



**TERMS OF REFERENCE FOR KHYBER PAKHTUNKHWA BUSINESS
REGULATION ASSESSMENT AND REFORM PLAN.**

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| Country: | Pakistan |
| Name of the Project: | Economic Revitalization of Khyber Pakhtunkhwa |
| Consultancy Services: | Khyber Pakhtunkhwa Business Regulation Assessment and Reform Plan |
| IBRD Grant No.: | TF-A 4251 |
| Project ID: | P 124268 |

A. BACKGROUND AND INTRODUCTION

The MDTF funded Economic Revitalization of Khyber Pakhtunkhwa Project was designed to support the government of Pakistan in the economic recovery and revitalization of crises effected areas of KP by creating sustainable employment opportunities through rehabilitation of SMEs, institutional capacity building and working for promotion of key potential economic sectors.

This document provides the Terms of Reference for a consulting assignment to carry out a mapping of the regulatory framework under which businesses operate in the KP Province once they have completed their establishment phase, with recommendations for beneficial changes. The Khyber Pakhtunkhwa Board of Investment and Trade (KPBOIT) will supervise this activity from inception to implementation of reforms as it is driving investment climate reforms in the Province. The aims to improve the regulatory environment for investing and doing business in Khyber Pakhtunkhwa for both local and foreign investors.

The KPBOIT is the focal point within the KP Government for all initiatives which are taken to improve the investment climate within the Province. In this context, it is, *inter alia*, responsible for:

- in consultation with the concerned agencies, initiate studies, analyses, data collection and other actions to determine where impediments to investment exist within the Province
- taking into account the information so collected, determine reforms and other actions which will improve the investment climate within the Province

- because of the difficulty of (and, often, delay associated with) amending existing legislation, the principal focus will be on implementing regulations and procedures, including application forms; achieving clarity, brevity and transparency and ensuring that all information relating to regulations and procedures is easily available in the public domain digitally
- liaise with those agencies within which opportunities for beneficial reform have been identified to initiate the process of implementing those reforms
- monitor the progress of the implementation of reforms which have been agreed
- coordinate all initiatives relating to investment climate reform within the Province to ensure that the benefits of the efforts made are maximised and duplication is avoided

B. OBJECTIVES OF THE CONSULTANCY

The overall objectives of the consultancy assignment are to generate recommendations for and to assist with the implementation of changes which will:

1. make the business environment in KP more investor-friendly for both domestic and foreign investors/companies alike, thus increasing investor interest in the Province; and
2. have a significant positive impact on the operating environment for private sector businesses in the KP Province.
3. to improve connectivity/ networking of KP-BOIT and stakeholders across both public and private sector (provincial and federal)
4. Regulatory modernization, integration and simplification of procedures for improved EoDB in the Province.

C. PROJECT COMPONENTS AND SPECIFIC TASKS

The assignment will comprise two separate but sequential components:

- a comprehensive sector wise mapping of regulations related to business (large, medium & small) operations in KP including merged area and recommendations for reforms in these areas; and
- recommend implementation strategy as well as identify bottlenecks and constraints towards initiation of regulatory initiative.
- Development of comprehensive implementation model.

Mapping and recommendations - Specific Tasks

Business regulation, in this context, is defined as those regulations with which an investment project needs to comply on an on-going basis after it has achieved operational status. Unlike investment start-up, where many steps are common to all forms of investment, business regulation is generally sector specific to a large degree. This component should, therefore, map all general business related regulatory requirements and administrative procedures required at all departmental levels as part of regular business operations.

Description of the existing arrangements

It is essential that the assignment generates a detailed description – a comprehensive map – of the existing regulatory arrangements and requirements for business registration. By generating such a map, two important outcomes will be achieved:

- a) a comprehensive reference point will be established, against which assessments can be made as to where improvements might be made; and
- b) a snapshot of the arrangements and requirements as they are at the start of the project will provide a valuable benchmark for subsequent evaluation of the progress achieved.

