**TERMS OF REFERENCE (TOR) FOR INDIVIDUAL CONSULTANT**

**Independent review of the UNICEF Water Governance programme: Improving coordination between**

**county government and Water Service Providers (WSPs) in Kenya**

|  |
| --- |
| **Summary**  |
| Purpose of Assignment | To conduct independent review and documentation of the lessons learned and knowledge products developed under the WaterWorX Enabling Environment programme in Nairobi, Nakuru and Homabay counties. |
| Programme Output | Output 1.4: WASH - Enabling Environment (policies/strategies, coordination, regulation, financing, planning-monitoring-review, sector capacity development and professionalization) |
| Location of Assignment | Nairobi with visit to county governments of Nairobi, Nakuru and Homabay |
| Duration of contract | 2 months (30) working days  |
| Start date | From: 15 July 2022 | To: 15 Sept 2022 |
| Reporting to: | Chief of WASH/WASH Specialist (Water Governance) |
| Estimated budget and code: |  |
| Is consultancy assignment in the approved AWP | Yes |
| If, Yes, attach copy of the approved page | **Attached.**  |
| If No, attach approved NFR/Justification for the consultancy | N/A |

**Background**

The WaterWorX public private partnership (PPP) was established between the Netherlands’ Ministry of Foreign Affairs, local partner companies, and Dutch water companies in 2017. The WaterWorX PPP seeks to contribute to increasing access to sustainable water services in Africa, Asia, and Latin America. The aim of the WaterWorX PPP is to provide 10 million people across 17 countries with sustainable access to drinking water by 2030, by strengthening the performance of utilities though Water Operators Partnerships (WOP). This partnership also aims to strengthen the enabling environment for utilities in selected countries and to develop infrastructure development proposals for financing.

Kenya constitution 2010 has devolved significant proportion of the national revenue to County Governments to undertake service provision in the social service sectors including water and sanitation. Consequently, the ownership of the regulated Water Utilities moved away from municipalities / local authorities to County governments. Both the Kenya Constitution 2010, under its article 43 (1) (d) and the UN general assembly resolution of 28th July 2010 guarantee the human right to water and sanitation.

In Kenya, three Water Operators Partnerships (WOP) have been implemented in Homabay County (Homabay County Water and Sanitation Company and DUNEA), Nakuru County (Nakuru Water and Sanitation Services Company Limited [NAWASSCO], Naivasha Water, Sewerage and Sanitation Company Limited [NAIVAWASS], and Nakuru Rural Water and Sanitation Company Limited [NARUWASCO]), and Nairobi County (Nairobi City Water and Sewerage Company and Waternet). In a scoping study undertaken in October 2017, three dimensions of the enabling environment were identified as requiring strengthening in Kenya. These are:

* *Governance of the water services:* The newly established County Governments have recently become the owners of the water utilities. Ensuring a positive working relationship between the County Government and water utility is crucial.
* *Financing gap:* The Kenyan water services sector faces a significant annual financing gap. Addressing this finance gap requires a mix of funding sources. This action includes the development of a financing strategy that identifies the scope and need for those different funding sources and puts some of the corresponding mechanisms in motion.
* *Capacity and skills development:* Most staff working in water utilities in Kenya have inadequate skills and capacities for proper use and management of water resources.

Consultation with County Governments and Utilities during the programme inception phase in March and April 2021 revealed gaps in County water departments across eight main governance dimensions selected from WASREB indicators and other conceptual models such as the Sanitation and water For All (SWA) building blocks and OECD water governance principles as follows:

