



REPUBLIC OF KENYA

**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN
DEVELOPMENT AND PUBLIC WORKS
STATE DEPARTMENT FOR TRANSPORT**

**TERMS OF REFERENCE
FOR
STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENT (SESA)
ON
THE REVIEWED INTEGRATED NATIONAL TRANSPORT POLICY**

Reference No.: KE-SDOT-279573-CS-CQS

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1.0 Brief Background

The World Bank jointly with the Government of Kenya is funding the Horn of Africa Gateway Development Project (HoAGDP) and the State Department for Transport is one of the Implementing Agencies for the Project. HoAGDP is a Regional Project that aims at enhancing regional trade facilitation, improvement of transportation and institutional strengthening. The Project components include institutional strengthening for the State Department to improve its capacity in policy formulation, regulation and oversight of the transport sector. In this regard, one of the activities under the Project is the consultancy study to undertake Strategic Environmental and Social Assessment (SESA) for the reviewed Integrated National Transport Policy (INTP).

The key objective of the State Department for Transport is to develop efficient, safe, sustainable, integrated and seamless multimodal transport system comprising air, marine, road and rail modes of

transport. Transport is a key enabler to sustain and grow other major sectors of the national economy. Adequate regulatory framework is essential for optimal transport services.

SDoT seeks a consultant to conduct a Strategic Environmental and Social Assessment (SESA) for the reviewed Integrated National Transport Policy (INTP) which was developed in 2009 and later approved by through Sessional Paper No. 2 of 2012. Under the INTP, the new strategic direction objectives in the transport sector introduced seeks to push Kenya as a strategic hub both for trade and transportation. These objectives, it is envisaged, will be achieved by fostering national and regional economic integration and trade facilitation; establishing appropriate institutional systems; developing and maintaining an integrated and coordinated transport system; developing appropriate funding/financing mechanisms; integrating transport and land use planning and management systems; delivering efficient and effective sector operations; enhancing investments in the transport sector; applying ICTs in the transport system; and incorporating environmental protection and resource conservation issues in transport sector activities. In addition, the policy endeavors to ensure enforcement and compliance with sector laws and regulations; develop a national transport information database; enhance public awareness; improve safety and security; develop and promote appropriate human resource capacities in the sector; and facilitate public private partnerships. Given that the HoAGDP Project aims at enhancing regional trade through the facilitation, improvement of transportation and strengthening of institutions in the sector, some money has been set aside for a Strategic Environmental and Social Assessment. This exercise will help identify linkages between the transport sector; and economic, environmental and social issues and streamline institutions capacity to respond to the challenges in the sector.

The State Department for Transport (SDoT), one of the HoAGDP implementing agencies is responsible for; road, rail, air, maritime and non-motorized transport sub sectors in the country and will take the lead in the management of the consultancy. The State Department draws its mandate and functions from the Executive Order No.1 of January 2020 revised May 2020 and is responsible for formulation of transport Policy for all modes of transport, Legislation and providing oversight of State Corporations established through various Acts of Parliament as follows:

- i. Civil Aviation Act No.21 of 2013 establishes Kenya Civil Aviation Authority and the East African School of Aviation;
- ii. Kenya Airports Authority Act No 3 of 1991 establishes Kenya Airport Authority; and
- iii. Traffic Act of 2008.

1.1 The Rationale for the SESA

There is a need to ensure that social and environmental considerations are incorporated in transport infrastructure development, management, and operations. The construction of infrastructure and maintenance of transport systems often affect the environment through destruction of flora and fauna, displacement of human settlements and livelihoods, habitat fragmentation and negative changes in environmental aesthetics. This realization is one of the factors that set-in motion the development of an Integrated National Transport Policy (INTP) in 2009. This was later approved through Sessional Paper No. 2 of 2012. The review of the policy was undertaken in 2019 to incorporate recent developments and other emerging issues. The policy recommendations will be implemented through pre-determined programs.

Implementation of the policy anticipates various environmental and social linkages manifested through the proposed projects. This SESA will involve a comprehensive assessment of the policy in light of the proposed series of projects to establish basic environmental and social settings, standard methodologies and management plan structures. These concepts will then be applied in the scoping process and impact studies for each project for necessary review and approvals.

