

PROVISION OF CONSULTANCY SERVICES FOR TECHNICAL ASSISTANCE AND LEGAL DUE DILIGENCE FOR METROPOLITAN GOVERNANCE AND INSTITUTIONAL REFORMS IN DAR ES SALAAM UNDER THE MSIMBAZI BASIN DEVELOPMENT PROJECT

TERMS OF REFERENCE

1. Background

The Government of Tanzania (GoT) is embarking on a series of institutional reforms to improve metropolitan governance in Dar es Salaam. This builds on past reviews, studies, and legal due diligence on approaches for three distinct but interrelated aspects of urban governance in the city: (i) a metropolitan planning and development authority for the city region and jurisdiction of the Dar es Salaam Master Plan (2016 – 2036); (ii) institutional arrangements for the Msimbazi Special Planning Area (MSPA), a flood-prone area and demarcated Special Planning Area where a flood control and urban redevelopment project is at the early stages of implementation; and (iii) an inter-municipal cooperation institution for solid waste management.

These reform efforts fall under the institutional mandate of the President’s Office – Regional Administration and Local Government (PO-RALG) and have been supported by the World Bank’s past and current portfolio of lending operations and technical assistance for institutional strengthening. Past support has included studies to explore possibilities of improving metropolitan governance in Dar es Salaam, advice on options, and legal due diligence on approaches the government is considering. PO-RALG is now building on these past studies to initiate the process to carry out final due diligence, select options, and facilitate the legal process to establish and roll-out new agencies. These activities will be supported by two World Bank-financed projects: (i) the Msimbazi Basin Development Project, a US \$260 million project approved in 2022 and at the initial stages of implementation. The project objective is to strengthen flood resilience and integrated urban development in an economically important and flood prone area of the Msimbazi river basin in Dar es Salaam, and (ii) the Dar es Salaam Metropolitan Development Project – Phase II, which is currently under preparation and aims to improve urban services and institutional capacity, and to strengthen climate resilient development in the Dar es Salaam Region. Both projects are implemented by the Project Coordination Team (PCT) in PO-RALG, which is the client for this assignment.

The following summarizes background information on each of the institutional reform areas and the status of each:

Metropolitan development authority: Dar es Salaam is comprised of five municipalities and a regional administration. Currently the Dar es Salaam Region consists of five Municipal Councils – Dar es Salaam City (formerly Ilala), Kinondoni, Temeke, Ubungo, and Kigamboni. Together the Councils are collectively known as the Dar es Salaam Local Authorities (DLAs). A Regional Administration also provides general oversight and coordination of the DLAs, responding to national and regional priorities. The Dar es Salaam region lacks any overarching metropolitan government, and instead the five DLAs and Regional Administration report centrally to PO-RALG. Other ministries and agencies are mandated to manage services such as water supply, protected areas, electricity, regional roads, and land management. While many sector and infrastructure plans have a regional view, key services such as solid waste would benefit from regional management and there are insufficient mechanisms for coordination of infrastructure and service plans and projects. There is also no institution with the mandate for

oversight of the implementation of the Dar es Salaam Master Plan, though the Master Plan does recommend and provide a framework for a metropolitan governance structure which this assignment will use as a basis.

Proposed Dar es Salaam Metropolitan Authority
<p>It is proposed to establish a Dar es Salaam Metropolitan Authority (DMA) to manage the city through municipal and district councils with responsibilities and powers to prepare comprehensive and integrated development plans incorporating the plans of the municipal councils; ensure that land uses in the City and metropolitan area follow designated plans; and deal with all trans-boundary issues. The metropolitan authority will coordinate the activities of all utility agencies operating in the Dar es Salaam Metropolitan Region. The Agency would report to PO-RALG on all local government matters and to the respective sector ministries with respect to the operation of the various utility agencies.</p>
<p><i>Dar es Salaam Master Plan 2016-2036, Ministry of Lands.</i></p>

Msimbazi Special Planning Area (MSPA) authority: The Msimbazi River Valley in Dar es Salaam is a strategically important area of the city for infrastructure, mobility, commerce, and ecosystem services including flood control. The basin is densely populated and over the past few decades has become highly polluted, experienced rampant environmental degradation, and flood-prone areas in the middle and lower reaches of the basin have been encroached by settlements and clogged by waste, debris, and sedimentation. This has resulted in a situation where annual rains result in loss of life and property, paralysis of key transport networks, and damage to critical infrastructure.

