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**REQUEST FOR PROPOSAL - DEVELOPMENT OF POLICY AND REGULATORY FRAMEWORKS FOR UNIVERSAL ACCESS**

**for**

**Enhancement of Governance and Enabling Environment in the ICT sector (EGEE-ICT) Programme in the**

**EA-SA-IO Region**

**Tender Ref: CS/ EGEE/09/11/23\_02/SS**

**Closing Date: 3RD OCTOBER 2023**

# INTRODUCTION

## Background of EGEE – ICT Programme

The ‘Enhancement of Governance and Enabling Environment in the ICT sector (EGEE-ICT) for the Eastern Africa, Southern Africa and Indian Ocean (EA-SA-IO) Region’ is a programme that supports the development of the ICT sector and the deepening of regional integration in the EA-SA-IO Region (‘the Region’). The programme is funded by the European Union and implemented through a cooperation framework of five Regional Economic Communities: namely Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Intergovernmental Authority for Development (IGAD), Indian Ocean Commission (IOC), and Southern African Development Community (SADC). In accordance with the programme’s Contribution Agreement, COMESA is the Lead REC with overall responsibility for the implementation of programme activities.

The beneficiaries of the Programme are the 29 countries in the EA-SA-IO Region. The countries are Angola, Botswana, Burundi, Comoros, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, Somalia, South Africa, South Sudan, Sudan, Tanzania, Tunisia, Uganda, Zambia, and Zimbabwe.

## Programme Objectives

The overall objective of the programme is to deepen regional integration and growth of the ICT sector in the Region; it has three specific objectives, namely: -

1. Regionally coordinated public and private sector ICT policy development.
2. Enhanced policy and regulatory environment for competitive markets and gender sensitive ICT markets; and
3. Improved infrastructure connectivity and access to ICT.

## Result Areas

Each of the programme’s three Result Areas will be implemented through the following sub result areas, and each sub-result area will produce a corresponding output, as follows:

1. Result Area 1: Regionally coordinated public and private sector ICT policy development.
2. Sub Result 1.1: Mechanism for consensus building in policy development among public and private sectors development.
3. Sub Result 1.2: Capacity of existing regional ICT associations enhanced; and
4. Sub Result 1.3: Accountability systems in policy formulation and implementation strengthened between public and private ICT sector actors.
5. Result Area 2: Enhanced policy and regulatory environment for competitive markets and gender sensitive ICT markets.
6. Sub result 2.1: Regional model policy and regulatory frameworks for e-commerce developed.
7. Sub result 2.2: Gender responsive rights-based policy and regulatory frameworks for universal access and licensing strengthened; and
8. Sub result 2.3: Policy and regulatory frameworks to harmonise mobile roaming and termination tariffs and transit internet charges developed.
9. Result Area 3: Improved Policies, infrastructure connectivity and access to ICT,
10. Sub result 3.1: Policies to promote private sector investment in ICT infrastructure developed; and
11. Sub result 3.2: Policies and regulatory frameworks for open access and infrastructure sharing developed.

## Assignment Background

In accordance with the Programme Document, Sub-Result 2.2 seeks to develop and or strengthen gender responsive and rights- based policies and regulatory frameworks for licensing and universal access. In this regard, six related activities are envisaged:

1. Activity 2.2.1: Develop or review policies and regulations that support licensing related to Mobile Virtual Network Operators (M)VNOs and downstream service providers;
2. Activity 2.2.2: Develop policies and regulations to promote open competitive market entry on a non-discriminatory basis, including unified licenses, licenses to new alternative operators, and reasonable licensing fees;
3. Activity 2.2.3: Carry out a study on existing national and regional policy and regulation on authorisation and universal access and compare with best international practices and identify needs and gaps;
4. Activity 2.2.4: Develop or strengthen policy and regulation incentive mechanisms that promote and encourage access to and use of ICT by disadvantaged groups such as women, the disabled and youth;
5. Activity 2.2.5: Develop or incorporate e-waste management regulations in the authorization regime; and
6. Activity 2.2.6: Support country level reforms to domesticate the developed regional policies and regulations.

The Terms of Reference (ToR) apply to the assignment for Activity 2.2.4 (*i.e., Develop or strengthen policy and regulation incentive mechanisms that promote and encourage access to and use of ICT by disadvantaged groups such as women, the disabled and youth)*. Essentially, the output of this activity is a policy and regulatory framework for universal access, with special reference to inclusivity for gender, age (i.e., youth and the elderly), and people with disabilities (PWDs).