The Environmental Management and Coordination Act (EMCA), 1999 (EMCA Amendment, 2015), in Section 57A requires all policies, master plans and programs be subjected to Strategic Environment and Social Assessment (SESA). The Act requires that the proponent prepare and submit the SESA to National Environment Management Authority (NEMA) for approval. SDoT, therefore, intends to engage a consultant to carry out a Strategic Environmental and Social Assessment (SESA) process on the reviewed Integrated National Transport Policy. This will facilitate identification of key environmental and social risks and integrate environmental and social sustainability strategies in the implementation of the reviewed policy.

1.2 Overall Objective of the SESA

The SESA is designed to assist in decision making and implementation of projects in the policy through highlighting the specific developments, associated potential environmental and social impacts and risks, costs and benefits wherever possible. It will also provide alternatives and broad mitigating measures and action plans. The process will also assist in deciding on the most appropriate mix of initiatives for the implementation of the policy. The SESA helps ensure that specific initiatives aligned to the policy are designed in ways that they are environmentally sensitive and sustainable, thus supporting the overall success of the policy. However, as with all environmental assessments, the SESA does not make decisions but rather guides the process of decision making. This Strategic Environmental and Social Assessment (SESA) seeks to provide a comprehensive transport sector wide assessment of potential impacts, both positive and negative of developments, and the identification of gaps in regulation, institutional capacity and the strengthening of the public consultation mechanism.

Upon completion and approval of the SESA, each of the projects related to the policy will individually be subjected to ESIA requirements.

2.0 Scope of Assignment

The Consultant will conduct a comprehensive SESA for the policy and obtain the necessary approvals required for the implementation of the policy taking into account the national regulations and guidelines as well as the World Bank's environmental and social policies. The SESA is substantially dependent on available information and data on the transport sector and performance as well as other environmental and social linkages. The reviewed INTP policy and other relevant documents will comprise the main references. Considerable time, therefore, will be spent in collection of baseline data and information across the study areas and associated linkages.

The preparation of the SESA will cover the following:

1. Scoping;
2. Description of the regulatory and institutional framework and assessment of the Ministry of Roads, SDoT and other transport agencies capacity for environmental, social, and occupational health and safety assessment and management, including opportunities to introduce good global practices;

3. Identification of the general, strategic environmental and social risks and impacts resulting from implementation of programs and activities proposed in the reviewed INTP;
4. Formulation of recommendations and a SESA Action Plan; and
5. Final consultations (Stakeholders' Validation), review and approval.

Specific activities and general conduct of the SESA will be directly informed by the National SESA Guidelines and the World Bank Operational Policies on environmental and social safeguards, including OP 4.01; 4.10; 4.11; and 4.12; World Bank environmental, health, and safety guidelines and associated guidance notes:

Stage 1: Inception Activities and PPP brief

following mobilization and commencement of works, the consultant will prepare an Inception Report, which among others, will include:

- a. The schedule and methodology for conducting the work, the institutional arrangements and timing agreed with the SDoT, other key counterparts, and the World Bank to carry out the SESA;
- b. The SESA work plan describing the main activities for data collection and analysis, including planned consultation/validation with stakeholders;
- c. Plans for stakeholder consultation throughout the SESA process; and
- d. The expected products / deliverables, and reports schedule to be submitted to the SDoT

As part of the inception activities, the SESA consultant will assist the SDoT to prepare a Policy, Plan and Program (PPP) brief for submission to NEMA as part of registering the commencement of the SESA process with the authority, in line with the National SESA Guidelines.

Stage 2: SESA Scoping

The objective of the Scoping exercise is to frame the content and methodology of the SESA, with substantial stakeholder inputs. As part of the scoping phase the Consultant will:

- i. Conduct a stakeholder analysis to identify the key stakeholders to participate in the scoping phase and throughout the SESA. The Consultant will identify and map the key stakeholders in the transport sectors that should be consulted, and analyze their interests, concerns and incentives. The Consultant should also develop a work plan for consultations that will ensure that their interests, concerns and advice are considered in the SESA.
- ii. With stakeholders' participation, define the key environmental and social issues to be examined, any key restrictions, major interests, and how consistency of the various transport sectors objectives and alternatives can be ensured. Boundaries of any further assessment required to complete the SEA, in terms of space, time and subject matter will be defined.
- iii. Develop a common vision on the environmental, social, occupational safety and health risks, potential impacts, and objectives that will be addressed in the SESA (scope of the SESA).
- iv. Define the methods of data analysis to be used during the SESA study and the sources of relevant data
- v. prepare a draft outline of SESA report
- vi. Discuss and define mechanism(s) to monitor the implementation of the SESA recommendations and Action Plan and agree on a course of action in case of unforeseen effects

