



**REPUBLIC OF KENYA**  
**OFFICE OF THE DEPUTY PRESIDENT**  
**State Department for Devolution**



**Project Name: SECOND KENYA DEVOLUTION SUPPORT PROGRAM (KDSP II)**

**Credit No: IDA-7447-KE**

**Project ID No: P180935**

**Contract Reference No.: KE-DD- 491096-CS-QCS**

**Terms of Reference for Independent Verification Consulting Services to Undertake the Annual Performance Assessment on the achievement of Results under KDSP II**

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## **A. BACKGROUND**

The Government of Kenya has received an International Development Association (IDA) Credit in the amount of EUR140.7 million (US\$150 million equivalent) from the World Bank for implementing the Second Kenya Devolution Support Program (KDSP II) (Credit Number IDA-7447-KE) over a four-year period, starting December 7<sup>th</sup>, 2023. KDSP II is supporting a sub-set of reforms envisaged under the Government's Devolution Sector Plan.

The Program, whose development objective (DO) is to “strengthen county performance in the financing, management, coordination, and accountability for resources”, supports a series of key interventions (at the input and output levels) that contribute to intermediate outcomes and, in turn, contribute to outcomes. To achieve the DO, the Program is expected to significantly improve outcomes in the participating counties under three key result areas (KRAs) outlined below:

- **KRA 1: Sustainable Financing and Expenditure Management.** This KRA supports efforts toward enhancing financing and expenditure management by counties. In this KRA, the national-level activities, supported through investment project financing (IPF) entail the development of frameworks and guidelines for county revenue mobilization, policy to support financing for service delivery units, and structures and tools to support counties' institutionalization of shared project management functions, that is, the county SPMU. The expected outcomes will include an improved revenue mobilization agenda (for example, increased revenue collection, enhanced accuracy of fiscal forecasting, and expansion of revenue base), timely communication on releases of conditional grants, automation of the county exchequer requests, and implementation of pending bills action plans. The relevant disbursement linked indicators (DLIs) under this KRA are on (i) the average number of days it takes for the National Treasury, Office of the Controller of Budget, and the Central Bank of Kenya to process a county exchequer requisition once submitted; (ii) participating counties that have increased their own source revenue by at least 5 percent annually, over and above the rate of inflation; and (iii) participating counties that have prepared and are

implementing action plans to reduce their stock of pending bills and maintain it at minimal levels.

- **KRA 2: Intergovernmental Coordination, Institutional Performance, and Human Resource Management.** This KRA supports national and county government initiatives toward strengthening intergovernmental coordination, institutional performance, and Human Resource Management (HRM). The national level activities financed through the IPF will support the development of policy and administrative procedures for the operationalization of intergovernmental, intercity, and inter-municipality forums. The IPF will also support the development of guidelines including on county HR and skills audits, model organization structures for customization by counties, and performance management. DLIs under this KRA will target counties implementing recommendations of HR, skills, and payroll audits; aligning county staffing with departmental functions in select sectors; and improving credibility of the payroll. The relevant DLIs under this KRA are on (i) participating counties that have integrated their HR records, authorized staff establishment and payroll, and uploaded cleaned payrolls in the human resource management information system; and (ii) participating counties that are enhancing accountability for results through an integrated performance management framework.
- **KRA 3: Oversight, Participation and Accountability.** This KRA supports improvements in oversight, participation, and accountability. The IPF component will support the development of guidelines on project stocktaking, community-led project management committees, and climate change risk screening and preparedness (including assessment of the climate resilience of existing infrastructure assets). It will also support the rollout of the county (public Investment Management (PIM) framework. The expected outcomes include the establishment of project management committees, county compliance with the PIM framework, and developing and operationalizing a county investment dashboard with a citizen feedback interface (which is used to improve public investments). Additionally, it is expected that county assemblies will establish a fiscal bureau to strengthen the role of the legislatures in budget scrutiny and oversight. The relevant DLI under this KRA is on Participating counties that have established public investment management dashboards with citizen feedback mechanisms.

