

Ministry of Economy and Environment
Kosovo Digital Economy (KODE) Project

TERMS OF REFERENCE

For

Consulting services to Ministry of Economy (MEE) and Environment and Regulatory Authority of Electronic Postal Communication (ARKEP) on Digital Agenda, Market Analysis and Regulatory Framework.

Ref No: KODE/CS/1.1.2/2020

I. BACKGROUND

The Government of Kosovo has secured support from the International Development Association (IDA) (hereinafter ‘the Bank’) for a Kosovo Digital Economy (KODE) Project in the amount of 20, 7 million EUR. The KODE Project aims to improve access to better quality and high-speed broadband services in project areas and to online knowledge sources, services and labor markets among citizens, and public and academic institutions.

It is foreseen **that the Project will achieve its development objective through two main sets of activities:** (1) expanding access of Kosovars to high-speed and better quality digital infrastructure; and (2) support Kosovars to take advantage of regional and global Digital Economy (DE) opportunities, especially for income generation, usage of services, and learning, thus triggering the growth of a DE in Kosovo.

The Project is structured along three components: 1. Digital Inclusion, 2. Digital Work and Empowerment, and 3. Project Implementation Support. Two substance components of the Project are outlined below.

Component 1: Digital Inclusion component will support digital inclusion through: (1.1) the expansion of digital connectivity through the co-financing of deployment of high-speed broadband connectivity in areas that have been identified as not connected or underserved, and (1.2) improving of the enabling environment for wireless broadband services, through the deployment of the National Spectrum Monitoring System (NSMS).

Component 2: Digital Work and Empowerment will support the Youth Online and Upward (YOU) Program and increased access to knowledge, information and online services through subcomponents: (2.1) Youth Online and Upward (YOU) Program; and (2.2) Increasing Access to Knowledge, Information, and Services,

The present Terms of Reference (ToR) concern the implementation of the Subcomponent (1.1part (2)) of Component 1 of the Project. Subcomponent 1.1 part (2) will finance technical assistance and capacity building activities for The Authority of Electronic and Postal

Communications (ARKEP)¹ and the Ministry of Economy and Environment (hereinafter: The Ministry) to strengthen the enabling policy, legal, and regulatory environment.

The KODE is implemented by the Ministry that provides strategic direction and technical oversight to the entire Project. The Ministry oversees the Information and Communications Technology (ICT) sector development and executes this mandate through the Department of Post, Telecommunication and Information Technology (the Department), which for the purposes of the Project will act as the lead implementing agency and will carry the primary responsibility for all Components of the Project.

II. OBJECTIVE OF THE ASSIGNMENT

The objectives of consulting services are:

- (1) *To review the implementation of the current and preparation of the new Digital Agenda for Kosovo and Action plan (final client – The Ministry)*
- (2) *Conduct Market analysis of market nr. 3 listed in annex of EC Recommendation on Relevant Product and Service markets within the electronic communications sector (C (2014) 7174) respectively 3a) Wholesale local access provided at a fixed location and 3b) Wholesale central access provided at a fixed location for mass-market market (final client – ARKEP)*
- (3) *Preparation of the draft regulations on Open Access, Dispute resolution and Market analysis regulation / methodology (final client – ARKEP)*

III. DELIVERABLES OF THE ASSIGNMENT

Objective (1) – Under the objective (1) the following deliverables shall be produced:

- (1.1) *Review of the implementation of the current “Electronic Communication sector Policy-Digital Agenda for Kosova 2013-2020”²*

Strategic guidance for broadband development in Kosovo is set up by the Policy Document “Electronic Communication sector Policy-Digital Agenda for Kosova 2013-2020” (current Digital Agenda). This document is a multi- year ICT development strategy and Action plan with the focus on Broadband Development and is approved by the Government of Kosovo. Current Digital Agenda for Kosovo has three main objectives: Development of ICT infrastructure (“Priority 1”), Development of electronic content, services and promotion of use (“Priority 2”) and Enhancement of the Kosovo residents’ ability to use the ICT’s (“Priority 3”).

Based on the Department’s own assessment, considering the undertaken effort so far and support provided through the KODE project, main targets set forth in this policy document have been

¹ ARKEP is the national regulatory authority in the field of electronic communications and postal services; more information at: <http://www.arkep-rks.org/?cid=2.28>

² http://www.mzhe-ks.net/repository/docs/Electronic_Communication_Sector_Policy_2013-2020.pdf

achieved. However more rigorous evaluation of the implementation progress needs to be undertaken.

In order to prepare the new policy document, the state of implementation of the current Digital Agenda for Kosovo needs to be undertaken and lessons learnt shall be formulated as part of that process. The Department and KODE PIU will facilitate meetings of the consultancy with relevant stakeholders in Kosovo to obtain inputs on the implementation experience, ongoing and future priorities in the sector and other relevant aspects important for this assignment.

