identified by the program and how these were addressed by the programme interventions.
2. Measure the number of policy briefs on NTBs developed by the programme, how these were disseminated and if they were adopted by the various MDAs.
3. Measure the average time taken to eliminate the identified NTBs
4. Measure the number of customs and domestic tax related policies harmonized
 - Measure the % reduction on taxes, levies and charges for SMEs
 - Establish the number of National business permits/licenses applicable across the counties
5. Establish the number of harmonized and adopted regional standards/SPS
6. Establish whether the Kenya Plant Health Inspectorate Services (KEPHIS) is operating 24 hours a day, and if so, what impact this has on the private sector.
7. Measure the level of adoption of E-Phyto certification to ease access and reduce costs
 - Measure the effect of adoption of E-Phyto certification
8. Establish the number of upgraded and functional ECS systems

B. Improved trade regulatory environment

Under this outcome, the consultant will:

9. Establish the number of trade related policies successfully influenced by the private sector
 - Establish the number of advocacy-related policy papers developed, and how these influenced policy and regulations in Kenya.

- Establish the number of advocacy strategies developed and implemented to address thematic trade areas
 - Establish the number of PPD staff trained on undertaking effective PPDs (and the specific thematic areas they are trained in)
10. Establish whether the road infrastructure and modal connectivity has improved in the Nairobi industrial areas East gate at ICDN as a result of program's interventions
 11. Measure the change in per unit cost of cargo transported since revocation of SGR directive
 12. Measure the change in per unit cost of cargo after completion of last mile rail transport system
 13. Measure the change in air cargo dwell hours at the Airport
 14. Measure the change in number of new cold storage facilities installed
 15. Establish the reforms geared towards harmonization of procedures and reduction of export/import procedures enacted as a result of program interventions
 16. Measure the number of trade facilitation related regulations and policies/ reforms implemented as a result of program interventions

3.3 Stakeholders

The consultants will identify and engage with various stakeholders of this programme. These will include, but not limited to:

- The various Ministries, Departments and Agencies of the Government of Kenya
- The Judiciary of Kenya
- The Parliament of Kenya
- The Council of Governors
- Kenya Private Sector Alliance (KEPSA)
- The various Sector Boards of KEPSA
- Kenya Association of Manufacturers (KAM)
- Kenya National Chamber of Commerce and Industry (KNCCI)
- Kenya Transporters Association (KTA)
- Shippers Council of East Africa (SCEA)
- Fresh Produce Exporters Association of Kenya (FPEAK)
- American Chamber of Commerce
- British Chamber of Commerce
- Netherlands Business Network
- Danish Business Network / Danish Industry
- French Chamber of Commerce in Kenya

4. DELIVERABLES

At the end of the assignment, KEPSA shall expect the following:

- An inception report within five (5) working days after signing the Contract outlining details of activities with proposed methodologies and timelines
- A detailed workplan for the assignment, areas to be visited, tools to be used and any other information that the consultant may deem important, as part of the inception report.

- A draft comprehensive report with preliminary findings to be shared and inform different stakeholders including KEPSA team, TMEA, BMOs etc. The draft should be submitted within 25 days of the assignment.
- A final report within 10 days after incorporating all feedback from KEPSA and other project partners.

5. TIME FRAME AND REPORTING

The assignment is expected to be completed within forty (40) working days.

6. COORDINATION AND SUPERVISION

The Individual Consultant will work under the terms and conditions as provided for by the Kenya Private Sector Alliance (KEPSA). It is anticipated that the consultants will work under the direct supervision and report to the Head of PPD Department of KEPSA.

The consultant will also receive technical supervision from the Programme Manager of the TMEA Kenya Country Programme.

7. QUALIFICATION, KEY SKILLS AND COMPETENCES

KEPSA is looking to engage a lead/principal consultant, who will work with a select team of experts to deliver this assignment.

The lead/ principal consultant MUST meet the following requirements:

- An advanced degree (at least a Master's degree) in economics, policy analysis, business management or trade policy from a recognised university.
- At least ten (10) years of extensive, relevant and progressive experiences, preferably in developing countries, policy and legislative review, aid/donor funding effectiveness
- Knowledge of private sector advocacy and business member associations operations and engagement in public policy advocacy
- Strong analytical skills and demonstrated experience in matters relating to cross-border trade, international relations, transport and logistics.
- Experience in producing research products including background papers, policy briefs, and working papers.
- Previous experience in data collection and analysis.
- A good command of English and Swahili languages.

The other (associate) consultants should include, but not limited to:

1. An experienced statistician / data analyst.
2. A Monitoring and Evaluation (M&E) expert.

The associate consultants MUST meet the following qualifications:

- A university degree in Economics, Statistics, Social Sciences or related fields from a recognized university. Certificates MUST be provided.
- Training and certification in Monitoring & Evaluation from a recognised institution is mandatory. Documentary evidence to be provided with application

- Five (5) years demonstrated experience in conducting baselines, surveys of similar nature using mixed methods approaches that meet recognized standards for credibility and rigor. Evidence of previous assignments MUST be provided.
- Experience in using STATA, R, SPSS and NVivo for statistical analysis and interpretation skills and generate scripts code that we can be replicated to check the work done is a must. Certificates should be provided as evidence.
- Well versed with development and interpretation of theory of change, result chains and measurement plans to identify and interpret key indicators for a projects
- Skills in data collection, analysis and reporting using modern statistical tools for data analysis and interpretation.

8. PROPOSAL CONTENTS

8.1 Statutory Requirements

Upon request, the consultant SHALL provide all required legal documents as may be required by Kenyan law.

8.2 Technical Proposal Requirements

The Technical Proposal should include the following details:

- A detailed profile of the consultant(s), demonstrating years of experience in operations as a consultant in the required field
- Details of a similar assignments, with a focus on technical advisory services on private sector associations, government institutions, public relations, trade law/policy and/or border relations
- A description of the proposed approach and methodology including, (i) the individual consultant's understanding of the objectives of the assignment, (ii) the approach to be taken to deliver the services, and (iii), the proposed work plan which includes the main activities of the assignment, their content and duration, milestones and report delivery dates.
- Technical capacity of the individual consultant.

8.3 Financial Proposal Requirements:

The following are the financial proposal requirements:

- A detailed breakdown of both the proposed fees for the consultancy services and any reimbursable costs.
- All the prices should reflect the different types and utilization of resources as envisaged by the consultant.
- The Financial Proposal should incorporate prices inclusive of all taxes.
- All prices shall be in Kenya shillings

9. PROPOSAL EVALUATION AND AWARD

KEPSA will evaluate all proposals submitted and award the contract based on both the technical and financial feasibility.

KEPSA reserves the right to accept or reject any proposal received without giving reasons and is not bound to accept the lowest or the highest bidder

10. SUBMISSION OF PROPOSALS

Please submit **separate technical and financial proposals** (separate bids, same email) electronically to the email procurement@kepsa.or.ke with the subject line as **“RFP Evaluation of the KEPSA - TMEA PPD Project”** on or before the close of business of **Friday, 17th June 2022**.