## **B. KDSP II GRANT MECHANISMS**

The incentives for participating County governments are provided through Minimum Conditions (MCs) and Performance Measures (PMs), which are sets of indicators that can be scored and reflect the achievement of results (DLIs) and, consequently, the Program objectives. The DLIs under KDSP II are linked to two types of conditional grants: the Institutional Support Grant (ISG) also referred to as level I grants; and the Governance and Service Delivery Grant (GSDG) also referred to as level II grants.

### **(i) Institutional Strengthening Grant (Level 1 Grant)**

The objective of the Level 1 Grant is to incentivize and support county governments to undertake core institutional reforms and finance institutional and capacity-building activities

that will strengthen their ability to access the Level 2 Grant and to subsequently achieve the intended Program results. The Level 1 Grant is tied to DLI 2 and will be accessed once a county achieves the DLI 2 results. The list of eligible and ineligible expenditures for this grant can be found in the Program Operations Manual (POM).

In the first year of the Program (*read MACs that need to be assessed for the financial year 2023/2024 and need to be met for the level 1 grants to be disbursed in financial 2024/2025*):

- (a) Sign a Participation Agreement providing for, among others, publishing of budget and expenditure data<sup>1</sup> and
- (b) Prepare approved work plans, cash plans, and budgets consistent with the agreed methodology and standards.

In subsequent years (FY 2024/2025-FY 2027/2028), counties will also need to do the following which will be assessed once each year:

- i) Qualified or unqualified audit opinions (with time-bound action plans for addressing qualifications)
- ii) Reports on implementation progress and use of Program funds
- iii) Timely release of KDSP II funds from the County Revenue Fund (CRF) to the Special Purpose Account (SPA).

The compliance assessment for the Level 1 Grant will be conducted as an integral part of the overall APA. The fulfilment of the DLI 2 results is a binary (yes/no) question, and to achieve the result, the score for all the applicable results must be a 'yes'. Failing one (that means scoring a 'no') means that the DLI is not met; thus, the county will not receive Level 1 funding for that financial year.

Subject to the achievement of all applicable results for DLI 2, each of the eligible counties will access (receive) a flat amount in Kenya shilling equivalent to US\$250,000. This will apply for each of the first three years of the Program.

## **(ii) Service Delivery and Investment Grant (Level 2 Grant)**

The objective of the Level 2 Grant is to provide financing for investments in county infrastructure and service delivery with the aim of incentivizing enhanced performance of counties. The chosen investments must be aligned with the County Integrated Development Plan (CIDP) and County Annual Development Plan (CADP). The list of eligible and ineligible expenditures is provided in annex 11 of the POM.

To access the Level 2 Grants, each county will need to meet the following minimum conditions:

- (a) Has prepared a work plan and budget for use of the investment grant in the next fiscal year
- (b) Has disclosed stock of pending bills<sup>2</sup>

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<sup>1</sup> The template for the participation agreement is provided in annex 4 of the POM. The documents to be published annually are (a) CADP, (b) county fiscal strategy paper, (c) approved program-based budget, (d) county Finance Act, (e) county budget review and outlook paper, and (f) quarterly budget implementation reports (Q1-Q4).

<sup>2</sup> Aligned with disclosures made to the OCoB.

- (c) Has disclosed OSR collection<sup>3</sup>
- (d) Has an approved structure of a County Single Project Management Unit (SPMU)<sup>4</sup>
- (e) Has (i) developed implementation plans for HR and skills audit; (ii) developed implementation plans for special payroll audits; and (iii) published staffing levels aligned with approved structures and staff establishment
- (f) Has screened proposed infrastructure investments (which will also include feasibility studies and E&S screening for proposed investments)<sup>5</sup>
- (g) Has trained gender officers aligned with approved training programs
- (h) Has established County Project Implementation Units (CPIUs).

The Level 2 Grant will be allocated based on both the achievement of the minimum conditions and the county's scores in the performance measures. These performance measures reflect the three KRAs and the 5 DLIs for the Level 2 Grant.