The Msimbazi Special Planning Area (MSPA) was gazetted in 2011 and updated in 2020 under the Urban Planning Act. The recently approved World Bank financed Msimbazi Basin Development Project (US \$260 million) focuses on the lower basin flood plain and supports excavating and channelizing the river, resettlement of vulnerable households, watershed management, and transforming the flood plain into an urban park and redevelopment area. The project is implemented by PO-RALG, the Tanzania National Roads Agency, and Dar es Salaam City Council as an interim arrangement, with the expectation that a permanent agency will need to be established to development management plans for the MSPA, execute the land use planning, real estate transactions, manage the city park, be accountable for operation and maintenance of the river channel, and future development of the area. To this end several recent studies on options for this institutional arrangement have been carried out, but clarity on the legality of options and consensus on the way forward is needed.

Proposed Msimbazi Special Planning Authority
<p>A governance structure for the MSPA would provide the planning, project management, infrastructure and service delivery, operation and maintenance, information communication, land management and the revenue collection components, among other responsibilities</p>
<p>Proposed approach</p> <ul style="list-style-type: none"> • Creation of Agency by PO-RALG under the Executive Agencies Act, through an Order in the Gazette. • The new agency to be the Planning Authority for the MSPA.

- Landowner for Park area and maybe land allocation Powers through the Commissioner for Lands or Authorised Officers.
- Responsible for the trunk infrastructure, real estate component, through contracts with public and private developers.

Advisory services for planning infrastructure and urban redevelopment in the Msimbazi Special Planning Area, Dar es Salaam, Tanzania (ARS Progetti, 2021)

Inter-Municipal Solid Waste Management authority: Solid waste management has not received sufficient attention and investment in Dar es Salaam. Current services have large gaps in coverage, reliability and quality caused by organizational and financing challenges. In addition, transport challenges are a major barrier impeding collection service coverage and quality, as well as access to and use of the designated disposal site. Collection vehicles do not have access to roads in informal communities and there are long travel times to the dumpsite. This has resulted in informal dumping by communities and waste collectors, which presents a health hazard, affects city aesthetics, causes clogging up drains and waterways and pollutes the marine environment. While there is an active informal sector, the lack of organization and limited government-led programs has resulted in low recycling and resource recovery rates and poor working conditions. To mitigate flood risk and improve the health and cleanliness of the city, solid waste management solutions are needed at the scale of the Dar es Salaam Region. While several studies have focused on the issue and proposed solutions, none have been implemented at scale and the sector is significantly under invested.¹

Substantial work has been carried out to review the viability of setting up an inter-municipal cooperation model for solid waste management (SWM) in Dar es Salaam. The most recent study, completed in September 2021, identified, assessed, and reviewed the current legal, institutional, organizational, and financial framework for solid waste management in Dar es Salaam to: (i) evaluate the viability of an inter-municipal cooperation model for SWM in Dar es Salaam, and (ii) develop a conceptual framework for the most viable option, including the formation of an implementation plan.

Proposed Intermunicipal Solid Waste Management Institution

The Intermunicipal governance structure proposed would be established to manage the infrastructure and services that would be shared among municipalities (disposal, treatment, transfer stations) and to regulate solid waste services including quality standards and tariffs. It is proposed to include the following.

Intermunicipal Assembly would be the owner of the service and supervise the Managing Entity and regulate its inner functioning, either through a shareholder’s agreement, the corporation’s own by-laws, and/or by means of a delegated management contract. It would also be able to set annual performance targets, set tariffs, and be given the competence to approve the Managing Entity’s workplans and budgets.