For each regulatory requirement, the following information should be obtained and recorded:

- description of the requirement, including the frequency for renewal
- the purpose it serves
- nature of the procedure (application, registration, etc) – obtain a copy of any form/s involved
 - language/s
 - accompanying documentation required
- source of authority
 - legislation, regulation, decree, etc
 - agency involved
- administering authority/s
 - federal, provincial or local government agency
 - procedural links with other agencies
- cost (if any) for complying with the requirement
- application preparation time (compliance cost)
- processing time
 - official
 - actual
- stakeholders mapping including the key stakeholders mandated to complete a regulatory requirement or administrative procedure

- assessment of the clarity and uniqueness of the legal/regulatory mandate of the authority to feed into the overlap and duplication assessment
- authority relationship with the private sector to ensure engagement, appeal or feedback
- availability/publication/dissemination of all the requirements in an accessible and clear format and language
- for each business registration and regulatory requirement above, documenting the differences that impact on female investors or female owned businesses from the following dimensions:
 - legislations governing the procedure: any specific barriers such as the need for an additional signatures for female-owned businesses
 - implementation aspects affecting actual experiences of men and women going the process: such as procedures that disproportionately negatively impact women e.g. requirement to be physically present, costly information barriers are that less readily accessible for women
 - the institutions administering the procedures: does the gender balance of the staff, physical environment, or culture of the organization pose any specific difficulties for women
- identify ‘women-friendly’ services that can help women access information or make it easier for them to register businesses
- identify whether delays in compliance with registration/regulatory requirements are longer for female-owned businesses and investors as compared to male-owned businesses
- collate gender-disaggregated data where possible and to analyze whether registration forms and documentation currently provide for gender-disaggregated data

In establishing the maps, the consultant should obtain information from both public and private sector sources, as differing sources are likely to have differing perspectives on issues such as sequence and, especially, the actual (elapsed) time taken for processing. In addition, consultation sessions with the concerned government agencies will provide an understanding of their point of view regarding the limitations they face in administering their various designated responsibilities.

Assessment of the existing arrangements

Once the maps of regulatory requirements including for business registration are complete, the consultants should examine the data collected to determine:

- instances of duplication of information provision and regulatory procedures across multiple agencies and the legal bases for such duplication
- the completeness and clarity of the publicly available information regarding the requirement
- regulatory arrangements and business registration requirements which serve no apparent purpose
- requirements which have linkages to and dependencies on other parts of the regulatory environment
- agencies which have long elapsed times for processing
- the existence of consultative mechanisms to provide private sector feedback to the various regulatory authorities
- the apparent competencies and capabilities of the public servants interacting with the private sector
- regulatory arrangements and business registration requirements that are most likely to affect women-owned businesses

The outcomes from this assessment will provide the main basis for the development of recommendations for change.

Development of reform recommendations

The recommendations developed should cover legislative, regulatory and procedural changes, as appropriate to the issue under consideration. It will be important for the proposed recommendations to be discussed with both the private sector – to check on whether the changes proposed are considered likely to address the problems effectively – and the public sector – to check on whether the changes are feasible in the context of government procedures.

D. OUTPUTS AND DELIVERABLES

The outputs expected from the consultant will be as described below.

1. Inception report

An inception mission will be required immediately after mobilisation of the consulting team. This report will contain:

- a detailed work plan (including timing and duration) for the proposed period of fieldwork and subsequent phases of the assignment
- methodology for the fieldwork to be implemented
- lists of data which will be required

- lists of agencies, individuals and other parties with whom the consultant would wish to meet
- requests for any changes to the ToR for the project which the consultant believes are warranted
- proposed dates for the submission of the draft and final reports

2. Interim report

At approximately half way through the nominated period of fieldwork, the consultant will submit an Interim Report in which the following issues will be addressed:

- progress to date against the previously nominated schedule
- problems experienced, resolved and outstanding
- issues anticipated to arise during the completion of the fieldwork including access to data sources
- any variations expected to the timing of the remaining stages of the assignment

3. Project report

A report containing the deliverables/results of the consultant's work will be prepared for submission to the GoKP. The report should be prepared taking into account the following guidelines:

- provide copies of all the data gathered (if necessary, in an appendix) so that this information is recorded for subsequent benchmarking use
- provide a description of the institutional framework for business regulation in KP, including a map of the institutions involved and their roles and responsibilities. To the extent that they are important factors in the overall regulatory environment in KP, the relationships which these provincial agencies have with their Federal counterparts should also be described
- explain all the important assessments made and, where change is recommended, provide arguments for those changes based on international good practice. The consultant team will be expected, where appropriate, to draw on its international experience to illustrate these arguments with references to comparable situations
- in addition to developing the recommendations for reform, the consultant should also prepare action plans to guide implementation in various areas of government operation. It will be of crucial importance that the action plans:
 - aggregate – and integrate – the individual reform recommendations from each of the components into appropriate themes;
 - assign responsibilities within government for the implementation of varying packages;

- identify timeframes (target dates and milestones) and the resources required (including any capacity building assistance needed); and
- specify appropriate monitoring indicators
- throughout the report, focus on actions which GoKP can undertake, with either its traditional or recently enhanced (18th Amendment) authority; changes within the Federal Government’s jurisdiction are likely to be considerably harder – and slower – to achieve.
- Digital Connetivity/ networking of KP-BOIT with all public and private sector stake holders (Fedral and Provincial) on KP official business platform.
- Development of digital data base of Business and regulatory mapping for web portal
- Capacity building in terms of establishment of EoDB Cell and acquisition of skills by Human resource of KPBOIT to perform related functions effectively for creation of enabling environment as per world bank’s standards and in line with provincial BOIs specifically Punjab and Sindh.
- The report will also contain catalogue of all business regulations in Khyber Pakhtunkhwa in English, Urdu and Pashto languages.
- A process map of all business regulations in Khyber Pakhtunkhwa in English, Urdu and Pashto languages will be furnished as part of the report.
- Impact assessment of the initiatives taken by the Provincial Government towards Ease of Doing Business

E. PROJECT TIMELINE

The proposed project timeline, expressed as weeks from the date of award of the contract, is as follows; bidders should feel free to propose alternative timelines:

| Project component | Indicative duration | Indicative Cumulative time |
|--|----------------------------|-----------------------------------|
| Mobilization | one week | one week |
| Inception mission | one week | 2 weeks |
| Inception report | two week | 4 weeks |
| Fieldwork | four weeks | 8 weeks |
| Draft report | three weeks | 11 weeks |
| KP Government review draft | four weeks | 15 weeks |
| Presentation of draft (consultative workshops) | one week | 16 weeks |
| KP Government written comments | two weeks | 18 weeks |
| Final report submitted | one weeks | 19 weeks |
| Implementation assistance | For pilot phase. | |

F. REQUIRED SKILLS AND EXPERTISE.

| S# | Criteria | Marks |
|----|---|-------|
| 01 | Ten (10) years post registration experience in market analysis for the business sector, investment trends, regulation, mapping, strategies with developing country governments in the areas of investment climate reform and regulation. Documentary evidence of assignment including client name, worth and registration certificate should be provided. | 20 |
| 02 | Should have completed at least 05 assignment of similar nature in the area of investment policy, economic competitiveness, business procedures and mapping, and investment promotion and trends analysis in developing countries, including South and East Asia and, including in Pakistan. Sector specific demonstrable expertise is required or ICT, manufacturing, tourism, marble and other minerals, and tourism | 40 |
| 03 | Should have competent and experience staff on board having demonstrable work experience in area of business procedures mapping, investment strategies, investment facilitation promotion, and policy and regulation supporting competitiveness, ideally in South and East Asia. | 30 |
| 04 | Should have adequately working offices | 10 |

The Consulting firm will be selected in accordance with the World Bank's Guidelines as per the Selection Based on Consultants Qualifications Method Selection and Employment of Consultants [under IBRD Loans & IDA Credits and Grants] by World Bank Borrowers [January 2011 (Revised July 2014)]. The detailed ToRs can be downloaded from www.kpboit.gov.pk and www.reconnectpakistan.com.pk or email us on: pmuerkf@gmail.com.

The attention of interested Consultants is drawn to paragraph 1.9 of the World Bank's Guidelines setting forth the World Bank's policy on conflict of interest.

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