

REQUEST FOR EXPRESSION OF INTEREST (EOI) FOR CONSULTANCY SERVICES TO REVIEW THE INSURANCE LEGAL FRAMEWORK FOR KENYA, TENDER NO.IRA/45/2024-2025

1. Background

The Insurance Regulatory Authority is a state corporation under The National Treasury and Economic Planning, established under the Insurance Act (Cap. 487 Laws of Kenya) with a mandate to regulate, supervise, and promote the development of Kenya's insurance industry.

The Insurance Act is the primary legislation governing the insurance industry in Kenya and was enacted in 1984. Since its operationalization in 1987, the Insurance Act has undergone several amendments to align it with industry developments.

Other relevant laws impacting the insurance landscape include the Insurance (Motor Vehicle Third Party Risks) Act Cap. 405, Marine Insurance Act Cap. 390, the Companies Act (Act No. 17 of 2015), and the Insolvency Act (Act No. 18 of 2015) among others.

The objective of regulating and supervising insurance is to promote a fair, safe and stable insurance industry, safeguard the interests of policyholders and beneficiaries, and foster industry development through innovation and competition. Recognizing the dynamic nature of the global, regional, and domestic insurance landscape, it is necessary to adapt the insurance regulatory framework to evolving market dynamics, consumer expectations, and technological advancements.

To this end, the National Treasury and Economic Planning has developed a Draft National Insurance Policy (2024) which aims to strengthen the existing policy, legal, regulatory and institutional framework towards increasing insurance penetration and promoting development of the insurance industry. The Draft Policy is available on the National Treasury's website (www.treasury.go.ke).

In line with the objectives of the Policy, the Authority seeks to enlist the expertise of a consultant to conduct a comprehensive review of the insurance legal framework in line with market needs as well as current and emerging trends. This includes –

- (1) *Enhanced Policyholder Protection*: Strengthening provisions to ensure fair treatment of policyholders by insurance industry players.

- (2) *Promoting Financial Stability*: Aligning regulatory practices with international standards to contribute to the stability of Kenya's financial system.
- (3) *Global and Regional Alignment*: Ensuring regulatory coherence with global and regional standards.
- (4) *Fostering Innovation*: Creating an enabling environment to promote adoption of innovation and technology to spur the growth of the insurance industry.
- (5) *Promote Access and Uptake of Insurance*: promote insurance inclusion by creating an enabling environment to promote access, affordability, and uptake of insurance.
- (6) *Enhance insurance industry capacity*: establish mechanisms to encourage insurance coverage of specialized and emerging risks.

Objective

The primary objective of the consultancy is to conduct a comprehensive review of the insurance legal framework in line with market needs as well as current and emerging trends. This will entail development of the Insurance Bill and subsidiary legislation to strengthen the regulatory framework for insurance in Kenya.

The intended outcomes of the review are as follows:

- (1) a new legal framework in line with market needs as well as current and emerging trends e.g., distribution channels, technology, data, AML/CFT, etc.
- (2) adequate and effective legislation for regulation of the entire lifecycle of insurance business including licensing, compliance, enforcement, surveillance, market conduct, policyholder compensation, insurance professionals' qualifications, professional ethics, insolvency resolution, management intervention, and dispute resolution.
- (3) a new legal framework in line with relevant international standards and global best practices on insurance regulation, customized to Kenya's context.
- (4) a new legal framework sufficient to support implementation of national policies and realization of the Authority's vision of being 'an effective regulator of a globally competitive insurance industry.'

The new legal framework must therefore:

- (1) align with international standards and best practices for insurance regulation, thereby upholding foundational principles of fairness, stability, and effectiveness within the insurance sector.
- (2) align with pertinent regional and international legal and policy frameworks to promote consistency and cross-border collaboration.
- (3) incorporate international best practices for insurance regulation, with a focus on implementing supervision methodologies to effectively manage and mitigate sector-specific risks.
- (4) contribute to the realization of Kenya's Vision 2030 goals by fostering an insurance environment conducive to sustainability, economic growth, resilience, and inclusivity.