Public Corporation would be the managing entity of the service that would undertake investments (build and own) on the key solid waste management infrastructure shared among

¹ Studies on solid waste in Dar es Salaam include a World Bank financed study under DMDP (2014); The United Nations-financed strategy for Dar es Salaam (2018); Netherlands-financed technical advisory services (2016) and the World Bank feasibility study and business plan for an intermunicipal solid waste management organization (2021).

Proposed Intermunicipal Solid Waste Management Institution
the Dar es Salaam Local Government Authorities, such as transfer station(s), disposal site, and sorting, composting and treatment plants.
<i>Intermunicipal Solid Waste Institution Feasibility Study for Dar es Salaam, Engidro Engineering Solutions, 2021</i>

2. Objective of the Assignment

The objective of this consultancy is to provide technical assistance, carry out legal due diligence and documentation to support adoption of three proposed new institutions in Dar es Salaam, i.e., (i) Dar es Salaam metropolitan development authority, (ii) Msimbazi Special Planning Area authority, and (iii) Inter-municipal solid waste management authority.

3. Scope of the Assignment

The assignment will only cover the institutional reforms of Dar es Salaam governance that involve the existing DLAs and the Regional Administration to effectively manage cross-cutting development and service issues in Dar es Salaam, particularly the implementation of the Dar es Salaam Masterplan, the Msimbazi Special Planning Area, and solid waste management. The consultant will provide technical support, starting with the legal review up to the adoption of the preferred institutional reforms.

4. Specific Tasks

Task 1: Legal review

Each institutional reform is at varied stages of analysis and readiness. The consultants will review existing laws, regulations, studies, and plans for each and propose options for legal setup and institutional roles and responsibilities, as well as how the three institutions and existing institutions will harmonize planning functions and avoid conflicting mandates.

The status and scope for the legal review of each institution is outlined in Table 1.

Table 1: Status and scope of legal reviews

Institution	Status	Scope of legal review
Metropolitan development authority	Governance structure recommended in Dar es Salaam Master Plan.	<p>Identification and review of laws, regulations and other legal instruments that govern the metropolitan development authority and the establishment of the proposed institution.</p> <p>Review the legal feasibility of the identified option.</p> <p>Advise on the legal, regulatory, procedural, and institutional</p>

Institution	Status	Scope of legal review
		<p>requirements for establishing the proposed institution under the laws of Tanzania.</p> <p>Deliverable: Institutional assessment and legal due diligence report</p>
<p>Msimbazi Special Planning Area authority</p>	<p>Legal Report: Analysis of the Institutional Option for the management of The Msimbazi Special Planning Area completed in January 2022</p> <p>Other recommendations for institutional roles and responsibilities are also included in detailed design reports and an assignment for “Advisory services for planning infrastructure and urban redevelopment in the Msimbazi Special Planning Area”.</p>	<p>Review the legal feasibility of the identified option.</p> <p>Advise on the legal, regulatory, procedural, and institutional requirements for establishing the proposed institution under the laws of Tanzania.</p> <p>Deliverable: Legal due diligence report</p>
<p>Inter-municipal solid waste management authority</p>	<p>Legal review, institutional/organizational framework, financial analysis, intermunicipal cooperation model option assessment, and conceptual framework and action plan for recommended option completed in September 2021.</p>	<p>Review the legal feasibility of the identified option.</p> <p>Advise on the legal, regulatory, procedural, and institutional requirements for establishing the proposed institution under the laws of Tanzania.</p> <p>Deliverable: Legal due diligence report</p>

Task 2: Endorsement of institutional options and formation action plan

For each of the three institutions, the consultants will undertake consultations with PO-RALG, DLAs, and other relevant stakeholders to confirm and gain consensus on the selection option. This will likely involve several consultations both at the individual level with departments and agencies, as well as multi-stakeholder settings including the Msimbazi Project Steering Committee, to reach a consensus on preferred options. The consultants will be expected to develop presentation materials and facilitate discussions among stakeholders to reach consensus.

Based on stakeholder inputs, the consultants may be required to revise the selected option or carry out additional legal due diligence.