- vii. Identify the priority environmental and social risks and vulnerabilities to be considered and assessed in detail in the SESA process. A clear justification of the scoping methodology and why some risks and potential impacts have been excluded will also need to be provided

To inform the scoping process, the Consultants will:

- i. Assemble preliminary information relevant to the scope of the SESA, including but not limited to: a synthesis of Reviewed Integrated National Transport Policy proposals, to inform the forecasts of environmental and social risks and impacts likely to result from the policy implementation.
- ii. Identify the environmental and social characteristics of the areas most likely to be affected by policy implementation, identifying sensitive ecosystems, protected areas, areas of high biodiversity value, areas inhabited by indigenous peoples, etc.
- iii. Given that the SESA must be a participatory process, the proposed Scope must be consulted/validated with stakeholders according to the stakeholder consultation plan.

Although it is a process, the SESA has defined outputs throughout. Therefore, reports will be produced at each stage of the SESA process. In addition, the implementation and follow-up of SESA recommendations should also be reported to the SDoT and to the WB, on a regular basis to ensure the effectiveness of its implementation.

The Consultants will prepare SESA Scoping report upon completion of the scoping process. The Draft SESA Scoping Report must be presented in a stakeholders' meeting before a finalized version is submitted to NEMA for review and approval.

Stage 3: Review of the regulatory and institutional framework and assessment of the institutional capacity for environmental, social, and occupational health and safety assessment and management.

During this stage the Consultant should:

- i. Identify the institutions responsible for policy, planning, regulating and enforcing legislation in the transport sectors.
- ii. Compile and describe the environmental, social, safety and occupational health legal, regulatory and institutional framework, and assess existing capacity of the relevant regulatory institutions.
- iii. Prepare a compilation of relevant policies, laws, regulations, guidelines, including environmental licensing requirements. This should include all relevant WBG standards, guidelines and policies including all the operational policies as referenced above.
- iv. Assess the adequacy of the framework, based on international experience, and the capacity of public agencies at national and local levels to address the potential impacts and risks associated with implementation of the Reviewed INTP.
- v. Where applicable, based on the findings of SESA, provide recommendations to improvements on institutional capacity and linkages for ensuring that the policy interventions are implemented in a sustainable manner.

In addition, the SESA may also identify the existing environmental, social, occupational health and safety requirements in the transport sector, and assess if additional environmental, social, and occupational health and safety interventions need to be incorporated in the policy implementation.

Should it be required, the SESA may provide the information necessary and specific recommendations of the environmental, social, occupational health and safety minimum requirements that the Reviewed INTP should address.

At the end of this stage, the Consultants will prepare and deliver the First Interim Report.

Stage 4: Identification of the general, strategic environmental and social consequences resulting from forecasted future development of the transport sector in Kenya.

During this stage the Consultants shall:

- i. Review available data on environmental conditions in targeted areas and on transport operations to prepare a description of the baseline conditions. The review process will provide the baseline status in order to identify risks and potential impacts from policy implementation as well as gaps to be addressed during specific environmental assessments for the individual policy implementation initiatives. As part of broad baseline information, the SESA team, along with SDoT, will identify sample visits to sample locations, which together with the secondary data will provide a basis for the identification of the overall environmental, social, safety and health impacts/risks and associated mitigation actions. The potential impacts/risks and strategic mitigation actions will then guide key aspects for considerations during specific environmental and social assessment on the policy implementation initiatives. The identification of key issues should be based on analytical work using spatial analysis, case studies from the sample visits and participatory appraisal methods. Spatial analysis will be applied in mapping and for overlaying different sets of information to identify critical areas of environmental and social issues.
- ii. Develop forecasts of future developments as proposed in the Reviewed INTP, including different potential development scenarios. These should forecast developments over a defined period of time. This should include mapping of potential and actual sites.
- iii. Identify and evaluate the environmental and social consequences and risks, including climate change risks associate with existing developments and plans for investment in the transport sector, considering the forecasts and scenarios developed.¹ This should also include mapping to identify overlapping areas of natural resources / forests/ other areas of high biodiversity value, with potential and actual interaction with the envisaged transport infrastructures .
- iv. Regarding potential social consequences and risks, the SESA will have particular focus on the vulnerable groups including the indigenous communities and of the potential impacts of potential future transport sector developments on these groups.
- v. Cumulative / synergistic / secondary impacts as well as impacts of individual developments under the transport policy should also be included.
- vi. Develop criteria to prioritize environmental, social, and occupational health and safety issues in the context of transport sector in Kenya. To the extent possible, such criteria must allow for quantification to objectively compare and categorize competing issues.

