

CALL FOR APPLICATIONS FOR SHORT TERM CONSULTANCY SERVICES

Assignment	To Undertake and Audit and Review of the Mombasa County Legislations on Access to Justice
Program	Program for Legal Empowerment and Aid Delivery (PLEAD) in Kenya
County	Mombasa
Type of Assignment	Consultancy
Deadline of submission	26th October 2020
Expected Starting Date	2nd November 2020
Duration of Assignment	30 days

1. Background

Since 2019, HURIA has been implementing the program for the Program for Legal Empowerment and Aid Delivery (PLEAD), funded by EU through UNDP under the Amkeni Wakenya project. The program implementation is within Mombasa County and its main objective is to empower vulnerable. The program presented HURIA with a unique opportunity to improve access to justice through provision of free legal information and advice, awareness creation and capacity building of key actors.

Currently, the organization is implementing the second phase of the program whose main objective is to enhance the capacity of duty bearers to respond to access to justice grievances, as well as, improve knowledge and awareness on key existing county legislations and policies, and ultimately, improve effectiveness and service delivery of key duty bearers within the County government including the County Assembly.

Under this phase, HURIA has identified the Mombasa County Assembly, specifically, the Committee on Justice and Legal Affairs, as a key partner to work with on matters of access to justice and mainly in the review and audit of the existing County legislations, including, drafting of new County legislations, policies and regulations. The partnership with the County Assembly of Mombasa is cemented through a Memorandum of Understanding signed by both parties on the 6th of October 2020 at the office of the Speaker.

2. Objective and Scope of Work

The 2010 constitutional dispensation bestowed County Governments with both legislative and executive authority to facilitate the performance of their functions and exercise of their powers. Counties have a primary mandate to develop laws and policies to cover all areas allocated to them under the Constitution. Notwithstanding this milestone, county governments across the country still have existing laws in force that were enacted before the promulgation of the Constitution and in conflict with the spirit and tenets of the new constitutional order. While a number of laws have been developed, there is also an apparent mismatch between the legal and policy needs and the number of laws and policies currently in force in the counties.

This persistence to the old order has contributed to delayed and poor service delivery as well as impacted the access to justice path at the counties. For instance, in a recent court ruling delivered by the Mombasa county court between the Mombasa County Government and the manager of Kenya Women Finance Trust, Charles Murimi, the sitting magistrate delivered that the arrest and prosecution of offenders by the county government had no legal backing from any act/statute that conferred them the powers. A 2018 report by the council of governors and the Kenya Law Reform note that while courts have stepped in and made pronouncements in cases or through advisories on matters concerning county governments, the nature of court cases is that they do not engage in policy matters or make broad-based policies. The report further acknowledges that even where county governments have been vested certain functions through judicial determination, there is a need for broad-based policies and laws to facilitate sectoral coordination. Court cases are neither a comprehensive nor systematic ways of aligning policies and laws as this is best done through a collaborative approach by law and policy-making organs at both levels.

According to the audit, a dearth of capacity at the county level of government to facilitate the effective development of laws and policies that are clear, coherent, comprehensive and compliant with the applicable constitutional provisions was observed. The report recommends for the systematic growing of capacity of national government sectoral bodies and the county departments to enhance the capacity to develop laws and policies that can actually facilitate the pursuit of the respective mandates without further challenges. This therefore explains the intention of HURIA's cemented partnership with the County Assembly of Mombasa's committee on justice and legal affairs in building their capacity

The partnership acknowledges that there is a constant and consistent need for capacity to match up the constitutional mandate that has been given to counties. Laws and policies are only as useful as the matching capacities to ensure that counties are able to utilise laws and policies in order to provide concrete services and perform other functions. This task is therefore informed by the need for a holistic review of the capacity requirements of counties in order to ensure that once good laws and policies are development, they actually facilitate the achievement of the intended benefits to county governments through attendant policies.

Specifically, **the main purpose of this assignment is to;**

1. To conduct an audit of Mombasa county legislations, policies and regulations with a view to analyzing their compliance with the Constitution of Kenya;
2. Analyse implementation gaps and the effect of the legislations on access to justice and human rights protection;
3. Identify gaps and shortcomings of specific county laws and/or sections, propose amendments and improvements;
4. Identify capacity gaps of county assembly's members for justice and legal affairs committee with a view to strengthening their oversight role on matters access to justice;
5. Explore opportunities for integrating implementation of the Legal Aid Act, 2016 by the relevant county assembly committees.

3. Outputs and Expected Deliverables

The deliverables of the consultant shall include:

Final Consultancy Report highlighting the specific archaic laws that need amendment, and advisory on county legislations and policies

4. Duration of The Assignment

30 days

5. Organizational Arrangements

HURIA will contract one consultant who will undertake the assignment as described in this ToR. The consultant will report to HURIA and will spearhead the assignment and will be responsible for the submission of the deliverables as requested. All deliverables will be approved by HURIA and the County Assembly's committee on Justice and Legal Affairs before any payment is made.

6. Expertise and Qualifications

- Demonstrated experience and understanding of County Legislations and policies
- Extensive conceptual and practical knowledge of County Government operations
- Demonstrated ability to undertake similar research

7. Payment Modalities

The consultants shall be paid the consultancy fee upon completion of the following milestones:

20% after signing of contract, completion, submission and acceptance of inception report;

80% after completion, submission and acceptance of final consultancy report

All applications must be submitted via email to info@huria.ngo by 1700hrs on 26th October 2020 and should include the following: Expression of interest, CV, Names and contact details for two referees

In March 2018, the European Union (EU), Government of Kenya and United Nations launched the Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD), a five-year extensive justice programme funded by the EU in Sub-Saharan Africa. PLEAD is anchored in Kenya's Vision 2030 and supports government reforms aimed at transforming the criminal justice sector for the benefit of all citizens.

This Initiative is supported by

