



TERMS OF REFERENCE

CONSULTANCY SERVICES TO CONDUCT A REGULATORY IMPACT ASSESSMENT (RIA)

2024

1. BACKGROUND

The Government of Uganda received Credit/Grant from the World Bank/International Development Association towards the implementation of the Uganda Digital Acceleration Project (UDAP). The Project Development Objectives (PDO) are to (a) expand access to high-speed internet in selected areas, (b) improve the efficiency of digital service delivery in selected public sectors, and (c) strengthen the digital inclusion of selected host communities and refugees. The National Information Technology Authority, Uganda (NITA-U) is the Implementing Agency (IA) for all components with the Ministry of Information, Communications Technology and National Guidance (MoICT&NG) and Office of the Prime Minister (OPM) as major Implementing Partners (IP). The procurement processes will be conducted in accordance with the World Bank Procurement Regulations July 2016 as revised in November 2017, July 2018 and November 2020.

As part of the implementation of UDAP, support for the review and development of relevant policies, laws, regulations and frameworks within Uganda's ICT sector has been identified as essential to enhance the growth and development of the sector. The rationale is to clearly establish the objectives, goals, and direction for the sector and provide guidance to various stakeholders on aligning their efforts to achieve the desired outcomes. To offer policy direction to the sector, an analysis of gaps in the policy, legal and regulatory framework for the ICT sector (Gap Analysis) was conducted in 2019. Among the recommendations was the need to review and develop relevant policies, laws, regulations, and frameworks. The office of the President (Cabinet Secretariat) has guided that any review or development of Regulations must be preceded by a Regulatory Impact Assessment (RIA) to inform the process.¹

A Regulatory Impact Assessment is a key component of Regulatory Best Practice which seeks to analyse the likely benefits, costs, risks and barriers associated with the introduction of a new policy or regulation.² It aids the Government to develop modern, precise and targeted

¹ The Cabinet Secretariat, Office of the President, Evidence Based Policy Making, A Guide to Regulatory Impact Assessment

² Ibid.

regulations that achieve legitimate policy aims while minimising the impact on those affected. The Government of the Republic of Uganda has endorsed Regulatory Impact Assessments as integral in helping to inform decisions as regulation is developed. Within this context, the RIA will therefore analyse the likely costs and benefits associated with the review and development of a new policy or regulation and inform policy decisions on the policies, laws, regulations and frameworks to be reviewed and developed under UDAP.

Consequently, the Government of Uganda through NITA-U in collaboration with the World Bank seeks to engage a suitable consultancy firm to conduct a RIA to analyse the likely costs and benefits associated with the review and development of identified policies, laws, regulations and frameworks under UDAP within Uganda's ICT sector.

2. OBJECTIVE OF THE ASSIGNMENT

It is intended that the RIA shall analyse the likely costs and benefits associated with the review and development of the identified policies, laws, regulations and frameworks in Uganda's ICT sector and inform the decision on the policies, laws, regulations and frameworks to be reviewed and developed under UDAP. It is expected that the RIA will systematically identify the most suitable options to address the issues that are sought to be addressed in the ICT sector through enhancing the regulatory framework.

The ultimate goal is to guide the review and development of policies, laws and regulations and establish an updated and robust legal and regulatory framework that aligns with current international standards, encourages e-government, fosters innovation and confidence in Uganda's ICT systems, inspires investment and ensures the effective utilisation of ICT for the socio-economic development of Uganda.

3. SCOPE OF THE ASSIGNMENT

The consultancy firm will be responsible for conducting the RIA. It is expected that while carrying out this assignment, the consultancy firm shall consider the unique circumstances of Uganda. To

meet the objectives outlined in these Terms of Reference, the scope of the assignment will include the following:

- I. Conducting a desk review of the literature including but not limited to the Constitution of the Republic of Uganda, the Guide to Good Regulation, A Guide to Good Regulation 2004, the Presidential Directive on the implementation of the Guide on Good Regulation (9th May 2005), Guidance on the Policy Function in the Uganda Public Service (8th February 2019), the Uganda Vision 2040, the Digital Uganda Vision 2040, the third National Development Plan (NDP III), the 2019 Final Report of the Gap Analysis, the Digital Transformation Roadmap 2023-2027, the draft National ICT Policy, relevant policies, laws, regulations and frameworks within Uganda's ICT sector as guided by NITA-U and MOICT&NG as well as any other relevant literature necessary for the successful completion of this assignment.
- II. Facilitating Stakeholder Consultations through a two-week residential workshop to gather feedback on the most feasible policy options and compile a comprehensive summary of key points, challenges and actionable steps. The consultancy firm shall oversee the coordination of all workshops and/or meetings and follow closely the guidance of the Office of the President/Cabinet Secretariat regarding the steps for conducting a RIA.
- III. Based on the review of the desk review and the feedback from the consultations of stakeholders, developing a draft RIA report and a framework for the implementation of the proposed options of regulation.
- IV. Conducting a Stakeholder Validation workshop to consider the draft RIA report and provide recommendations for the final draft RIA report.
- V. Consolidating the stakeholder comments and developing the final draft Regulatory Impact Assessment report. This report shall take the approved format of RIA reports by the Office of the President/Cabinet Secretariat.
- VI. Preparation of the assignment completion report.