At the end of this stage, the Consultants will prepare and deliver the Second Interim Report.

Stage 5: Proposed strategic mitigation and monitoring measures

¹ Environmental, social, health and safety priorities will be identified based on existing information, expert judgment, and inputs and concerns of stakeholders.

During this stage the Consultant should:

- i. Identify potential mitigation measures and monitoring requirements for each potential strategic impact of the implementation of the Reviewed INTP. Mitigation measures for strategic impacts may include, among others: implementation of appropriate legislation, including legal environmental standards for emissions into air, water and soil; measures specifically targeting engagement with vulnerable groups, revised institutional organization, streamlining environmental responsibility etc,
- ii. Specific indicators will be selected to allow for the follow-up of the effectiveness of proposed mitigation measures. Indicator may be individual/stand-alone or combination (complex index) such as established indices, e.g representing poverty reduction, migratory bird species, water quality, etc.
- iii. It is also important to consider good practice international standards, like the World Bank Safeguards and ILO policies when developing the mitigation and monitoring measures, by proposing how these practices can enhance the existing Environmental and Social Framework for transport taking into account the transport sector in Kenya.

At the end of this stage, the Consultants will prepare and deliver the Third Interim Report

Stage 6: Formulation of recommendations and a SESA Action Plan

Based on the analysis conducted, and the recommendations developed, an Action Plan will be developed by the Consultant to facilitate their implementation. Priorities will be structured into immediate, short term (1-2 years) and medium term (3-5 years), including the Action Plan Cost Estimate.

The objectives of the SESA Action Plan are:

- i. To present a series of recommendations arising from key findings of the SESA;
- ii. To suggest a priority timeline for implementation of the recommendations;
- iii. To identify the Agency responsible for implementation;
- iv. To provide some preliminary costs that will require confirmation and adjustment by applicable agencies.

This action plan should include a suggested prioritization of activities or reforms that could be directly financed or supported by SDoT project during its implementation. This would include potential support to Ministry of Roads and other transport agencies, as well as to representatives of social or environmental groups to strengthen their capacity to engage in future discussions and planning about transport sector development.

At the end of this stage, the Consultants will prepare the Draft SESA Report, for submission to NEMA and consultation with stakeholders.

Stage 7: Final consultations, review and approval

Following submission of the Draft SESA report to NEMA, the consultant will assist the Client in organizing and facilitation of a stakeholder's validation workshop. The validation workshop will be moderated by NEMA. After the workshop, The Consultant will incorporate any final feedback from the stakeholders' validation workshop in the Final SESA report. In addition, the Consultant will be

available on request to make any clarifications as may be requested by the approving authority prior to approval of the final SESA report.

2.1 Capacity Building Program

The consultants will include as a separate item in its proposal provision of advisory services to SDoT in assessing the potential environmental and social impacts, occupational health and safety risks and helping implement potential of policy, legislative, or regulatory changes that may be under consideration as part of the Project. This includes recommendations of technical assistance support that environmental and social risk and impacts risk management and representative groups in particular of indigenous communities can use to contribute to the management of environmental and social impacts of future transport sector developments.

The consultants must include as a separate item in its proposal arrangements for transfer of knowledge on SESA to the Project Implementation Units, implementing ministries, associated agencies, and other Government of Kenya officials as appropriate. These can include on the job training, presentations of international experience, and participatory workshops.