2. Scope of Work

The scope of the work under the consultancy shall be to –

- (1) Conduct a comprehensive review and analysis of the existing legal framework, specifically the Insurance Act (Cap. 487), the Insurance Regulations (1986), and any other statutory instruments issued under the Insurance Act, to identify and document the weaknesses, challenges, and gaps, and to propose and document any proposed revisions or inclusions.
- (2) Review and assess related laws which could be affected by, or will affect, the new legal framework, and propose ways and specific proposals to address these cross-linkages or areas of conflict/duplication.
- (3) Examine relevant international standards and the Draft National Insurance Policy and Government plans to determine elements to incorporate into the new legal framework.
- (4) Conduct a comparative analysis and provide recommendations on best international practices.
- (5) Recommend the policy, regulatory and operational approach necessary for successful enactment and implementation of the new legal framework.
- (6) Develop various drafts of the envisaged legislation in line with the discussions, proposals and recommendations emanating from the review process. Drafting shall be in line with the Kenyan drafting conventions, style, and techniques, while also conforming to international best practice.
- (7) Identify and engage relevant stakeholders as may be directed by the Authority and document the proceedings.
- (8) Based on the findings from (1) to (7) above prepare:

- (i) The Insurance Bill with a comprehensive Memorandum of Objects.
 - (ii) The Insurance Regulations.
 - (iii) Any other statutory instruments requested by the Authority.
 - (iv) Recommendations regarding amendments to other relevant legislation and/or the creation of new legislation relevant to insurance.
 - (v) Detailed Regulatory Impact Assessment Reports for the proposed legislation.
 - (vi) A comprehensive report on the consultancy.
 - (vii) Any other deliverables specified in this request for expression of interest and detailed terms of reference.
- (9) Present the draft legislation to stakeholders including the National Assembly as directed by the Authority, incorporate the views/comments, prepare stakeholder engagement reports, and update the draft legislation accordingly.
- (10) Develop various briefs, papers, and output as may be required within the review process.
- (11) Undertake other tasks as requested which serve the objectives of the consultancy, or as may be specified by the Authority from time to time.
- (12) Submit the final consultancy report to the Authority.

3. Timelines for the Consultancy

The consultancy is expected to be undertaken over a period of twelve (12) months from the date of acceptance of the inception report.

The duration of the assignment may be reviewed from time to time at the Authority's sole discretion.

4. Contents of the Expression of Interest

In response to this invitation, interested parties should submit a detailed expression of interest including:

- (i) Cover Letter.
- (ii) The consultant's profile highlighting relevant professional experience and proposed consulting team.
- (iii) Detailed curriculum vitae of the lead consultant and team members, with at least three (3) referees and their contact details.
- (iv) Demonstrate an understanding of the assignment.

- (v) Detailed approach to address the consultancy objectives.
- (vi) Experience of the consultant in provision of the required services including assignments of similar scope and technical specialization completed.
- (vii) Detailed stakeholder engagement strategy.
- (viii) List of laws, policies and plans to be reviewed.
- (ix) Methodology for conducting comparative studies.
- (x) Detailed work plan for carrying out the consultancy.

5. Ethical Code and Professionalism

The consultant shall carry out the above assignment in accordance with the highest standard of ethical competence, integrity, and professionalism, having due regard to the nature and purpose of the assignment. The consultant will at all-times and purpose, regard as strictly confidential all knowledge and information not within the public domain which may be acquired while carrying out this assignment and the information shall not be directly or indirectly disclosed to any person whatsoever, except with written permission by the Commissioner of Insurance/Chief Executive Officer of the Authority.

The consultants will waive all copyrights of documents, data and information prepared as part of this assignment in favour of the Authority.

6. Reporting and Supervision

The consultant shall report to the Authority through the Corporation Secretary and Director, Legal Services.