Once the preferred options are agreed, the consultants will deliver a report either jointly for the three institutions or separately depending on the results of the consultation process. The report should summarize the selected option, confirm the legal viability, summarize endorsement by stakeholders, and provide an action plan with steps to form each institution.

Tasks 3 – 5 should align with this action plan and support PO-RALG to carry out the proposed actions.

Task 3: Cabinet paper

The consultants will support PO-RALG to draft a cabinet paper that provides detailed information, analysis, and recommendations to the cabinet on establishment of the preferred institutional reforms. The purpose of the cabinet paper is to provide the Cabinet with the necessary information and analysis to make an informed decision on the institutional reforms. The cabinet paper should not exceed 10 pages and include background information, an analysis of the current situation, options for addressing the issue, summary of consultations held and endorsements, and a recommendation on the preferred course of action.

Task 4: Draft legal instruments

Depending on the selected option, the consultants will draft legislative instruments for each of the three institutions under the relevant acts. This should follow GoT format and requirements under the identified relevant laws and include:

- Legal status, governance, organization structure
- Aim, vision, mission, outputs, and functions
- Performance criteria
- Roles, responsibilities, and accountability
- Financial provisions
- Planning and strategic controls
- Human resources

Draft legal templates for the SWM authority have been completed and will need to be reviewed, consulted, and aligned with those of the other institutions. Legal templates for the metropolitan development authority and MSPA authority have not yet been drafted.

Task 5: Implementation Plans

The consultants will provide technical assistance to support the establishment and roll-out of each institution through preparing Implementation Plans. The Implementation Plans should include staffing and job descriptions/Terms of Reference, business plans, capital investment requirements, key performance indicators, and monitoring and evaluation.

Task 6: Advisory services during legal process

The consultants will provide ad hoc advisory services during the legal process, including assisting PO-RALG to respond to queries, revisions, and other matters requiring on-demand advice.

5. Duration of the Assignment

The duration of the assignment will be 12 calendar months, with full-time engagement in the first half of the duration and intermittent engagement of the selected key personnel in the other half for implementing legal processes for establishing or adopting the preferred institutional reforms.

6. Consultants Experience and Inputs

The consulting firm should have experience in the metropolitan governance institutional reforms that covers in areas such as regulatory environment, infrastructure development, public private partnership, stakeholders' engagement, economic development initiatives, land use planning, service delivery improvements and policy stability. The firm with experience of working with local government authorities in sub-Saharan Africa will be an added advantage.

The Consultant's time input for key staff, including short-term professional staff, is estimated to be approximately 25 staff-months for the whole duration of the assignment (i.e., Stage 1: Legal review, stakeholders' engagement and documentation; and Stage 2: legal processing for adoption of the reforms), but the Consultant may suggest, as per his judgment, the level of time input necessary to adequately meet the requirements of this TOR, consistent with the technical proposal. Further, staff input should be separately and adequately estimated and clearly provided for in the technical and financial proposals, respectively, to ensure proper and successful implementation of the assignment.

Table 4: Consultants Qualification, Experience, and Inputs

S/N	Key Experts	Qualification	Inputs (Staff month)	
			Stage 1	Stage 2
1	Team Leader	<ul style="list-style-type: none"> A bachelor's degree in urban planning, public administration, political science, economics, or any other relevant field with post graduate degree or specialization in a related discipline that can enhance the consultant's understanding of urban issues and institutional dynamics. At least 10 years working experience in relevant fields, especially with (a) urban development projects; (b) government agencies, NGOs, international organization focusing on urban issues. At least one assignment of institutional reforms in urban settings, particularly in areas such as municipal finance, land use planning, public service delivery and infrastructure 	6	2