For each DLI (DLIs 3–7), 50 percent of the Level 2 Grant envelope will be divided among counties that met that respective DLI result using the CRA formula (that is, the equitable shares). The other 50 percent is allocated based on the scores against the performance measures pertaining to each respective DLI result area, weighted with the CRA formula. Therefore, meeting a DLI result will give counties access to the base allocation, which can be further enhanced by above-average performance against the related performance measures. The performance measures and scoring guidelines are provided in annex 3 of the POM.

The investment grant for a county is the sum of what it is allocated under DLIs 3 to 7. The approximate allocation for the Level 2 Grant is as outlined below in terms of the resource envelope for each DLI:

- DLI 3: USD 500K per year for each county that has increased its OSR by at least 5% annually, over and above the inflation rate.
- DLI 4: USD 550K per year for each county that has prepared and is implementing an action plan to reduce the stock of pending bills and maintain it at minimal levels.
- DLI 5: USD 700K per year for each county that has integrated their HR records, authorized staff establishment, and payroll and uploaded cleaned payrolls in the HRMIS.
- DLI 6: USD 350K per year for each county that is enhancing accountability for results through an integrated performance management framework.
- DLI 7: USD 400K per year for each county with a public investment management dashboard with citizen feedback mechanisms.

## **C. THE ANNUAL PERFORMANCE ASSESSMENT GUIDELINES AND THE VERIFICATION PROTOCOLS**

An Annual Performance Assessment (APA) will be conducted to assess the achievement of DLIs by county governments for the respective DLIs for which they are eligible. The results of the APA will determine the disbursement of Program funds. The achievement of DLIs 2-7 by county governments will be assessed county-by-county. The achievement of DLI 2, which is linked to

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<sup>3</sup> Aggregated per revenue stream for the last 12 months and disclosed on the county website.

<sup>4</sup> Will include finance, procurement, internal audit, E&S, and M&E functions.

<sup>5</sup> Screening will cover climate, gender, and E&S social issues and will also align with the county PIM framework (once it is rolled out to counties under the Program).

the Institutional Strengthening Grant, will be assessed on a binary basis. The achievement of DLIs 3 to 7, linked to the Service Delivery and Investment Grant, will be based on both the achievement of the Minimum Performance Conditions and the county's score against the Performance Measures. There will be formal entry and exit meetings held between Independent Verification Agent (IVA) and County Program Implementing Unit (CPIU) to discuss the scope of the assessment and the verification process including required documentation and the timelines. The exit meeting will discuss the findings of the verification exercise.

The assessment will be done at least annually by an Independent Verification Agent (IVA) through the annual performance assessments (APAs) using the DLI Verification Protocols. The latest official full set of APA Guidelines and DLI Verification Protocols, which apply to all the counties is provided in the POM. It is envisaged that the APA guidelines and DLI Verification Protocols may need to be refined during Program implementation to address systemic issues encountered in conducting the APAs. Formal revisions to the APA guidelines and verification protocols can be proposed by the IVA or NPCU and CPIU and submitted to the World Bank for review and no objection and disseminated immediately to all the counties before the start of the verification exercise.

### **The DLI Verification Protocols**

As detailed in the POM, the verification protocol for each DLI comprises of:

- i) The detailed definition/description of the DLI, including definitions of key terms.
- ii) The data source to be used by the IVA to assess DLI achievement.
- iii) The procedure that the IVA will use to assess whether the county has achieved (passed) or not achieved (failed) the DLI.

### **D. OBJECTIVE OF THE ASSIGNMENT**

The objective of the consultancy is to independently assess performance with respect to:

- (a) Compliance with the Minimum conditions applicable to the Grants (participating counties only).
- (b) The performance standards i.e. verify the achievement of KDSP II disbursement-linked results using the verification protocol as outlined in the Project Operations Manual (POM). This applies to the participating counties.

### **E. SCOPE OF THE WORK OF THE IVA**

The scope of the consultancy will cover participating counties. All 47 counties are eligible to participate in the Program, subject to signing the participation agreement.