Activity 2.2.3 is a study and precedes all activities in the series. This ToR for Activity 2.2.4, is a sequel to the ToR for the study (Activity 2.2.3)

Activity 2.2.6 refers to national transposition of the outputs (i.e., regional frameworks) realized from the preceding activities, and will therefore, be undertaken through a subsequent assignment.

# RATIONALE OF THE ASSIGNMENT

## Introduction

Over the last decades, the world has witnessed steady and dramatic development in Information Communication Technologies (ICTs) and services (digital development). The salient characteristics of this development include widespread digitization of communications content, the ever-increasing dominance of the Internet Protocol (IP) in communications networks, the emergence of broadband technologies, the deployment of convergent networks, Internet of Things (IoT), artificial intelligence (AI), cloud computing, and Big data, Leveraging on these technological advances, an array of applications and services have diffused in all segments of the society.

ICT development is a crucial component of contemporary living: it connects people, governments and businesses; enables access to jobs and services; provides innovative solutions to development challenges; and helps deliver a broad and expanding range of services.

Yet in all this glossy picture, serious challenges remain; nearly 3 billion people are offline, the vast majority of whom are to be found in developing countries; women, the youth, the elderly and people with disabilities (PWDs) are particularly disadvantaged regarding access to ICT services; and affordability and digital literacy challenges restrict usage of digital services.

*Figure 1: Broadband subscriptions by world regions, 2022 (Source: ITU)*

*Figure 2: Broadband penetration rates, EA-SA-IO Countries, 2021 (Source: ITU, for 2021 broadband penetration; and World Bank, for 2021 population)*

Policies and regulations for ICT development can facilitate the process of digital transformation and the realization of benefits while simultaneously addressing the attendant challenges. Considering that fostering digital inclusion is a paramount goal in many development strategies, such as the UN SDGs, it’s imperative that countries develop and implement universal access policies and regulations. Universal access policies and regulations establish the principles, substance, scope and delivery mechanisms for universal access initiatives and programmes.

## Frameworks for universal access

ICTs and related services have revolutionized the world: almost everybody, everywhere, needs ICT services for social, business and other interactions. Owing to the huge access requirement for ICT services, the real and potential demand far outstrip what the market can provide unaided. For example. in 2021, about 3 billion people didn’t have access to digital infrastructure, the vast majority of whom are in developing countries. Close to 43% of the world’s population are not using mobile internet, despite living in areas with mobile broadband coverage[[1]](#footnote-1). And there are access and usage disparities along cleavages of gender, age and rural versus urban areas. In addition, PWDs face special challenges in accessing and using digital technologies.

*Figure 3: Percentage of individuals using the Internet, 2022, By Urban- Rural Area (Source: ITU)*

*Figure 4: Percentage of individuals using the Internet, 2022, By Gender (Source: ITU)*

Consequently, it’s necessary for public authorities to promote and advance universal access and use of ICT services by developing and implementing relevant policy and regulatory frameworks. Typically, the scope of universal access frameworks includes (i)definitions and scope of universal access, (ii)rationale and objectives of universal access frameworks, (iii)universal access gaps, (iii) universal access indicators and targets, (iv) delivery mechanisms for universal access, (v) digital literacy and e-inclusion, (vi) the content and life cycle of universal access policies.

# ASSIGNMENT OBJECTIVES

## Overall Objective of the assignment

The overall objective is to develop policies and regulations for universal access including promoting access and use of ICT in all areas by disadvantaged groups such as women, PWDs, the youth and elderly, incorporating the output from the study (study on authorization, universal access, and e-waste management)

The specific objectives and activities are as follows:

1. Review the Report of the Study on authorization, universal access and e-waste management (i.e., Study Report) and other relevant documentation related to policy and regulatory frameworks on universal access; and
2. Develop model policy and regulatory frameworks for universal access.

# DETAILED SCOPE OF WORK

## Activity 1: Review the Study Report and other relevant documentation related to policy and regulatory frameworks on universal access.

**Task 1**. Undertake a literature review on the Study Report and other relevant documentation to establish the principles and practices on all aspects of universal access including: -

1. Connectivity.
2. Pricing/affordability.
3. Inclusivity.
4. Universal access gaps.
5. Mechanisms for delivering universal access including market-based reforms. mandatory universal service obligations to all operator, universal access subsidy initiatives. and access deficit charges.
6. Universal access funds; and
7. Digital literacy and skills.