7. Eligibility Criteria

The successful consultant must possess the following –

- (1) Have been in consultancy for more than 3 years.
- (2) Professional qualifications and at least 10 years' experience in policy development and insurance supervision and regulation.
- (3) In addition to the lead consultant, the consultancy shall comprise of the following team members possessing qualifications and competencies as indicated below (at least 1 member for each) with at least 5 years' experience –
 - (i) Insurance and risk management
 - (ii) Insurance regulation and supervision

- (iii) Finance or accounting
 - (iv) Actuarial science
 - (v) Project management
 - (vi) Advocate of the High Court of Kenya with experience in legislative drafting.
- (4) Adequate resources and staff to effectively conduct the consultancy and complete the assignment within twelve (12) months from the date of acceptance of the inception report.
 - (5) Demonstrate comprehensive knowledge of the Kenyan insurance industry, including its structure, players, and regulatory principles, strong understanding of insurance products, distribution channels, and evolving industry trends, and relevant international standards.
 - (6) Demonstrate a good understanding of the laws governing or impacting the insurance industry, including the Insurance Act (Cap. 487), Insurance (Motor Vehicle Third Party Risks) Act Cap. 405, Marine Insurance Act Cap. 390, the Companies Act (Act No. 17 of 2015), and the Insolvency Act (Act No. 18 of 2015) among others.
 - (7) Demonstrate understanding of insurance legislation and regulatory best practices across East Africa and globally.
 - (8) Demonstrate expertise in policy analysis methodologies and evidence-based recommendation formulation, with experience in drafting legislative proposals.
 - (9) Demonstrated experience in conducting Regulatory Impact Assessments (RIAs), encompassing cost-benefit analysis, stakeholder impact assessments, and identification of potential implementation challenges.
 - (10) Demonstrated expertise in facilitating stakeholder consultations and incorporating feedback into policy and legislative processes, coupled with knowledge of public participation techniques and strategies in legislative and policy development.
 - (11) Demonstrated expertise with statistical software and experience in analyzing and interpreting large datasets can be advantageous.
 - (12) Demonstrated excellent written and verbal communication skills in English and Kiswahili shall be essential.

- (13) Demonstrate experience in providing legal research, legal drafting and advisory services and revision of at least one (1) legislation or experience in carrying out similar projects in the insurance industry.
- (14) Demonstrable and practical knowledge of Kenyan drafting norms, practices, and conventions including a proven track record in legislative drafting and development of statutes.
- (15) The consultant should provide a valid tax compliance certificate.

Selection of the consultant will be in accordance with procedures set out in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Asset Disposal Regulations, 2020.

Duly completed expression of interest documents in plain sealed envelopes clearly marked “**Call for Expression of Interest to Review the Insurance Legal Framework for Kenya, Tender No. IRA/45/2024-2025**” and bearing no indication of the identity of the Consultant should be deposited into the Tender Box at Insurance Regulatory Authority Offices on 10th Floor, Zep-Re Place, Longonot Road, Upperhill, Nairobi and be addressed to: -

Chief Executive Officer,

Insurance Regulatory Authority,

10th Floor Zep Re Place, Longonot Road, Upperhill,

P.O. Box 43505 – 00100 Nairobi, Kenya

Telephone: +254-20-4996000; 254-719-047000

Email: procurement@ira.go.ke; Website: <http://www.ira.go.ke>

On or before: **Tuesday, 19th November, 2024 at 11:00 a.m.** Bids will be opened immediately thereafter in the presence of consultants or their representatives who choose to attend.

Only applicants shortlisted under this procedure will be invited to submit their Technical and Financial proposals under the Request for Proposals (RFP).

Consultants may associate with other persons or firms to enhance their qualifications but should indicate clearly whether the association is in the form of a joint venture. In the case of a joint venture, all the partners in the joint venture shall be jointly and severally liable for the entire contract, if selected.

The successful Consultant will be selected in accordance with the quality-based method set out in the Public Procurement and Asset Disposal Act and Regulations.

GODFREY KIPTUM
COMMISSIONER OF INSURANCE/CHIEF EXECUTIVE OFFICER
INSURANCE REGULATORY AUTHORITY