S/N	Key Experts	Qualification	Inputs (Staff month)	
			Stage 1	Stage 2
		<p>development.</p> <ul style="list-style-type: none"> The candidate should have effective communication and interpersonal skills to engage with diverse stakeholders, including government officials, community leaders, and citizens. In addition to that, he/she should have experience in facilitating workshops, focus groups, and public consultations to gather input and build consensus. 		
2	Legal Expert	<ul style="list-style-type: none"> A bachelor's degree in law with post-graduate degree or specialization in urban law, municipal law, or related fields. The consultant must have at least 7 years' experience working with municipal governance structures, charters, and legal powers as well as national, regional, and local legal frameworks that impact urban institutions. The candidate must have strong communication skills to convey legal complexities to non-legal stakeholders and ability to drafting clear and concise legal reports and recommendations. 	3	1
3	Urban Development Planner	<ul style="list-style-type: none"> A bachelor's degree in urban planning, urban design, architecture, or a related field with post-graduate degree or specialization in areas such as urban governance, policy analysis, or institutional reforms. The consultant must have at least 7 years' experience in urban planning, develop and implement policies for urban governance, infrastructure planning (i.e., transportation, utilities, and public spaces) The candidate must have skills of engaging with diverse stakeholders to gather input and build consensus for institutional reforms. 	3	1
4	Stakeholders/Community Engagement Expert	<ul style="list-style-type: none"> A bachelor's degree in social sciences, communications, community development, or a related field with post-graduate degree or specialization in stakeholder engagement strategies and methodologies. 	3	0

S/N	Key Experts	Qualification	Inputs (Staff month)	
			Stage 1	Stage 2
		<ul style="list-style-type: none"> The consultant must have at least 7 years' experience in designing and facilitating participatory planning processes, and involving stakeholders in decision-making, goal setting, and priority identification. The candidate must have strong facilitation skills to lead meetings, workshops, and focus groups and creating inclusive environments that encourage active participation and contributions from all stakeholders. 		
5	Solid Waste Management Expert	<ul style="list-style-type: none"> A bachelor's degree in environmental engineering, waste management, civil engineering, or a related field with post-graduate degree or specialization in urban planning, policy analysis, or institutional reform. The consultant must have at least 7 years' experience in managing and improving solid waste management systems in urban settings including waste collection, transportation, recycling, and disposal processes. The candidate must have been involved in institutional reforms in areas such as regulatory compliance, policy development, institutional analysis, and public-private partnership. 	3	1
6	Economist	<ul style="list-style-type: none"> A bachelor's degree in economics, urban economics, public policy, or a related field with post-graduate degree or specialization in urban development or institutional economics. The consultant must have at least 5 years' experience in urban economic theories, principles, and dynamics; and economic factors influencing urban development and institutional functioning. The consultant must have specific skills in cost benefit analysis, policy development and evaluation, municipal finances, public-private partnership in urban settings. 	3	0
Sub Total			20	5
Total			25	

Note

Non-key staff, with relevant qualifications and experience, that will assist the team on day-to-day activities including administrative activities, data entry, report writing, community liaison/engagement will not be evaluated. The consultant should consider their inputs while preparing the financial proposal for the assignment.

7. Client’s Inputs

The client will provide the following:

- (i) any relevant available document to facilitate the assignment.
- (ii) Counterpart staff in the disciplines of legal, valuation, social, and grievance handling from the Project Coordination Unit
- (iii) facilitation of all public meetings, training, and associated tools and equipment; the consultant shall provide professional inputs to such events and include them in its financial proposal.

8. Deliverables and Payment Modalities

The contract for the assignment will be a lump sum contract against submitted and accepted deliverables, as per the following disbursement schedule:

S/N	Deliverable	Timeframe (months)	Payment (%)
1	Inception Report acceptable to the client	0.5	20
2	Legal Due Diligence Report	2.0	20
3	Stakeholders Engagement Report, Draft Legal Instruments and Draft Cabinet Paper	4.0	40
4	Implementation Plans	6.0	10
5	Final Report	12.0	10

9. Management of the Assignment

The assignment will be managed by the Project Coordinator at PORALG. The consultant will work closely with designated officials within the PO-RALG Project Coordinating Team (PCT) as well as those from the Project Implementing Team (PIT) at Dar es Salaam City Council. The office will provide introductory letters to the consultant for the assignment, accompany the consultant on site during the assignment (if necessary), and respond to any pertinent questions arising.