2.2 Deliverable Schedule

The following is the schedule of deliverables:

Activity No.	Activities/Deliverables	Duration from Date Contract is Signed	Output	No. of copies
1	Contract signing	TBD	Signed Contract	5No.
2	Inception Activities	Month 1	Inception Report	3No. Copies and 1No. CD ROMS
2	Inception Report and PPP Brief Submission and discussion	Month 1.5	PPP Brief	
4	SESA Scoping	Month 2	Scoping Report	5No. Copies and 2No. CD ROMS
5	A review of the reports, Policies and guidelines A review of all available relevant reports and other information Study of the policy	Months 3	First Interim Report	3No. Copies and 1No. CD ROMS
6	Data collection	Months 3 and 4	Second Interim Report	3No. Copies and 1No. CD ROMS
6	Detailed interactions and discussions with key experts involved in the development and implementation of the policy	Month 4		

Activity No.	Activities/Deliverables	Duration from Date Contract is Signed	Output	No. of copies
7	Field/site Visits if need be	Months 5 – 6	Third Interim Report	3No. Copies and 1No. CD ROMS
8	Consultations with a full range of stakeholders including individuals, Government institutions, counties and the general public			
9	Preparation of the Strategic Environment and Social Assessment Report	Months 7	Draft Final SESA Report	5No. Copies and 2No. CD ROMS
10	Draft Strategic Environment and Social Assessment Report Submission and Presentations to stakeholders for Validation and submission to NEMA and incorporation of all comments	Month 8		
11	Final Strategic Environment and Social Assessment Report Submission (Approved by NEMA)	Month 9	Final Report	7No. Copies and 2No. CD ROMS

2.3 Schedule of Payment

- i. 10% - upon submission of an Inception Report;
- ii. 10% - upon submission of Scoping Report;
- iii. 40% - upon submission and acceptance of Draft Final SESA Report; and
- iv. 40% - upon submission and acceptance of SESA report by NEMA.

3.0 Data, Local Services, Personnel and Facilities to be provided by the Client

- i. The Client will facilitate the consultant access to reports and data relevant to the assignment to the extent of availability of such information,
- ii. The Client will collaborate with the Consultant in making accessible all available data including the reviewed policy.
- iii. The Client will also facilitate the Consultant's access Government Departments and Institutions with relevance to the policy.
- iv. The Client will do all stakeholders invitations to workshops and procure the venues as need be
- v. The Consultant will be responsible for the provision of all the necessary resources to carry out the Services and will make arrangements for the establishment of their office, equipment, furniture, vehicles, accommodation, utilities, communication and any other required resources through the assignment period.

4.0 Reporting and Client Input

The Consultant will report to the Principal Secretary, State Department for Transport and there shall be Team to oversee the study deliverables with the Director for Planning as the chair and Principal Economist as the contact person.

5.0 Time Schedule

The time period required for the SESA process is envisaged to be nine (9) Calendar months from the date the contract is signed. Strategic Environment and Social Assessment (SESA) process will be an all-inclusive exercise requiring inputs from Environmentalists, Sociologists, Engineers, Safety Experts, Economists as well as the participation of the relevant stakeholders in the sector.

6.0 Professional Requirements of the Consulting Team

The Strategic Environment and Social Assessment (SESA) will be undertaken under the leadership of a Lead Environment Expert Registered by NEMA with a valid practicing licence. The Team Leader will have a technical support team. The qualification of the team will include the following:

	Staff Description	Minimum Experience
1	Environmentalist/Team Leader	Holder of a minimum of Master's Degree in Environmental Studies and must have over 10 years' experience in environmental assessments. Must also demonstrate previous involvement in the transport Sector through preparation, implementation and or supervision of environmental safeguards instruments. He should also be registered by NEMA as a Lead Expert and with a valid practicing license. and knowledgeable in World Bank and or other multilateral financing agencies safeguard policies. Prior experience in conducting SESA or SEA studies is an added advantage
2	Socio-Economist	Holding a Bachelors University Degree in Social Studies and a minimum of 7 years' experience on economic development projects and demonstrate exposure to transport development.
3	Civil Engineer	A Bachelor's Degree in Civil Engineering from a recognized university and a minimum of 7 years' experience in transport infrastructure development.
4	Health and Safety Expert	A Bachelor's Degree in Health and Safety studies or other relevant discipline and at least 7 years of experience in occupational and environmental health assessments preferably in the transport sector.
5	Land Use or Physical Planner	Holds a minimum Bachelor's University Degree from a recognised university and at least 10 years' experience in land use planning and/or valuation activities with focus on infrastructural development projects.
6	Social and Stakeholder Engagement Specialist	Hold a Bachelor's Degree in Development Studies or Sociology. Have 7 years proven experience and proven knowledge of stakeholders at the national, regional and local level. Experience in stakeholders' engagement in infrastructure development projects in Kenya is essential.
7	Mapping Specialist	Holds a minimum of Bachelor's degree in surveying/GIS or equivalent training and relevant professional registration in the area of expertise. Should be able to cover all mapping requirements of