(1.2) Review of the various options for Digital Agenda (with focus on infrastructure) policy frameworks in EU and beyond

The consultancy shall introduce the Department to several options of potential policy frameworks as well as best practices on digital policies' in Europe and beyond. Primarily focus of such policies shall be on infrastructure.

The deliverable shall briefly outline at least five (5) different Digital Agendas with 2 out of 5 from non-EU countries. It shall analyze those case studies and shall provide recommendations on the structure of the policy framework for and the boundaries of the new Digital Agenda for Kosovo 2021-2030 and Action Plan (new Digital Agenda).

(1.3) Draft New Digital Agenda for Kosovo 2021-2030 and Action Plan

The new Digital Agenda and Action Plan shall build on the implementation experience of the current strategy, current market developments and shall draw on the National IT Strategy³, National Development Strategy and other key socioeconomic policy documents of Kosovo (e.g. Economic Reform Programme, Smart Specialization Strategy). It shall be aligned with the most recent European Union's (EU) Gigabit Society strategy⁴, 5G Action Plan⁵ and Recommendation on 5G security (Commission Recommendation of 26.3.2019 Cybersecurity of 5G networks, C(2019) 2335 final).⁶ Furthermore, to substantiate proposed policy actions and urgency the development process it shall take into account most recent EU's policy documents underscoring the importance of digital such as the Green Deal⁷, Shaping Europe's Digital Future⁸, new Industrial Strategy⁹ and other relevant strategies. The policy shall foresee steps in safeguarding the continuity of smooth functioning of the created broadband coverage and access to gigabit speeds for the key parts of the society during crisis situations when the role of the broadband networks and connectivity is crucial to the normal functioning of the essential society services, like education, health, remote working and digital public services.

The deliverable shall include two documents – draft new Digital Agenda and Action Plan. The new Digital Agenda shall provide the context, formulate the problem statement, set up the vision and the goals, define the priorities and identify the actions that needs to be taken. Action plan shall

³ https://stikk.org/wp-content/uploads/2018/11/Kosovo_IT_Strategy_V01-00_29-06-2016.pdf

⁴ <https://ec.europa.eu/digital-single-market/en/news/communication-connectivity-competitive-digital-single-market-towards-european-gigabit-society>

⁵ <https://ec.europa.eu/digital-single-market/en/news/communication-5g-europe-action-plan-and-accompanying-staff-working-document>

⁶ <https://ec.europa.eu/digital-single-market/en/news/cybersecurity-5g-networks>

⁷ https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf

⁸ https://ec.europa.eu/info/sites/info/files/communication-shaping-europes-digital-future-feb2020_en_4.pdf

⁹ https://ec.europa.eu/info/sites/info/files/communication-eu-industrial-strategy-march-2020_en.pdf

include identified set of actions, measurable indicators for each of the actions, responsible implementing party and implementation timeline. New Digital Agenda and Action Plan shall be drafted according to the Administrative instruction (GRK) no. 07/2018 on planning and drafting strategic documents and action plans¹⁰

Objective (2) – Under the objective 2 the following deliverables shall be produced:

(2.1) Two market Analysis reports for markets 3a and 3b, identification of operator(s) Significant Market Power and recommendation on the relevant regulatory measures

The consultancy in close cooperation with ARKEP shall conduct market analysis of Market 3 of the EC recommendation on relevant product service markets, respectively a) Wholesale local access provided at a fixed location and b) Wholesale central access provided at a fixed location for mass-market. In addition, the consultancy shall support ARKEP in building its technical, economical and legal capacities on regulation of analyzed markets. Conduct Economic Replicability Test (ERT) for analyzed markets.

Objective (3) – Under the objective 3 the following deliverables shall be produced:

(3.1) Draft regulation on Open Access

Deliverable shall support ARKEP in building its technical, economical and legal capacities on regulation for open access by describing the rules on the conditions when the access to the high-speed broadband infrastructures should be granted and the requirements how the granting of such access should be performed in the areas where there is absence of infrastructure competition. Regulation shall be in aligning with relevant provisions of the EU *aquis*.

(3.2) Draft regulation on Dispute Resolution

Deliverable shall support ARKEP in building its technical, economic and legal capacities on dispute resolution through describing procedures in resolving the disputes including but not limited to disputes among electronic communications operators and service providers as well as disputes among electronic communications operators and service providers and other infrastructure providers and operators (as related to implementation of the ARKEP's role of dispute resolution body under the draft Law on measures to reduce the cost of deploying high-speed electronic communications networks, that transposes Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks Text with EEA relevance¹¹). Regulation shall be in aligning with relevant provisions of the EU *aquis*.

(3.3) Review and update of the methodology for Market Analysis

This deliverable in collaboration with ARKEP, will review methodology for Market, update market analysis questionnaire for all markets.

¹⁰ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18813>

¹¹ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32014L0061>

(3.4) Training for ARKEP on explaining of application of the rules on granting the access and dispute resolution

Deliverable shall provide one day training at the ARKEP premises by professional staff, for the dedicated ARKEP staff on three proposed regulations and their respective implementation.

