FEDERAL GOVERNMENT OF SOMALIA

MINISTRY OF COMMUNICATIONS AND TECHNOLOGY (MOCT)

EASTERN AFRICA REGIONAL DIGITAL INTEGRATION PROJECT (P176181)

TERMS OF REFERENCE

FOR

COMMERCIAL TRANSACTION MANAUL FOR BROADBAND INFRASTRUCTURE DEVELOPMENT

I. Country Background

The Federal Republic of Somalia, located on the coast of the Horn of Africa, relies heavily on remittances and traditional livelihoods that are highly vulnerable to climate change. Somalia benefits substantially from foreign remittances, which are estimated to constitute upwards of 31.2 percent of the country's GDP. The livelihoods of roughly half of the Somali population of 16.3 million rely on pastoralism, with the livestock sector accounting for some 60 percent of GDP. Since 2019, the country has experienced devastating floods and drought, as well as locust infestations, which have left about 5.2 million people in need of humanitarian assistance and at risk of food insecurity. Poverty levels remain pervasive, with nearly 70 percent of Somalis living on less than US$1.90 a day in purchasing power parity terms.

In the absence of an integrated fiber optic backbone network, more than 70 percent of Somalia's population does not have access to broadband services. This prevents Somalia from benefiting from increased international capacity available via several new under-sea cables landing on its shores. It also limits Somalia from serving landlocked neighbors such as Ethiopia. Adoption of broadband services remains low in Somalia compared to regional peers. Mobile broadband penetration is estimated to be 15.4 percent. Important gaps in the value chain impact the quality of service, resulting in low speeds and high call drop rates. The fragmented market and lack of interconnection between operators is limiting network deployment outside of the major urban areas.

Through World Bank's support, 'The Eastern Africa Regional Digital Integration operation (EA-RDIP)' (2023-2028) is being prepared to address connectivity needs for countries in the Horn of Africa region. The proposed program aims to advance the regional integration of digital markets Eastern Africa through supporting cross-border connectivity, harmonization of data and e-commerce regulations and policies, and removal of trade barriers, with the vision of establishing a Single Digital Market (SDM). Regional efforts to move towards an SDM is envisioned to have economic and welfare gains to all participating economies and will be especially beneficial for smaller economies to tap larger regional markets for economic expansion. It is proposed for the project components to follow the SDM framework and for participating countries (Ethiopia, Somalia, South Sudan in phase 1) to tailor each component for its investment and technical assistance needs.

Specifically in Somalia, EA-RDIP ($80 million) will support the Government of the Federal Republic of Somalia to establish digital connectivity and integrate with the regional digital market. EA-RDIP aims to increase access to broadband and digital services through the development and integration of digital markets in the Eastern Africa region. The proposed interventions will provide investment financing to address connectivity

infrastructure gaps and technical assistance to ensure regional harmonization of regulations and standards towards the development of the regional digital market for the countries in the Horn of Africa region. The project has four components, including (i) connectivity market development and integration (ii) data market development and integration (iii) online market development and integration, and (iv) project management and implementation support.

II. Objective of Commercial Transaction Manual

The Government of Somalia, through the Ministry of Communications and Technology MoCT) will work to address the broadband infrastructure gaps of the country over the next five years. World Bank financing, under the Eastern Africa Regional Digital Integration Project (EA-RDIP) will be leveraged to catalyze private sector investment for this initiative. Priority routes have been identified, each of which will require close examination of the optimal commercial model for deployment and ownership of the new infrastructure. The tender process also needs to be defined to ensure a transparent and predictable process. MoCT intends to develop a Commercial Transaction Manual (CTM) to guide the process in-line with international best practices.