### **F. DURATION OF THE ASSIGNMENT**

The IVA support is expected to be provided over the annual performance assessment (APA) period.

The APA period is envisaged to take a total of 90 days from the contract commencement date.

The consultant shall provide in the financial proposal the total price for the envisaged assignment based on the specified deliverables of the APA. For APA period, the consultant shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts and (b) reimbursable expenses. During the contract period for the assignment, the consultant shall maintain its original financial proposal without any change. The key experts required for the APA in terms of expertise/field and numbers are provided and shall be maintained for the entire duration of the assignment.

The assessment of the consultant's performance will depend on factors including, but not limited to, meeting the timelines specified in the contract, submission of accurate assessment and meeting the contractual obligations stipulated in the signed contract. The assessment process is expected to be non-discriminatory, transparent, reliable and feasible against which the consultant's performance will be measured.

### **G. SPECIFIC TASKS AND DELIVERABLES**

Specific tasks to be undertaken under the consulting services contract are included below. The IVA is expected to produce the following deliverables:

- 1. Inception Report:** methodology for carrying out the assignment; detailed APA score card and workplan for the visit to each relevant each county; date for delivery of various drafts of APA reports; consultants' team organization.
- 2. Conduct field visits to all the 47 counties;** in order to collect data on compliance with minimum conditions and the performance of each county government in terms of performance measures in each DLI.
- 3. Interim APA reports which are provided to relevant counties to review and make any appeals to the findings.** There should be a two-week window for an appeal process, after which the report is compiled and formally submitted.
- 4. Final County Annual Performance Assessment Reports.** Each report will contain the following information.
  - i) Description of the work done by the IVA on each DLI
  - ii) A binary assessment for the minimum conditions (yes or no)
  - iii) Performance assessment and score for each DLI
  - iv) Computed tabulation for each county for the specific DLI
  - v) Details of the reasons why the county failed to achieve the DLI – for example, out of the multiple elements required to achieve the DLI, which of the elements were not achieved, and which ones were achieved.
- 5. Consolidated Verification Report:** This will be a compilation report containing the County Annual Performance Assessment Reports of the participating counties. The report will contain the following information.
  - i) Description of the work done by the IVA
  - ii) A binary assessment for the minimum condition (pass or fail) for each county.
  - iii) For the final Verification Report, any adjustments of the interim assessment on DLIs will be based on audited financial statements (instead of interim year-end figures) for each county.

- iii) Lessons learnt, recommendations for the next APA, and any proposed revisions to the APA Guidelines and DLI Verification Protocols.
- iv) Computed tabulation for each county for the specific DLI.

- 6. Scoring Matrix:** Development of a simple computerized model into which the consultant will enter the draft and final scoring data resulting from the APA. The computerized model should facilitate linkage of results to the word document and also easier consolidation and analysis of results.
- 7. County Government; signing off on APAs:** Before completing the assessment, the Consultant will be required to present the draft assessment to county leadership to obtain their signed certificate of agreement to the assessment, documenting any justifications for non-agreement.

In addition to these reports, the IVA will retain documentary evidence to confirm all the checks in the verification protocol have been carried out.

<b>Deliverable</b>	<b>Timelines</b>	<b>Payment</b>
<b>Inception report:</b> methodology for carrying out the assignment; detailed APA score card and work plan for the visit by the Consultant’s teams to each participating county; date for delivery of various drafts of APAs and reports; consultant’s team organization.	Within 14 days of contract signing	10%
Preliminary County Annual Performance Assessment Reports	Within 30 after approval of the inception report	20%
Draft Consolidated Results Verification Reports.	Within 2 weeks after the appeals with Participating County Governments	20%
Final IVA report	Within 2 weeks of receipt of NPCU and WB review and comments.	50%

**H. Minimum requirements for Consultant’s qualifications and experience.**

Specific Qualifications for the consulting firm shall include but not limited to;