1. *Policy and strategy* **-** Low awareness and implementation of WASREB guidelines 2019 and MOWSI regulations 2021 while Counties were still doing direct service delivery contrary to their role of policy, regulation, oversight, strategy, and coordination
2. *Utility oversight and regulation* **-** Lack of oversight on Utility activities across counties and low awareness and adherence to WASREB governance indicators as well as lack of effective communication bbetween County and Utility whereas asset register has not been transferred to Counties.
3. *Service standards -* Low coverage, low continuity of service, lack of asset register, high inactive connections, low response to customer complaints and high non-functionality of areas served by water depts were raised
4. *Planning, monitoring, and review* **-** Lack of joint planning between principal stakeholders, weak generation and use of data for planning, WARIS is not accessible to stakeholders while maji-data not operational, lack of joint annual sector review though one has been established this year, Utility workplans not uploaded on the website., Utilities staff lack analysis skills to generate information products from ERPs and CIMSs, and low budget absorption rate
5. *Financial Management and sector Financing* **-** Lack of analysed data on realistic costs of services, lack of county Financial Investment plan and Financing strategy, high NRW limits revenue from tariffs, high expenditure on electricity, Commercial financing at initial stages, ERPs introduced but not fully rolled out and MCAs undermine consumer willingness to pay
6. *Human Resources and Capacity of staff -* Non-compliance to staff – budget ratio guidelines, weak staff training, learning and motivation; the 1% allocation from tariff is inadequate to meet gaps, performance contracting not fully rolled out, weak gender parity and lack of LTA for training with institutions to reduce costs.
7. *Information and control system, integrity, and transparency* - Budgets & expenditures not uploaded in website, inadequate open days with customers, low awareness on ethics and integrity, expenditure often deviates from tariff conditions, revenue collection by water dept is not regulated and lack of regular annual stakeholder forum
8. *User consultation and stakeholder engagement* **-** Lack of effective user interaction with utility, low awareness on maji voice platform, low public participation in utility work, lack of updated contact of stakeholders, lack of functional platform for stakeholders to engage with principal stakeholders and Water Action Groups (WAGs) are not active.

According to the IMPACT report of the water services sector in Kenya in the Financial Year 2019-2020 released by the regulator in June 2021, the sector performance trends declined across several key indicators. For instance, water coverage for areas served by regulated utilities declined from 59 per cent in 2018/19 to 57 per cent in 2019/20 mainly because of population growth surpassing growth in access. The report points out that Non-Revenue Water (NRW) increased from 43 per cent to 47 per cent far from the National Water Services Strategy [NWSS] target of less than 30 per cent and Vision 2030 goal of less than 25 per cent. The IMPACT report notes that the indicator for NRW which is critical for operational sustainability of water Utilities has not recorded significant improvement despite the commercialization of services. The Operation and Maintenance[O+M] Cost coverage that measures the economic efficiency of Utilities marginally declined from 105 per cent to 103 per cent against the target of 150 per cent for full cost recovery. This is mainly due to costs increasing at a higher proportion compared to revenues, a situation that can be attributed to a higher proportion of utilities not having justified tariffs.

The Kenya National Water Sector Master Plan 2015-2030 estimates that the country requires Kes 100 Billion annually to achieve Vision 2030 for Universal access to water and sanitation but the Government together with the development partners can provide only 40Billion which means a shortfall of 60% of the requirements. There is therefore urgent need to increase self-financing of the sector to guarantee sustainability of services through improved efficiency, cost reflective tariffs and improving credit worthiness to attract repayable funds. A credit worthiness assessment conducted by WASREB in FY 2018-2019 revealed that only 27 out of the 91 regulated WSPs are eligible for repayable finance.

The service areas of Regulated water Utilities cover only 53 per cent of the country population while the rest is covered by Scale service providers or self-service by households. The national water coverage considering the contribution of the Small-Scale Service Providers (SSSPs), is 45 per cent with huge variances between counties. According to the WHO/UNICEF, JMP 2021 only 62 per cent of the Kenya population had access to safe water consist of 58 per cent of the urban population and 52 per cent of the rural population.