The objective of this assignment is to develop the Commercial Transaction Manual (CTM) to guide the process in-line with international best practices and support the Government implement the CTM. ***The consultants will be expected to work with a parallel consulting team working on the Technical Feasibility Study (see Annex for their TOR) which will provide technical specifications and Universal Access obligations into the bidding document.***

		CTM Consultancy	**Feasibility Study Consultancy**
Phase 1	**Industry consultation**	Lead	
	Commercial Model formulation	Lead	
	Technical Specifications		Lead
	Market gap/UA		Lead
	Prepare Bidding document	Lead	
Phase 2	**Site-specific Security assessment**		Lead
	Support tender process	Lead	
	Supervision of deployment		Lead

III. Objective of Assignment

The objective of the assignment will be to develop the CTM covering:

- Propose a framework of key principles including an open, competitive bidding, application of open access principles, infrastructure sharing and others that may be required;
- Identify one or more optimized commercial models and to propose one for each of the priority routes, based on the aforementioned work. This may be a single model applied to all routes, or it might be differentiated, for instance, by type of technology or for urban/rural areas; and

- Support government on the competitive bidding process in accordance with World Bank procurement guidelines, national procurement legislation and international best practices. This may involve use of an electronic auction platform.

IV. Scope of Work

1. *Propose key telecom sector principles framework:*

a) Conduct a brief market survey to identify potential investors in digital infrastructure;
b) Review national legislation and regulation related to competition and procurement including the draft public-private partnership legislation (drafted with support of the International Finance Corporation);
c) Review existing and planned policy and regulatory instruments for the telecom sector;
d) Review taxation framework for the telecom sector as it would apply to digital infrastructure investment;
e) Describe international best practices on open access and competition policies for telecom sector (open access, technology neutrality etc.); and
f) Based on a) through e) develop a key telecom sector principles framework focused on open access, and that would help bridge the broadband divide within the country, maximizing private sector investment and ownership and ensuring open access to infrastructure deployed.

2. *Identify an optimal commercial model for the priority routes:*

a) Review prior work[1] conducted on identification of priority routes as a basis but these routes may be modified during the course of this assignment to take into account new information and developments;
b) Facilitate a series of industry consultations (as many as is needed) between the Ministry, National Regulator and private operators to confirm priority routes and discuss optimal commercial models for each. The consultation may be extended also to operators in neighboring countries and potential new market entrants, such as Low-Earth Orbit (LEO) satellite operators;
c) Recommend approaches to ensuring a homogenous national broadband infrastructure (NBI); namely, open access and complete with sustainable operations & management and a business plan;
d) Work with the separate Technical Feasibility Study consultancy (which will run parallel to this assignment) which will develop technical specifications for confirmed routes and last mile connectivity (universal access gaps) needs to be included in the tender documents;
e) Develop a limited range of commercial model options, and propose one for each priority route (or bundles), taking into account issues such as demand, nearest fiber node, security concerns etc.;
f) Recommend scenarios for optimal development of market structure to be considered when developing the commercial model options in particular to avoid market dominance;
g) On completion of interim report, facilitate a second set of industry consultations to discuss options and further refine commercial and transaction models;

[1] https://www.hoainitiative.org/missing-broadband-links-in-the-horn-of-africa-region/

h) If a PPP model is proposed, advise on pros and cons for the institutional model[2] (incorporated or unincorporated) and design (entities, roles and relationships); possible need for Construction and Maintenance Agreement (C&MA);
i) Identify any regulatory actions required for implementation of each commercial model (license, spectrum, indefeasible rights of use (IRUs), rights of way (RoW) etc.);
j) Define draft Service Level Agreements (SLA) for each model including timeline for deployment, coverage, quality, price etc.;
k) Identify any obligations[3] to be included as part of the award (i.e., coverage, connectivity to community anchor tenants, such as schools, health centers, internally displaced peoples (IDPs)/refugee camps and their host communities;
l) Identify need for provision of assets and safeguards to Government, for instance by providing dark fiber or long-term supply contracts;
m) Identify ways of incentivizing the private sector to align to Open Access principles ('build once, used by all' policy); and
n) Based on f) to o), prepare an implementation plan.

3. *Develop guidelines for competitive bidding process in accordance with, international best practices and World Bank Procurement Regulations:*

a) Review national procurement legislation, including on PPPs, international best practices and World Bank procurement Regulations;
b) Provide an overview of comparable tender processes used in other countries[4] and describe their advantages and disadvantages (multi-round reverse auctions etc.);
c) Identify how to build-in price discovery and appropriate safeguards to prevent collusive behavior on the part of the bidders;
d) Identify how to prevent abusive behavior on the part of dominant operators and avoid rewarding dominance; and
e) Identify how to ensure a technology neutral approach to the tendering process.