For the avoidance of doubt, the consultancy firm shall be responsible for managing and coordinating all workshops and/ or meetings, organizing requirements including but not limited to rapporteur(s) and sending out invitations for the successful hosting of the stakeholder workshops and/or meetings. NITA-U will procure the conference facilities and provide oversight, guidance and approval for the management and coordination of all workshops.

4. KEY DELIVERABLES AND REPORTING

The expected deliverables for this Assignment are detailed herein below. All reports shall be submitted in both hard copy (two copies each) and electronic format and shall be in English. The electronic reports shall be submitted in secured PDF files, MS Word, and presentations in MS PowerPoint.

4.1. TASK 1: KICK-OFF MEETING – OBJECTIVE OF THE ASSIGNMENT AND INFORMATION GATHERING

The Consultancy firm shall meet with the representatives of NITA-U and MOICT&NG to discuss the Assignment, i.e. the task completion schedule, the proposed work plan, the approach for performing the assignment and any other related issues.

The firm may request in writing and NITA-U and MOICT&NG may where it is reasonably possible share information, documents, and other relevant materials that provide background data and information to facilitate the Consultancy. The Firm shall review all the provided materials, conduct research on good practices and develop preliminary questions and areas for further discussion.

NITA-U and MOICT&NG shall provide any clarifications regarding the assignment to the Consultancy firm.

Task 1 deliverable

An Inception report containing a brief of the consultancy firm’s understanding of the Assignment, the proposed methodology to carry out the Assignment, a catalogue of information required to perform the Assignment and any other related issues discussed and agreed upon during the kick-off meeting.

4.2. TASK 2: DESK REVIEW OF RELEVANT LITERATURE

The consultancy firm shall conduct a desk review of the literature including but not limited to the Constitution of the Republic of Uganda, the Guide to Good Regulation, A Guide to Good Regulation 2004, the Presidential Directive on the implementation of the Guide on Good Regulation (9th May 2005), Guidance on the Policy Function in the Uganda Public Service (8th February 2019), the Uganda Vision 2040, the Digital Uganda Vision 2040, the third National Development Plan (NDP III), the 2019 Final Report of the Gap Analysis, the Digital Transformation Roadmap 2023-2027, the draft National ICT policy, relevant policies, laws, regulations and frameworks within Uganda’s ICT sector as guided by NITA-U and MOICT&NG as well as any other relevant literature necessary for the successful completion of this assignment.

The desk review will include comparative studies on best Regulatory Impact Assessment reports to enhance understanding of the assignment and ensure high-quality output. It will also draw lessons from similar subject matters in Sub-Saharan Africa, examining both successes and challenges. It shall also include an analysis of the social, economic, and demographic characteristics of the affected persons to discern the positive and negative impacts of the regulatory options.

Task 2 deliverable

A Desk Review Report capturing the relevant information obtained from the review of the relevant literature including all the information mentioned above and any other information as guided by NITA-U and MOICT&NG.

4.3. TASK 3: STAKEHOLDER CONSULTATIONS

The Consultancy Firm shall facilitate consultative workshops to collect stakeholder comments and prepare a comprehensive summary of key points, challenges and action items relevant to the successful execution of the assignment. The choice of stakeholders shall include representatives from NITA-U and MOICT&NG, other MDAs and individuals and organizations that would be affected by the proposed regulation or those that have the ability to directly influence the implementation of the proposed measures or regulations.

The stakeholder consultations shall among others seek to meet the following objectives;

- a) Confirm the subject/topic/area of focus;
- b) Review/Confirm the issue of concern in the subject, topic and area of focus;
- c) Review/Confirm/Identify the causes (main and sub) of the issue of concern in the subject, topic and area of focus;
- d) Review the Effects of the issue of concern in the subject, topic and area of focus;
- e) Formulate a problem statement;
- f) Formulate the purpose/ goal, strategic objectives and actions;
- g) Formulate Outcomes;
- h) Identify and formulate the purpose and intended outcomes statement;
- i) Identify the possible options;
- j) Assess the identified possible options (for each option consider the cost benefits, impacts and distribution of impacts, implementation/ enforcement, monitoring and evaluation);
and
- k) Summarise the assessment of the options to be able to inform the selection of the best choice or option.

