



REPUBLIC OF KENYA

THE NATIONAL TREASURY AND PLANNING

**INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS
ADDITIONAL FINANCING (IFPPP-AF)**

COMPONENT 1A – SUPPORT TO INSTITUTIONAL STRENGTHENING

TERMS OF REFERENCE

**RECRUITMENT OF COMMERCIAL LAWYER - TRANSACTIONS
FOR THE PUBLIC PRIVATE PARTNERSHIPS DIRECTORATE (PPPD)
IN KENYA**

APRIL 2024

1. DESCRIPTION

- 1.1. The Public Private Partnerships Directorate (PPP Directorate) of the National Treasury & Economic Planning is Kenya's lead institution in the origination, structuring, procurement, development and implementation of public-private partnership projects in the country. It does so, by advising and guiding Contracting Authorities in the identification, selection, appraisal, procurement, approval, negotiation and monitoring of PPP projects throughout their lifecycle. The PPP Directorate also acts as the national resource centre for best practice in public private partnerships, providing capacity and skills development, as the custodian of the integrity of PPP processes. For more information visit www.pppunit.go.ke.
- 1.2. The Government of Kenya (GoK) in conjunction with the World Bank (International Development Association - IDA) is implementing an Infrastructure Finance and Public Private Partnerships Project (IFPPP) whose overall development objective is to increase private investment in the Kenyan infrastructure market by improving the enabling environment to generate a pipeline of bankable PPP projects. This objective is being achieved by providing technical expertise and building the capacity of the Public Private Partnerships Directorate to implement the program.
- 1.3. In this regard, the National Treasury is seeking an experienced individual to fill the position of Commercial Lawyer at the PPP Directorate. The duration of the contract is three (3) years, on full time basis, renewable based on performance.

2. OBJECTIVES OF THE ASSIGNMENT

The primary objective of the assignment is to strengthen the legal services function at the PPP Directorate and augment the capacity of the PPP Directorate in carrying out its mandate under the PPP Act 2021 to assist Contracting Authorities across various sectors and county governments, to identify, select, appraise, approve, procure, negotiate and monitor PPP projects throughout their cycle, as well as supporting the Government in entrenchment of its PPP policy, legal and regulatory framework. A secondary objective is to support the capacity building initiatives of the PPP Directorate and sensitize Contracting Authorities and stakeholders on Kenya's PPP legal framework.

3. DUTIES AND RESPONSIBILITIES

The Commercial Lawyer is expected to meet the above objectives by performing, without limitation, the following tasks:

- Verifying the compliance of legal requirements in transactions, project documents, and relevant processes.
- Providing legal input in PPP procurement processes, reviewing and drafting of transaction documents and related legal documents for proposed PPP projects.

- Assisting in the review of feasibility study reports for conformity with the PPP Act, the Government Contracts Act, Cap 23 Laws of Kenya and other legal requirements.
- Supporting Contracting Authorities in preparation and management of the PPP negotiations to commercial close.
- Providing support consistent with the PPP Act and supporting Regulations throughout the PPP procurement process.
- Providing support in the preparation and review of draft PPP Agreements and attendant contractual documents.
- Preparing post-contract negotiation documents or other requisite approvals.
- Preparing legal advice and opinions on legal matters.
- Assisting in the attainment of conditions precedent as prescribed in the project agreement.
- Providing transaction-related legal support to internal and external clients in the form of preparing, reviewing and negotiating agreements, expressions of interest or LOIs, mandates, independent consultancy agreements, term sheets, loan agreements, conditions to closing, and other related investment documentation.
- Reviewing documents and identifying issues and inconsistencies.
- Generally providing legal support to internal clients.
- Liaising with external counsel on transactional matters.
- Providing such other legal support on matters related to the transactions and the managing of external law firms as needed.
- Perform any other ancillary and associated tasks, including administrative tasks, as may be required.

4 SELECTION CRITERIA

- Bachelor's degree in laws (L.L.B) from a recognized institution.
- Postgraduate Diploma in Legal Studies from the Council of Legal Education.
- Master's degree in law or a Social Science from a recognized institution.
- Professional Certification in a PPP related field is an added advantage.
- Experience in PPP's, Project Finance and/or Project Management.
- Knowledge of Government of Kenya procedures and operations.
- Minimum of 5 years of professional experience with a reputable law firm, financial or Governmental institution, including substantial experience in drafting and reviewing legal documentation, and coordinating or managing projects and innovative initiatives in the area of project finance.
- Ability to apply good legal judgment in the context of assignments and to present results/recommendations clearly and concisely.
- Excellent interpersonal skills, with a passionate, positive attitude.
- Excellent communications skills in English, ability to present both written and oral ideas clearly, concisely, and persuasively.

- Excellent legal research skills with significant experience in the use of varied legal research sources.
- Excellent problem solving and analytical skills, and attention to detail, and the willingness to assume multiple roles and tasks to meet changing business needs.
- Excellent process and project management skills, with the ability to work independently, seeking guidance on complex issues from senior staff.
- Ability to work well as a team member.
- Ability to work under time pressure and to juggle multiple tasks within tight deadlines.
- Fully proficient in computer skills, particularly in using word processing software, information databases, intranet and internet services and resources.
- Demonstrated commitment to core values, including excellence, mutual respect, collegiality, teamwork, diversity and inclusiveness, integrity, innovation, transparency and accountability.
- Independently, or with little supervision, take on straightforward transactions from start to finish, with the ability to work independently.
- Ability to advise teams on standard legal questions.
- Ability to understand complex legal issues in project finance and Government transactions and able to articulate arguments and rationale for the same.

5 DATA, LOCAL SERVICES AND FACILITIES TO BE PROVIDED BY CLIENT

The PPP Directorate of the National Treasury, Kenya will provide full office accommodation in Nairobi, Kenya.