4. *Prepare tender strategy and bidding documents*

a) Based #1-3, develop a tender strategy and route deployment schedule based on the recommendation on sequencing coming out of the Industry Consultations and Technical Feasibility Study.
b) Prepare a tender strategy which may include:
- Develop the timing of the bidding processes to be carried out for the tenders, including selection and evaluation criteria;
- Design and implement a detailed selection and evaluation processes;
- Design due diligence processes (to be carried out by potential bidders); and
- Design how offers will be evaluated and assist in evaluating the offers received.

[2] Institutional model will need to reflect three primary factors. These are (1) accommodating the desired common enterprise among equity participants, (2) mitigating regulatory burdens, and (3) mitigating tax burdens. A single-owner cable system has no choice but to adopt an incorporated structure. However, a multi-owner system can adopt either an incorporated or unincorporated structure.

[3] MoCT will conduct a separate Digital Inclusion and Market Gap Study which will identify universal access and service needs along the priority routes.

[4] Consultants could start with reviewing "Allocating universal service subsidies using multi-round reverse auctions: Telecommunications in Tanzania," World Bank (2022) and "Innovative Business Models for Expanding Fiber-Optic Networks and Closing Access Gaps". (World Bank, 2022).

c) Prepare bidding documents for an International Competitive Bidding process; this could include:
   - Policies and objectives of the Government for the ICT sector;
   - Existing sector structure;
   - Existing legal and regulatory framework;
   - Licenses, financial information, human resource situation;
   - Bidding process and selection criteria.

d) Prepare other elements as necessary which may include:
   - Electronic auction platform;
   - Summary information memorandum, if required;
   - information memorandum;
   - draft task book;
   - task book;
   - virtual online data room information;
   - invitation to tender documents;
   - any documents pertaining to the restructuring of the targeted companies or establishment of new companies for the purpose of the transaction, such as articles of association, share registers, etc., as well as any documents necessary to allow for the proposed transactions, including transfers of assets and liabilities prior to the transaction;
   - draft and final share or asset purchase agreements and shareholders agreements; and
   - Any other closing transaction documents that may be needed.

4. *Support Government implement the tendering process*

a) Prepare a communication strategy and once adopted by Ministry, the Consultant will provide support for the communication campaign (e.g., briefing, preparation of materials and presentations if needed);

b) The Consultant shall organize one investors' conference ahead of the launch of each bidding process or processes (or after any pre-qualification stage) to strengthen investors' interest and highlight the Government's commitment to the process;

c) The Consultant shall assist the Ministry in carrying out all activities which are necessary to implement the bidding processes, at all times assuring transparency of the processes and consistency with international best practices as well as World Bank procurement guidelines:
   - Develop the timing of the bidding processes to be carried out for the transactions, including selection and evaluation criteria;
   - Design and implement a detailed selection and evaluation processes;
   - Manage the due diligence processes (to be carried out by potential investors);
   - Making and managing communications to disseminate transaction information;
   - Advising MoCT on strategy of answering critical questions raised by potential investors;
   - Pre-qualify bidders and defining a shortlist of pre-qualifying bidders;
   - Design how offers will be evaluated and assist in evaluating the offers received;
   - Assist with negotiating the appropriate commitments from investors (e.g., with respect to further investment, network configuration, etc.);
   - Assist with negotiations on the transaction agreements and any related documentation; and
   - Facilitate the conclusion of the transactions.

V. Deliverables and Timeline

Timeline. The duration of the assignment is expected to span the project cycle which end in 2028– an estimated 4 years.