COVID-19 has exposed the gaps and inequalities in water services provision especially as these relate to residents in urban informal settlements. According to WASREB, 40 per cent of the urban population in Kenya lives in low-income informal settlements. The WASREB impact report has identified the following action as part of reimagining the water sector in post COVID era:

* Improve public and self-financing of water services to stem the persisting financing gap in a market with tremendous growth of demand
* Authority for service provision should be delegated to a utility accompanied by the duty to give account for results including in the rural areas
* Stakeholders should seek to re-prioritize the water sector after decades of underinvestment and lack of political prioritization of water
* Water utilities apart from raising awareness on the importance of good hygiene practices to prevent the spread of COVID-19, must have clear plans on expanding access to vulnerable populations within their service areas with a focus on removing these consumers from exposure to informal service provision and focusing on public health concerns
* More investments do not necessarily increase access. There is need for a technology paradigm shift and finding the right mix of (social) household connections, yard taps and kiosks.

In order to address to the glaring performance gaps in water service coverage and inequalities within the urban areas, rural areas and across counties, UNICEF with support from the Kingdom of the Netherland, Directorate -General of International Cooperation (DGIS) is implementing a water governance programme in collaboration with Water Service Regulatory Board (WASREB) of Kenya to strengthen the enabling environment for WSP to deliver effective and efficient services, and to build trust and confidence with consumers and stakeholders. The programme is meant to improve coordination between county Governments and water utilities and build capacity for improved service delivery initially in the Counties of Nairobi, Nakuru and Homabay. The emerging best practices and learning from the governance programme would be documented and shared with wider sector partners with a view to scale up the model across the country with priority focus on the ASALs.

**Objectives, Purpose & Expected Results**

**Objectives**

The overall objective of the consultancy is to support UNICEF Kenya Country Office to review the results achieved under the water governance programme so far from an independent perspective, document the main lessons learned and recommend actions for improving the depth and breadth of the programme particularly for expansion in the ASAL counties. The specific objectives of the consultancy will be to:

1. Assess the extent to which the programme is addressing the issues raised in the project concept note and in the project inception phase for improving the enabling environment for effective and efficient devolved water services delivery in Nairobi, Nakuru and Homabay in particular, strengthening coordination between the county and the water utilities.
2. Provide and document feedback on the programme achievements from the perspective of the primary stakeholders at the county level including the County Government departments of water, the core management team of the regulated water utilities, the county directors of budget and the county assembly committee on water, looking at what is working well, what is not working well and what needs to be improved or scaled up.
3. Provide and document feedback on the programme achievements from the perspective of the primary stakeholders at National level including the Ministry of Water, Sanitation and Irrigation, the Water Services Regulatory Board, Water Works Development Agencies (WWDAs), Water Sector Trust Fund, Water Service Provider Association (WASPA) and the secretariat Council of Governors Committee on water, looking at what is working well, what is not working well and what needs to be improved or scaled up.
4. Review the TORs for county led coordination arrangements, Annual Joint sector review and the WSP bottleneck analysis and the frameworks for the learning forums on governance, planning, and monitoring, and for formulation of County Water Services Strategy (CWSS) and recommend how the initiatives can be further improved and scaled up particularly in the ASALs.
5. Review the sector operating landscape on policy and institutional environment, financing, planning, and monitoring, and capacity building and in consultation with UNICEF and the Embassy of the Kingdom of the Netherlands recommend priority actions for improving governance of water services in the current counties and the ASAL counties.

**Purpose of the assignment:** The purpose of the assignment is to provide an independent feedback on the progress of the water governance programme implementation that can sufficiently inform the direction and approach for its continuity in current areas and / or expansion to the ASAL counties which is the focus of UNICEF under the new Country programme July 2022 – June 2026

**Expected Results**: A comprehensive report validated with primary stakeholders with detailed analysis of the operating landscape of the water sector in the respective counties, the results of the governance programme, lesson learned and recommendations on continuity and scale up of the programme. The report will have annexes of the reviewed and revised products developed under the programme as below

* TOR for county quarterly coordination mechanism for primary water sector stakeholders
* TOR for county quarterly coordination mechanism for wider sector stakeholders
* TOR for Annual Joint Sector Review
* TOR for bottleneck Analysis of WSPs
* TOR for learning forums – Governance dimensions, planning, and monitoring
* Framework for County Water Services Strategy

**Description of the Assignment**

Under the supervision of the Chief of WASH section, the consultant will review the following outcomes of the water governance programme to articulate the results already achieved and how the results can be deepened and broadened for greater impact.