	Staff Description	Minimum Experience
		the SESA; at least 5 years' experience and proven experience on mapping and Geographical Information System (GIS) techniques.
8.	Gender Specialist	Hold a Bachelor's University Degree in Gender or Development Studies. Should have 5 years' experience is mainstreaming gender in the transport sector.

7.0 Acceptance of Deliverables

All deliverables are to be delivered in English, with all background material being made available electronically, and subject to approval by the State Department for Transport. If necessary, the Team will engage editors to ensure that all outputs meet a standard of quality that is fit for public dissemination. All written materials should be packaged concisely with graphics, figures, and tables as required to facilitate communications. All data files should include annotations in English that will enable the State Department for Transport to retrace analytical steps and make future use of all data and analysis. The Consultant will adjust the content of the deliverables in line with comments made by the State Department for Transport.

The State Department for Transport shall own all rights, title and interest, including all intellectual property rights, in and to any reports, document, computer software (in source code and object code form), or other deliverable (whether in hard-copy or digital files) created or used under this assignment. The Team will provide additional soft copies of all data in Microsoft Excel formats. For the avoidance of doubt, this will include all data used in the development of assignment tasks such that all analysis should be replicable after completion of the assignment without requiring any additional data sources.

THE SHORTLISTING CRITERIA ARE AS FOLLOWS:

General

- a. Letter of Expression of Interest addressed to the Principal Secretary, State Department for Transport.
- b. Copies of Incorporation/Registration certificates in the country of domicile. (If Joint Ventures/Consortia, All partnering firms to comply).
- c. Copy of valid Tax Compliance Certificate from Kenya Revenue Authority (KRA) or its equivalent as issued in the country of domicile. (if Joint Ventures/Consortia, All partnering firms to comply).
- d. Copies of CR 12 for registered companies within the last six (6) months and copies of National IDs for partnership or its equivalent as issued in the country of domicile. (If Joint Ventures/Consortia, All partnering firms to comply).
- e. Power of Attorney.
- f. In case of a joint venture to submit a joint venture agreement/teaming agreement.
- g. Copies of certified Audited accounts for the last three (3) years. (Note that the accounts should be signed by a Certified Public Accountant or its equivalent as issued in the country of domicile).
 - Liquidity Ratio shall be calculated to assess the liquidity position of the bidder (Preferred Liquidity Ratio 1:1 or above).
 - The minimum average annual turnover for the last three (3) years should be at least Kes.30,000,000.00.

Experience of the Firm

- a. The bidder must be a suitable qualified and competent firm whose core area of business is fit for this assignment and who can mobilize highly qualified experts for the assignment and must have executed at least three (3) similar/related

strategic environmental and social assessment projects of at least Kes.50 Million during last five (5) years. Firm **MUST** attach documentary evidence in form of signed contracts or LSOs from at least three (3) corporate clients.

- b. The proposed firm/consortium must provide documentary evidence to demonstrate experience in;
 - i. Preparation, supervision and implementation of Strategic Environment and Social Assessment (SESA).
 - ii. Preparation, supervision and implementation of Environmental and Social Impact Assessment (ESIA).
 - iii. Preparation, supervision and implementation of similar and relevant Strategic Environmental and Social Assessment (SESA).
- c. Submit at least three (3) reference letters from clients as proof that the consultant has successfully executed similar/related projects over the last five (5) years in a comparable social, economic context. The letters **MUST** be addressed to the Principal Secretary, State Department for Transport.
- d. Attach detailed Company profile including physical address, email address and telephone number.