The Consultancy firm, NITA-U and MOICT&NG shall prior to these consultations convene to review the firm's questions and to further identify participating organizations and stakeholders required for the meetings and coordination of information gathering. The consultancy firm shall work closely with the relevant representatives from the Cabinet Secretariat, NITA-U and MOICT&NG to successfully accomplish this task.

The Consultancy firm shall be responsible for managing all workshops and/ or meetings, and organizing requirements including but not limited to rapporteur(s) and sending out invitations for the successful hosting of the stakeholder workshops and/or meetings.

Task 3 deliverable

Stakeholders' consultation report detailing the findings, analysis and conclusions from the stakeholder consultations in line with the above objectives. The report shall articulate the Stakeholders' concerns, recommendations, and "buy-in" for conducting the assignment. The Consultancy firm shall use the Stakeholders' Consultation Report as a guide for all subsequent meetings, where necessary. The Consultancy firm shall submit the Report to NITA-U for review by the Project Implementing Team constituted by NITA-U and MOICT&NG.

4.4. TASK 4: DEVELOP DRAFT REGULATORY IMPACT ASSESSMENT REPORT.

The Consultancy firm shall, based on all the findings and analyses from Tasks 1 to 3 develop a draft RIA report. The draft RIA report shall take as nearly as possible the form of RIA reports as guided by the Cabinet Secretariat, and shall cover the following areas; Executive Summary, Introduction, Background, Problem Statement, Purpose and Intended Outcomes as a result of addressing the issue in the subject identified, Methodology, Options Analysis, Options Selection, Summary of Options Analysis, Consultations arrangement, Conclusion and recommendations and Declaration.

Task 4 deliverable

Draft RIA report providing for the following systematic and logical components; the Executive Summary, Introduction, Background, Problem Statement, Purpose and Intended Outcomes as a result of addressing the issue in the subject identified, Methodology, Options Analysis, Options Selection, Summary of Options Analysis, Consultations arrangement, Conclusion and recommendations and Declaration.

4.5. TASK 5: STAKEHOLDER VALIDATION WORKSHOP

The Consultancy firm shall in consultation with MOICT&NG and NITA-U facilitate public stakeholder validation workshops on the draft RIA report. It shall be the consultancy firm's role to manage the workshop(s), present the draft RIA and produce a rapporteur's report.

The Consultancy firm shall be responsible for managing the workshop and/ or meeting and organising requirements including but not limited to rapporteur (s) and sending out invitations for the successful hosting of the stakeholder workshops and/or meetings.

Task 5 deliverable

Stakeholder Validation report and the Rapporteur's report detailing the comments, considerations and recommendations on the draft RIA report.

4.6. TASK 6: DEVELOP A FRAMEWORK FOR THE IMPLEMENTATION OF THE PROPOSED OPTION(S)

The Consultancy firm shall develop a comprehensive framework for the implementation of the proposed regulatory options. This framework will serve as a roadmap to guide the effective and efficient adoption of the proposed options for regulation and ensure that they achieve their intended objectives while minimising any unintended consequences. It shall among others include a detailed plan outlining clear and actionable steps of implementation of the proposed options of regulation including clear objectives, milestones and timelines and establish

mechanisms for monitoring and evaluating progress including performance indicators and reporting requirements.

Task 6 deliverable

A Framework for the implementation of the proposed options for regulation providing all the relevant information and with the guidance of NITA-U and MOICT&NG.

4.7. TASK 7: DEVELOP A FINAL DRAFT RIA REPORT.

The Consultancy firm shall review the comments from different stakeholders including those of NITA-U and MOICT&NG and prepare a final draft RIA report. The final draft RIA report shall comprise the Executive Summary, Introduction, Background, Problem Statement, Purpose and Intended Outcomes as a result of addressing the issue in the subject identified, Methodology, Options Analysis, Options Selection, Summary of Options Analysis, Consultations arrangement, Conclusion and recommendations and Declaration covering all the proposed interventions of Government in Uganda's ICT sector. The final draft RIA report shall include annexures of among others these Terms of Reference, meeting reports/lists of persons met, raw data and the list of reference documents.

NITA-U and MOICT&NG shall provide further guidance regarding the scope, structure and content of the RIA report. The Consultancy firm shall ensure that the final draft report is ready for disbursement to the Cabinet Secretariat. This involves ensuring that all necessary documentation and related materials are appropriately prepared, organised, and delivered.

Task 7 deliverable

Final draft Regulatory Impact Assessment report comprising the Executive Summary, Introduction, Background, Problem Statement, Purpose and Intended Outcomes as a result of addressing the issue in the subject identified, Methodology, Options Analysis, Options Selection, Summary of Options Analysis, Consultations arrangement, Conclusion and recommendations and Declaration covering all the proposed interventions of Government in Uganda's ICT sector.