**Task 2**: With reference to the UN SDGs, UN Broadband Commission, Alliance for Affordable Internet and other benchmarks, recommend a set of universal access indicators and targets covering connectivity, affordability and inclusion.

* 1. **Activity 2: Develop model policy for universal access.**

**Task 3**. Develop a model universal access policy.

The universal access policy should focus on the following aspects of universal access.

1. Connectivity.
2. Pricing/affordability.
3. Inclusivity.
4. Universal access gaps.
5. Mechanisms for universal access including market-based reforms. mandatory universal service obligations to all operator, universal access subsidy initiatives. and access deficit charges.
6. Mechanisms for universal access funds; and
7. Digital literacy and skills.

The policy should include an overview, scope, objectives, principles, policy direction and best practice model policy and regulatory frameworks for universal access. In developing the policy guideline, references may be made to the literature review on the study on authorization, universal access and e-waste management and other relevant documentation.

The policy guideline should also provide indication of how the model regional policies and regulations will be transposed at national and/or at REC level.

* 1. **Activity 3 Develop model regulatory framework for universal access.**

**Task- 4:** Develop model regulatory framework for universal access consistent with the policy on universal access.

The draft framework may be based on the following outline, among others:

1. Part I: Preliminaries.
2. Part II: Objectives, scope and definitions.
3. Part III: Institutional framework for universal access.
4. Part IV: Universal access obligations on connectivity: -
5. Fixed line: private residential and public payphone.
6. Mobile: individual mobile and public payphone.
7. Broadband internet: private residential and public telecentre.
8. Broadcast services: community broadcast services.
9. Part V: Universal access obligations on affordability *(Please provide); and*
10. Part VI: Universal access obligations on inclusivity: -
11. Gender.
12. Youth and the elderly.
13. PWDs: web accessibility, electronic communications, access to audiovisual services, text and video relay.
14. emergency telecommunications services.
15. Directory services.
16. Digital literacy and awareness.
17. Local content production.
18. UASF governance; and
19. Government procurement
20. Other (please specify).
21. Part VII: Universal Access Delivery Mechanisms.
22. Government universal access programmes (institutional framework and financing); and
23. Market-based, non-governmental and community universal access approaches.
24. Part VIII: Universal Access and Service Funds.
25. Part IX: Miscellaneous provisions; and
26. Part X: Schedules and Appendices *(Please provide).*
    1. ***Activity 4: Prepare draft framework documents, undertake stakeholder validation, and prepare final framework documents.***

**Task 6**: Prepare a Draft model policy and regulatory frameworks for universal access. The Draft framework document shall be subjected to stakeholder validation, and subsequently revised to accommodate the outcome of the stakeholder validation.

**Task 7:** Undertake stakeholder validation of the Draft framework documents for universal access. COMESA Secretariat will be responsible for the logistical aspects of the stakeholder validation exercise, while the consultant will prepare and deliver all the technical materials for the validation.

**Task 8:** Revise the Draft framework documents to accommodate the outcome of the stakeholder validation and produce final framework documents

1. **DELIVERABLES**

The deliverables for this assignment are as follows: -

1. Inception Report containing methodologies, survey instruments and work plans;
2. Draft policy and regulatory framework documents comprising: -
   1. Draft model policy for universal access
   2. Draft model regulatory framework for universal access
3. Final policy and regulatory framework documents comprising: -
   1. Model policy for universal access
   2. Model regulatory framework for universal access
4. **TIMELINES** 
   1. **Commencement Date and Period of Implementation**

The assignment is estimated to be completed within a period of Ninety (90) calendar days, commencing from the date of contract signature.

* 1. **Table of Deliverables**

The timing of the deliverables for the assignment are as indicated in the table below. The Inception, draft final reports and final report shall be submitted electronically.

|  |  |
| --- | --- |
| **Deliverables** | **Timeline** |
| Contract Signature – T0 | T0 (zero day) |
| Inception Report including Detailed Work Plan – T1 | T0 + 15 calendar days |
| Draft Final Report of Study – T2 | T1 + 30 calendar days |
| Stakeholder validation workshop – T3 | T2 + 30 calendar days |
| Final Report of Study – T4 | T3 + 15 days |
|  |  |

1. **QUALIFICATION AND EXPERIENCE OF EXPERTS**

COMESA is seeking applications from firms and/or consortiums of consultants comprising at least a telecommunications engineer, an economist and a lawyer. The lead consultant and support consultants should have a minimum of the following qualifications and experience:

* 1. **Lead Consultant/Telecommunications Engineer**
     1. ***Qualifications***

1. A minimum of a master’s degree in electrical engineering, telecommunications engineering and computer science.
   * 1. ***Professional experience***
2. At least 15 years’ experience in telecommunications engineering;
3. Postgraduation experience in policy, regulatory and/or legislative oriented work in telecommunications industries;
4. Regional experience in EA-SA-IO Region and work experience in Sub-Saharan Africa;
5. Leadership/management experience; and
6. Excellent communication and report writing skills in at least one of the official languages of COMESA.
   1. **Economist**
7. A minimum of a master’s degree in economics, finance, mathematics, or statistics
   * 1. ***Professional experience***
8. At least 10 years’ post-graduation experience in policy, regulatory and/or legislative oriented work in telecoms industries;
9. Demonstrable knowledge and skills in telecoms market definition and analysis and econometric modelling;
10. Regional experience in EA-SA-IO region and work experience in Sub-Saharan Africa; and
11. Excellent communication and report writing skills in at least one of the official languages of COMESA.
    1. **Legal Expert**
12. A minimum of a master’s degree in law
    * 1. ***Professional experience***
13. At least 10 years’ experience in administrative law, policy, and regulatory environment;
14. Demonstrable knowledge and experience on legislative drafting;
15. Regional experience in EA-SA-IO region and work experience in Sub-Saharan Africa; and
16. Excellent communication and report writing skills in at least one of the official languages of COMESA.
17. **PLACE OF ASSIGNMENT**

This is a home-based assignment, enabled by electronic communications services such as email and videoconferencing. There will be a travel mission to Lusaka, Zambia, and another travel mission for a stakeholder validation workshop at a venue to be agreed upon. Missions may also be undertaken to selected Member/Partner States and other locations of interest and relevance to the assignment.

1. **SUPERVISION AND REPORTING**

It is expected that the consultant will work in very close coordination with the COMESA Secretariat, providing regular, unsolicited updates, and responding promptly and flexibly to the needs and demands of COMESA and the corresponding timelines. Overall reporting will be to Director of Infrastructure and Logistics. All reports shall be in electronic format in MS Word, Excel, PowerPoint, and PDF as appropriate.

1. **DURATION**

The tasks will be carried out over 90 calendar days (approximately 13 weeks) period from contract signature.

1. **INSTRUCTIONS TO BIDDERS**
2. **Eligibility to Tender**

This tender is open to all competent companies that have demonstrated and has the capacity, competence in the subject matter, Company should have at least 5 years of proven experience performing in similar capacity upon inception.

1. **Cost of Tender**

The Bidder shall bear all costs associated with the preparation and submission of the bid. COMESA will, in no case, be responsible or liable for those costs, regardless of the conduct and outcome of the tender.

1. **Bid Currencies/Bid Prices**

All prices shall be quoted in Euros (.

1. **Tender Prices**

The tenderer shall indicate on the appropriate price schedule the unit prices and breakdown for all costs to be incurred and total tender price of the services it proposes to provide under the contract.

Prices indicated on the price schedule shall be the cost of the services quoted exclusive of all taxes in Zambia.

1. **Price Variation**

Prices quoted by the tenderer shall be fixed during the term of the contract. Quoted rates should include all overheads and profits. The rate should be firm for the entire contract period. There will be no price variation after signing of the contract. Currency exchange fluctuations will be a non-factor.

1. **Period of validity of Bids**

The Bids shall remain valid for ninety (90) days after the closing date of tender submission.

In exceptional circumstances and prior to the expiry of the original tender validity period, the contracting authority may solicit the tenderers’ consent to an extension of the period of validity.

The request and the responses thereto shall be made in writing.

1. **AMENDMENTS OF BID DOCUMENTS**

At any time prior to the deadline for submission of Bids, COMESA, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, may modify the Bidding Documents by issuing an addendum.

All addenda shall be posted on the COMESA website <http://www.comesa.int>. All bidders wishing to be notified of any addenda should provide to COMESA the bidders name and email address.

In order to afford prospective Bidders reasonable time in which to take the amendments into account in preparing their offers, COMESA may, at its discretion, extend the deadline for the submission of bids.

1. **FORMAT AND SELLING OF BIDS**

The Bidder shall prepare copies of the technical bid and financial bid in two separate emails, clearly marking one as “Technical Proposal “and the other as “Financial Proposal” with a password for the financial proposal, we shall only request for the password to the Financial Proposal if the bidder’s technical proposal scores 70 and above.