Payment Schedule. *There will be two phases to the assignment. The first phase will consist of specific deliverables which will be paid in lump-sum. The second phase will be consist of the tendering and implementation process which will be a timed contract.* The following is the deliverable and payment schedule:

	Deliverable	**Timeline**	**Payment**
Phase 1	Inception Report	Within 1 week of contract signature	10% of contract
	Interim output 1: Draft telecom sector key principles framework	Within 1 month of contract signature	-
	Interim output 2: Draft business models per route	Within 3 months of contract signature	20% of contract
	Interim output 3: Draft CTM including, key principles framework; business models; bidding documents (without technical specifications)	Within 5 months of contract signature	-
	Final CTM	Within 8 months of contract signature	30% of contract
Phase 2	Support Government implement the tendering process	Timed contract	40% of contract

VI. GOVERNMENT AND CONSULTANCY'S RESPECTIVE RESPONSIBILITY

The consultancy will report to the PIU in the Ministry. The deliverables by the consultancy will be reviewed by the PIU. The consultancy must ensure that the tasks identified above are performed in a result-oriented manner with the objective of achieving outputs and outcomes expected from the assignment as has been described in the details above. Final report should (hard copy and electronic copy) approved by the Ministry of Communications and Technology of the Government of Somalia. All outputs, reports, questionnaires and presentations shall be prepared in English. The consultancy is encouraged to utilize local expertise where appropriate.

The Ministry and National Regulator shall provide the following to the best of their ability:

- All available data and literature considered relevant for accomplishing identified tasks.
- Access to key officials within the relevant Ministries and other relevant official entities, including operator companies, regulators and/or any others as applicable.
- Ensure cooperation from other organizations, whose activities and programs may be considered relevant to this project, to enable the consultants to have access to the information necessary to carry out their work program.

- Guidance on the routes to be covered under the CTM, both middle-mile and (if relevant) last-mile (see Annex 1).
- Other logistical support, as necessary.

Status Meetings: The consultancy's team shall have monthly feedback sessions with the MoCT team in order to inform the team on progress made and more importantly, to use such meetings to identify and address any challenges that the consultant teams may encounter in the course of their assignment. Where necessary, the frequency of meetings may increase based on the urgency of matters to be discussed.

VII. FIRM QUALIFICATIONS

- Core business of the firm and years in business should be at least 10 years in general.
- The Consultant firm should have at least 5 years of experience in providing similar assignments in telecommunications/ICT sector. The Consultant firm should demonstrate at least 3 similar assignments successfully implemented during last 5 years in broadband infrastructure deployment and related work in the developing world through an experience in the Horn of Africa region would be highly desirable;
- Experience of relevant services in an environment similar to that of Somalia.
- Experience in supporting transactions and tender processes in the telecommunications sector;
- Experience facilitating industry consultations for the telecommunications sector;
- Demonstrate technical expertise regarding broadband networks, government or private owned, including on modalities of deployment aerial/buried, via OPGW or other models
- Demonstrate specific experience on the development of market studies, cost benefit analysis and analytical financial models is required, considering both supply and demand sides related with telecommunications services;
- Demonstrate a proven capability to deliver detailed and accurate recommendations on infrastructure development, business/financial modeling, transactions/tender process support, telecom regulations and other similar domains related to the ICT sector and the context of this assignment;
- Procurement experience is desirable, including experience of working with World Bank procurement guidelines.
- The team shall propose a team comprising a Team Leader, a Technical Specialist(s), and Regulatory Specialist(s) and other support staff as they feel fit for the exercise.

Qualifications of Key Experts (Specify the number of key experts!)

The **Team Leader** shall have:

- At least 15 years' experience in the field of telecommunications market development in a range of developing/emerging economies countries.
- The Team Leader's experience must reflect a history of successful network development and commercial operation in the public and private sector in an African setting;

- Experience of having led projects is required. The Team Leader shall have successfully accomplished at least 3 similar assignments. Credentials and client reference coordinates must be supplied for cited experience;
- Experience in the Horn of Africa is desirable.

The **Technical Specialist(s)** shall have:

- At least 10 years' experience of designing broadband strategies and implementation plans;
- Expertise in commercial models for broadband deployment;
- The candidate must be able to demonstrate experience in at least 3 successfully completed assignments that involve providing technical advisory services on telecom networks development and commercialization of telecom services;
- Experience in developing countries especially in the Horn of Africa is an added advantage.

Regulatory specialists(s) shall have:

- At least 10 years' experience of designing broadband strategies and implementation plans;
- Expertise in broadband regulations;
- The candidate must be able to demonstrate experience in at least 3 successfully completed assignments that involve providing technical advisory services on telecom networks development;
- Experience in developing countries especially in the Horn of Africa is an added advantage.