IV. PROJECT MANAGEMENT

- The consultancy shall define and implement appropriate management mechanisms, sound planning, and resource allocation, according to the proven expertise and prior knowledge of the subject. As part of this task, the consultancy shall also provide justification for subcontracting, if required, interact with the Ministry and participant governments' staff, and provide regular management reporting. This will ensure the punctual delivery of high-quality results of the work within the budget allocated;
- The Consultant is expected to submit to the Ministry, detailed Gantt charts and accompanying documentation with sufficient details including:
 - Scheduling of all Objectives, Outputs, and Activities within the Outputs;
 - Identification of milestones and critical activities;
 - Assignment of experts and man-days v. outputs and activities;
 - Identification of possible risks and suggestions to mitigate them;
 - Quality assurance and peer review measures to ensure high quality results;
 - Detailed information on the expertise of the contractors on the tasks and topics of this tender including references to previous, relevant projects;
 - Detailed CVs of the experts proposed to be involved in all activities of the project.
- Based on the Gantt chart, the consultancy is expected to deliver the following documents regularly:
 - A brief monthly progress report on the current activities (as they are defined in the Gantt chart), information on the progress achieved, next steps, possible risks affecting project, risk mitigation measures;
 - Early warning reports, at any time, if emerging risks threaten key milestones of the project and when Ministry needs to either be informed or take a decision.

V. REQUIRED QUALIFICATIONS FOR THE CONSULTANCY

The selected Consultancy must possess the following qualifications:

- a. Demonstrated experience in design and delivery of similar type of consultancy services as evidenced by the relevant experiences, and qualifications.
- b. Demonstrated experience to engage with private sector, public institutions, national and local authorities.
- c. Good understanding of digital economy development dynamics, in Kosovo and in EU.
- d. Demonstrated experience in drafting, supporting electronic communications bylaws;

- e. Experience working on international donor-financed projects, manifested by practical knowledge of administrative, monitoring and reporting procedures used under the IDA/World Bank-financed projects is an advantage;
- f. Excellent project management skills, including quality assurance of work products; ability to deliver high-quality outputs in a high-pressure multicultural environment; and
- g. Excellent command of English, with the ability to deliver high-quality report writing, presentation, and communication skills, with experience in communicating and engaging with high-level decision makers in the public and private sectors.
- h. Individual experts with at least 7 years' of experience in the following fields directly related to the assignment: ICT sector policy/strategies and EU *aquis* for the electronic communications.

VI. THE EVALUATION AND SHORTLISTING CRITERIA

1. General experience as per TOR (30%);
2. Relevant work experience in implementing similar projects (50%); and
3. Organization and availability of qualified staff within the firm (20%).

A consultant will be selected in accordance with the Consultants Qualification Selection (CQS) set out in the Procurement Regulation for IFP Borrowers.

VII. TIMELINE, LEVEL OF EFFORTS (LOE) AND PAYMENT SCHEDULE

All the deliverables shall be prepared in English language and handed over as working documents and interim reports during the assignment according to the needs and agreements with the project team. Quality assurance and proofreading of the final versions of the deliverables must be included as part of the offer.

The assignment is expected to begin in January 2021 and be completed by end of August 2021. The LOE is estimated at **14** person-months.

All deliverables should be submitted in soft copies (MS Word, Excel, PowerPoint).

The Consultancy will receive lump sum payment according to the following payment schedule:

#	Deliverable	Deadline	Payment , % of total budget
1	Deliverable 1.1 and 1.2 Conduct mission to Kosovo Provide progress report	2 months after contract signature	20%
2	2.1 Market analysis Conduct mission to Kosovo Provide progress report	8 months after contract signature	5%
3	3.1 and 3.2 (open access and dispute resolution regulations)	8 months after contract signature	15%

	Provide progress report		
4	3.3 methodology for market analysis 3.4 Training for ARKEP on explaining of application of the rules on granting the access and dispute resolution Conduct mission to Kosovo Provide progress report	8 months after contract signature	20%
5	Deliverable 1.3 including mission to Kosovo. Provide final draft on new Digital Agenda and action plan Provide progress report	7 months after contract signature	40%

VIII. REPORTING OBLIGATIONS

The Consultancy will report to and work under the direction of the PIU within the Department.

In seeking to attain the objectives envisioned by this assignment, the Consultancy shall carry out the work as specified under the sections III and VII of this Terms of Reference and shall carry out any additional work the Consultancy deems necessary to meet the objectives of the assignment.

The Consultant shall also ensure regular interactions with the Ministry and ARKEP to transfer the knowledge of the work process and methodology. The Consultancy must provide reports as requested in the table above (Section VII of this Terms of Reference), acceptable to the Client.

IX. CONTRACT DETAILS

The contract is expected to start in January 2021. The duration of the assignment is estimated to last for eight months (8 months) subject to satisfactory performance.

This assignment will require intensive meetings with relevant stakeholders in Kosovo. Organization and costs of this work (meetings) shall be covered by the Consultant as part of the contract.