The tenders should be emailed to [procurement@comesa.int](mailto:procurement@comesa.int) and [tenders@comesa.int](mailto:tenders@comesa.int) not later than **3rd October 2023** at 15:00 hrs Lusaka time and should be marked “**DRAFT TERMS OF REFERENCE FOR DEVELOPMENT OF POLICY AND REGULATORY FRAMEWORK FOR ICT AUTHORIZATION AND E-WASTE MANAGEMENT**  **”** DO NOT OPEN BEFORE **3rd October 2023** at 15:00hrs Lusaka time.

1. **METHODOLOGY**

The methodology, schedule and design should be stated and presented clearly.

Each Proposal shall be evaluated by a selection committee utilizing a number of criteria, as specified in the table below:

**Table 1: Criteria for Overall Technical Evaluation**

| Criteria | | % |
| --- | --- | --- |
| C1 | Understanding of the Terms of Reference | 10 |
| C2 | Relevant experience of the firm in similar assignments | 10 |
| C3 | Proposed methodology, approach and implementation plan | 10 |
| C4 | Qualifications and professional experience of key experts | 60 |
| C5 | Design expertise for the web portal | 10 |
|  | **Total** | **100** |

However, this will be subject to the bidder attaining a pass score 70% of the obtainable score of 100 points in the evaluation of the technical proposals.

The weighting of quality and price will be applied as follows:

Score for Proposal ***=*** ({Lowest price } x20)+ ({Total quality score of Proposal} x80)

Price of Tender 100

The bidder who will have the highest ranked combined proposal will be selected.

Note that the deadline for submitting questions is 22nd September 2023 at 12:00 hrs. Lusaka Time.

1. **OWNERSHIP OF TENDERS**

COMESA retains ownership of all tenders received under this invitation to tender.

1. **NEGOTIATION AND FINALIZATION**

After the selection of the best bid and notification to the selected company, COMESA will commence negotiations with the company for purposes of concluding an agreement for the provision of the services.

1. **AWARD OF CONTRACT**

Prior to expiration of the period of bid validity, the Procurement Committee will award the contract to the qualified Bidder whose Bid has been evaluated to be the most responsive to the needs of the organization and activity concerned.

COMESA reserves the right to wholly or partially reject or award these contracts to any bidder and has no obligation to award this tender to the highest ranked bidder.

COMESA also reserves the right to annul the Bid process and reject all Bids at any time prior to award of contract, without thereby incurring any liability to the affected Bidder(s).

1. **CANCELLATION OF THE TENDER**

In the event of cancellation of the tender, bidders will be notified in writing of the cancellation by the contracting Authority and informed of the reasons for cancellation.

If the tender is cancelled before the outer envelope of any bid has been opened, the

unopened and sealed envelopes will be returned to the bidders.

1. **SIGNING OF THE CONTRACT**

Within 14 days of receipt of the contract the successful Bidder shall sign and date the contract and return it to the COMESA Secretariat.

1. **PERIOD OF EXECUTION**

The period of execution of the contract starts from the date of the signing of the contract and will be for a duration of one hundred fifty (150) days.

1. **ETHICAL CONDUCT AND FRAUDULENT PRACTICES**

COMESA requires that Tenderers observe the highest standard of ethics during the selection and execution of such contracts. For this provision, the Purchaser defines the terms set forth below as follows:

1. “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of an officer of the Purchaser in the tendering process; and
2. “Fraudulent practice” means a misrepresentation of facts to influence the tendering process to the detriment of the Purchaser.
3. COMESA will reject a proposal for award if it determines that a Tenderer has engaged in corrupt or fraudulent activities in competing for the contract in question.
4. **CONFIDENTIALITY**

Information relating to evaluation of bids and recommendations concerning awards, shall NOT be disclosed to the Bidders who submitted the bids or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the contract.

1. **TECHNICAL QUERIES**

For any technical queries related to terms of reference, kindly contact the Procurement Unit on the following email: [procurement@comesa.int](mailto:procurement@comesa.int) and copy [ssimatengo@comesa.int](mailto:ssimatengo@comesa.int) and [smwesigwa@comesa.int](mailto:smwesigwa@comesa.int) not later than **22nd  September 2023** at 12:00hrs Lusaka time

1. <https://www.worldbank.org/en/topic/digitaldevelopment/overview> [↑](#footnote-ref-1)