1. Outcome1: Counties lead water sector partners to jointly plan, monitor and review service delivery
2. Outcome 2: Counties and Utilities have improved capacity for efficient service delivery
3. Outcome3: Counties and Utilities allocate financial resources efficiently and enhance financing

The consultant will present the findings of the review and seek inputs from UNICEF, WASREB, the CECs of the respective counties, the MDs of the Utility and the Netherlands Embassy in a consultation meeting supported by UNICEF.

The key aspects to be assessed under each outcome is summarized below:

**Outcome1: Counties lead water sector partners to jointly plan, monitor and review service delivery**

How is the coordination, review, and joint planning between the county water department and the regulated WSPs now as compared to the status at inception? How is the county progressing towards joint planning between the county, WSPs, WWDAs, WSTF, WRA and other stakeholders active in the sector? What are the benefits and importance of coordination and joint planning according to the perspective of the County and the utilities? Is it worth their time? Are counties willing to allocate budget for coordination? What are the barriers that remain to be addressed for sustainable coordination of service delivery by county governments? How can the TORs for the quarterly coordination and annual joint sector review be improved to achieve greater results? What is working well and what needs to be improved?

**Outcome 2: Counties and Utilities have improved capacity for efficient service delivery**

Has the bottleneck Analysis pointed out the root causes of the challenges affecting the performance of WSPs? How is the progress of implementation of the WSP investment plans to address the root causes affecting performance? What was impact of the learning forums on governance, planning, and monitoring? What is the benefit of the of the capacity building activities according to the perspective of the Counties and Utilities? Is it worth their time? How can these initiatives be strengthened and scaled up to rapidly improve efficiency of the WSPs in the country? How can the TORs and the framework for the capacity building activities be improved to achieve greater results? What is working well and what needs to be improved?

**Outcome3: Counties and Utilities allocate financial resources efficiently and enhance financing**

What evidence has been collected and collated at the county and Utility level to inform evidenced based investment planning, budgeting, and priorities. What additional information can the water governance programme collect progressively at county and Utility level to improve evidence generation and more informed investment planning and financing? Has the programme so far contributed to any increase in revenue from the 3Ts (Taxes, Tariff, and transfers) by Counties and Utilities? What has been the trends in expenditures by Counties and Utilities? Can the framework shared with counties for formulation of the county water services strategy generate adequate evidence to inform countywide commercialization of water services for sustainability, investment planning and financing of the water sector by counties and Utilities? How can the framework be further improved to be used across the country to collect information to inform the county water services strategy? Based on the review of progress suggest areas for improving to programme to better influence and advocate for enhanced financing for devolved water service delivery. What is working well and what needs to be improved?

**Deliverables, timeline, and payment schedule**

| **Deliverables** | **Timeline** | **Schedule of Payment** |
| --- | --- | --- |
| **Deliverable 1. Inception Report** including detailed methodology to deliver the assignment as per TOR, and workplan. The inception report will be developed based on engagement with UNICEF, WASREB, the County Government, and other key stakeholders.  | One week after contract signature (5 working days) | Submission of inception report (**Deliverable 1, 20%**),  |
| **Deliverable 2. Initial report of the Independent review the programme implementation and recommendations to deepen and broaden the programe** The report format shall include but not limited to the following sections: * Executive summary
* Methodology: Data collection and analysis methods including of key informants’ interviews, field observations, participation of any ongoing coordination meetings and relevant documents consulted
* Details on the above points under "Description of the Assignment” including revised TORs of the products developed under the programme and the framework for the County Water Services Strategy.
* Discussion through field visits to Nairobi, Nakuru and Homabay and individual consultation with primary stakeholders at county and national level
* The report will have inputs from half day consultation and validation workshop with UNICEF, WASREB, County water department, Managing Directors of WSPs and the Netherlands Embassy in a breakfast meeting in Nairobi. The workshop would be supported by UNICEF.
 | 6 weeks after contract signature (20 working days) | Report of the field consultation and preliminary findings of the review (**Deliverables 2 – 50%**  |
| **Deliverable 3. Final report of the assignment -** with inputs from the consultation and validation meeting with UNICEF and primary stakeholders, the report is reviewed and finalized for completeness. The report will have annexes of the revised TORs and frameworks of the products developed under the programme.  | 8 weeks after contract signature (5 working days) | Submission of final report (**Deliverable 3, 30%**) |