- a. Core business and years in business:** The firm shall be registered/incorporated as a consulting firm for a period of a minimum of Ten years.
- b. Relevant experience:**

The firm must provide evidence of the following general and specific experience;

- The firm shall demonstrate A minimum of 10 years of experience in conducting research, evaluations, and assessments,

- Having successfully executed and completed at least five (5) large-scale evaluations of government programs or projects, of which at least three (3) must be within the East Africa region or a similar context.
  - Donor-Funded Project Evaluations – Experience in executing national-scale or equivalent donor-funded project evaluations, at least three projects of similar nature, complexity and in a similar operating environment- public sector in the last five years.
  - To support these requirements, firms must provide both reference letters and contracts as evidence for points of these similar past assignments.
- c. Description of Approach, Methodology, And Work Plan:** A description of the approach, methodology and work plan in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for the assignment. Technical Approach and Methodology, Work Plan, Organization and Staffing; Provide organization structure, team composition and CV and certificates of the Key personnel.
- d. Technical and managerial capability of the firm:** The firm shall demonstrate as having the requisite technical capacity and managerial capacity to undertake the assignment in the submitted company profile(s).

**Key Experts will not be evaluated at the shortlisting stage.**

**Team composition and qualification and experience requirements for the key experts.**

The team should be made up of the following skills – an overall team leader and the following team members. A team member can have more than one skill.

<b>Position</b>	<b>Educational Requirements</b>	<b>Experience required</b>
<b>Team Leader</b>	A minimum of a post-graduate degree in Governance, Leadership, Public Administration, Public Policy, Management Science, Human Resource, Education, Business Administration, Project Management, Statistics or any other Related Social Science Disciplines from a recognized university	A minimum of 12 years' work experience in Governance, Leadership, Public Administration, Public Policy, Management Science, Human Resource, Education, Business Administration, Project Management, Statistics or any other Related Social Science Disciplines; out of which 8 years in decentralized governance
<b>Public Financial Management Specialist (at least 1 member)</b>	A certified professional accountant with a minimum of Master's Degree in Economics, Accounting,	A minimum of 10 years' work experience in public financial management out of which 3 years in public sector finance,

<b>Position</b>	<b>Educational Requirements</b>	<b>Experience required</b>
	Financial Management or Related Disciplines	planning and budgeting; PIM and fiscal decentralization
<b>Revenue/Tax Specialist (at least 1 member)</b>	A minimum of a Masters Degree with a focus on Tax or Related Disciplines	A minimum of 10 years' work experience in Tax Policy and Administration
<b>Public Policy Analyst (at least 1 member)</b>	A minimum of Master's degree in public policy or public administration	A minimum of 10 years' work experience in public policy out of which 5 years is working with devolved system of governance.
<b>Auditor (at least 1 member)</b>	A minimum of master's Degree in Audit, or related disciplines	A minimum of 10 years' work experience out of which 8 years in auditing Government of Kenya financial; human resource management; and systems processes.
<b>HR Specialist (at least 2 members)</b>	A minimum of Masters Degree in Public Administration, Human Resource Management or Related Disciplines	A minimum of 10 years of work experience out of which 8 years related with HRM; Payroll administration; Performance Management; Organizational Development consultancy.
<b>Government ERP Systems Specialist (e.g., IFMIS and/or HRMIS) (at least 1 member)</b>	A minimum of Master's in Computer science, Information Technology or related disciplines	A minimum of 10 years' work experience in managing Governments Enterprise Resource Planning application systems such as IFMIS and/or HRMIS or both
<b>Civic engagement &amp; Social Accountability Specialist (at least 1 member)</b>	A minimum of a Law Degree or Master's Degree in Arts with specialization in Social studies.	A minimum of 10 years' work experience in the field of social accountability, citizen engagement, open government, out of which 8 years has been on working on public participation, civic education with government agencies.
<b>Social Safeguards specialist</b>	Master's degree in relevant social sciences field from a recognized university	At least seven years' working experience in social safeguards management with government agencies.