**Reporting Requirements**

The consultant will be expected to submit an inception report by the end of the first week of the assignment detailing the implementation plan and methodology. The report will be submitted electronically. The consultant will prepare for and facilitate a breakfast meeting where they will present the findings of the review and recommendations to seek inputs from UNICEF, WASREB and primary recipients of the programme. The workshop would be supported by UNICEF.

The consultant will submit preliminary report and a final report of the assignment that consolidates all the specific deliverables will be submitted at the end of the 8 weeks of the assignment. This would be both soft copy and scan copy

**Location and Duration**

* Starting period: 1st July 2022.
* Duration: 8 weeks (two months).
* Actual consultancy period: 30 days
* Country of assignment: Kenya.
* County of assignment: Nairobi, Nakuru and Homabay
* Project location: Nairobi

Expected timeline is as follows:

| **Result statement** | **Timelines** |
| --- | --- |
| Inception meetings, document gathering, desk reviews, methodology definition and detailed workplan and submission of inception report | 22nd July 2022 |
| Field consultations, preliminary report, presentation, and validation of report  | 26th August 2022 |
| Final report of the assignment as per TOR | 9th Sept 2022 |

**Qualification Requirements**

UNICEF is looking for an independent individual consultant with extensive experience in the water supply sector in Kenya that meet the following specific qualification and experiences:

* Education to master’s degree in Water Supply, Civil Engineering, Water Utility management or relevant technical field with over 10 years of relevant experience in the water supply sector in Kenya or other middle-income countries
* Extensive understanding of the water sector reforms, the water act 2016, water sector institutions and water utility management in Kenya, the water sector performance indicators and sector benchmarks as developed and regularly updated by the Water Services Regulatory Board (WASREB)
* Up to date awareness on the current conversations in the water supply sector including the performance of WSPs in Kenya as outlined in the WASREB IMPACT report, the national water services regulations 2021, the WASREB guidelines on water service provision in the rural and underserved populations and the proposed reforms under the National Water and Sanitation Investment Program (NAWASIP).
* Thorough knowledge and understanding of the gains and trends in commercialization of water services, efficiency reforms and progress towards enhancing alternative financing options in Kenya.
* Familiarity or prior work experience for the GoK, UN, or international development organizations a must.

**Evaluation process and methods**

Interested individual consultants will submit expression of interest explaining how they are qualified for the assignment and the professional fee charged. Three consultants will be shortlisted for discussion to assess their suitability for the assignment and the best will be selected based on the least cost quality and availability.

**Administrative issues**

Consultant is expected to have his or her computer

UNICEF will provide transport and DSA for field travel. UNICEF will also meet the cost of the consultation meeting with stakeholders.

**Project Management**

The consultant will work under the Chief of WASH supervision.

UNICEF and the selected consultant will always coordinate with both county and national Government agencies, to ensure compliance with government directives.

A Technical team comprising UNICEF and the Water Services Regulatory Board (WASREB) will provide technical inputs and feedback progressively to the consultant at each stage of the assignment.

**Any other Information**

* The consultant will provide its own office space, stationery, and materials (hardware and software)
* All payment must be within the contract agreement

**Please note that applications without Financial Proposal will not be considered**