<b>Position</b>	<b>Educational Requirements</b>	<b>Experience required</b>
<b>Environmental Safeguards</b>	Master's degree in environmental sciences, environmental engineering, natural sciences, natural resources management, or any other related course from a recognized university	At least seven years' working experience in environmental safeguards management, with government agencies.

**I. RESPONSIBILITIES OF THE IVA/CONSULTANCY FIRM**

The IVA/consultancy firm shall be responsible for the provision of all the necessary resources to carry out the services such as project transportation for visits in counties, subsistence allowances, accommodation, information technology, and means for communications, reporting materials, insurance and any other required resources.

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

**J. RESPONSIBILITIES OF THE CLIENT**

The Client will avail all relevant documents to the consultants and will facilitate coordination with the counties. In addition to the POM and the PAD, the client will provide any other material considered relevant during the procurement and implementation process. The client will also provide quality control during implementation.

**K. MANAGEMENT, ACCOUNTABILITY OF THE ASSIGNMENT and QUALITY ASSURANCE**

The SDD is the client for the consultancy services. In terms of performance and deliverables, the consultancy firm will carry out the assignment under the direction of, and report to the KDSP II Program Coordinator in the NPCU. The firm shall work closely with NPCU to ensure timely delivery of the outputs.

**Communication of Assessment Schedule:** The consultant will prepare the performance assessment schedule for the participating counties in consultation with SDD, CoG and IGRTC. The assessment schedule will be communicated to the counties by at least 2 weeks to the commencement of the performance assessment exercise.

**Code of Ethics for the Consultant:** It is critical to emphasize that there is the need to be objective and maintain integrity throughout the process. A code of conduct/ ethics for the

consultant will be signed by all members before undertaking the assignment. The content of code of ethics will mainly focus on adhering to the procedures, integrity and anti-corruption issues. Harsh disciplinary action/ punitive measures will be imposed against non-compliant assessment and quality control for members as well as the involved Counties.

**Orientation of the Consultant's team members:** The consultant team members will have an orientation workshop (one-two days) just before the assessments for purposes of further exposure to the assessment tools and as a process of ensuring standardized interpretation of both indicators and processes. The content of orientation should include but not be limited to minimum conditions and their indicators, performance measures and their indicators, information sources, assessment procedures and scoring system, analysis and reporting guidelines as well as the code of ethics. The consultant will prepare workshop materials and presentations based on the assessment tool with inputs from SDD and the World Bank.

**Collection and collation of documentation evidence:** The consultant will collect and submit to SDD all documentary evidence to substantiate the APA results in a format to be agreed with the client.

**Debrief to the participating county governments:** After each participating county assessment, the consultant will debrief the County on the assessment results including performance status per indicator, general strength, and weaknesses but not on the decision on qualification or the specific scores. The debriefing session will include the CPIU, other County staff and leadership. Minutes of the debriefing meeting will be prepared and signed by the CEC in Charge of Devolution and the consultant team leader. The minutes will include the status of each of the indicators especially those for which the minimum conditions have not been complied with or where the full scores have not been attained for the performance measures. A signed copy of the minutes will be included in the draft reports as an Annex to be reviewed during quality assurance. This is intended to avoid cases where a county presents new evidence different from what was seen by the consultant for quality assurance.

**Confidentiality and Data Ownership:** The consultancy firm 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. All data is confidential and is the property of the SDD. No data or other information from this consulting services contract will be released to third parties without the written prior approval of SDD. The consultant team will provide all reports and deliverables in English. All documents are proprietary to and shall be collected and stored at the SDD 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.

**Quality Assurance:** The APA report will be subjected to a Quality Assurance Review by the NPCU and the World Bank which will sample counties to assess the veracity of APA results. In cases where the consultant's results are materially different from the quality assurance results, the consultant team will repeat the assignment at their own cost. The Final APA results subjected to the quality assurance review will be further endorsed by the KDSP II National Project Steering

Committee. Based on the final APA results, Government of Kenya (GoK) through SDD will send a Results Achievement Notification summarizing how the Program DLIs have been met.