4.8. TASK 8: ASSIGNMENT COMPLETION REPORT

The Consultancy firm shall prepare a substantive, comprehensive and satisfactory Assignment Completion Report in accordance with the objective of the Assignment and the Terms of Reference. The Report shall be organized according to the above tasks and shall include all deliverables and documents that have been submitted to NITA-U and MOICT&NG. The Consultancy firm will accept guidance and direction from NITA-U and MOICT&NG regarding this report. The report shall be submitted in six (6) hard copies to NITA-U and MOICT&NG and an electronic copy to NITA-U.

Task 8 deliverable

A substantive, comprehensive and satisfactory Assignment Completion Report.

5. QUALIFICATIONS REQUIREMENTS OF THE CONSULTING FIRM AND KEY STAFF

5.1. Experience of the Firm

The assignment shall be conducted by a consulting firm that meets the requirements below;

- I. Demonstrated experience in handling at least three (3) similar assignments;
- II. The consultancy firm must demonstrate the ability to field a team of experts with the required qualifications and experience to carry out the assignment;
- III. Excellent knowledge and experience in public policy drafting, social development issues and in conducting Regulatory Impact Assessments in Government;
- IV. Proven ability to manage similar assignments, including drafting policies, frameworks, laws and regulations and delivering timely results; and
- V. At least two (2) of the experts should be Ugandan citizens.

5.2. Expertise and Qualifications of the key experts

It is expected that the consulting firm shall field a team of key experts and non-key experts including the following key experts on its team.

5.2.1. Team Leader

5.2.1.1. Experience

- a) A minimum of ten (10) years' experience in handling public policy development including at least five (5) years of consultancy experience specifically in the development of Public Policy documents.
- b) Excellent knowledge and experience in public policy drafting, social development issues and in conducting Regulatory Impact Assessments in Government;
- c) High level of leadership skills and experience in managing consultancy services;
- d) Knowledge of Government operations and financial management;
- e) Knowledge of World Bank processes and procedures is an added advantage; and
- f) Demonstrated understanding of Uganda's policy development process.

5.2.1.2. Qualifications

A Doctorate of Philosophy (PHD) in Public Policy Development and Analysis is required;

5.2.2. Advisor/Expert in Policy and Strategy

5.2.2.1. Experience

- a) An expert/advisor with proven hands-on experience of at least seven (7) years in the development of IT policies, strategies, and frameworks.

- b) The expert/advisor should possess skills in administration, planning, governance, and public sector management or public policy and demonstrate practical implementation of the same.
- c) Excellent knowledge and experience in public policy drafting, social development issues and in conducting Regulatory Impact Assessments in Government;

5.2.2.2. Qualifications

- a) A minimum of a Bachelor's Degree in Economics, Planning and Statistics or their equivalent is required;
- b) A postgraduate qualification in Public Policy Management, Economic Planning and Policy or any other related field will be an added advantage.

5.2.3. Legal Expert

5.2.3.1. Experience

- a) A Legal Expert with at least seven (7) years proven experience in providing advice in legislative drafting and regulatory practice;
- b) The expert/advisor should possess skills in administration, planning, governance, and public sector management or public policy and demonstrate practical implementation of the same.
- c) Excellent knowledge and experience in public policy drafting, social development issues and in conducting Regulatory Impact Assessments in Government;

5.2.3.2. Qualifications

- a) Honours degree of Laws (LLB) from a reputable institution with a Post Graduate Diploma in Legal Practice;

- b) Master’s degree of Laws (LLM) or Information and Communications Technology related fields, or other relevant discipline is an added advantage;

5.2.4. ICT Experts (2)

5.2.4.1. Experience

- a) ICT experts, each with seven (7) years of demonstrable experience in any of the following fields Software Engineering, Computer Science; Information Systems, Information Technology, Information Technology Management, e-government or their equivalent;
- b) Excellent knowledge and experience in public policy drafting, social development issues and in conducting Regulatory Impact Assessments in Government; and
- c) One of the experts should have relevant qualifications and experience in the Fourth Industrial Revolution portfolios such as Artificial Intelligence and Blockchain.

5.2.4.2. Qualifications

- a) Bachelor’s Degree in Software Engineering, Computer Science; Information Systems, Information Technology, Information Technology Management, and any related field.
- b) A postgraduate qualification in any of the above fields will be an added advantage.

6. DURATION OF THE ASSIGNMENT AND IMPLEMENTATION

It is anticipated that the execution of the Assignment shall be for a period of **three (3) months** from the effective date. The tentative timeframe for implementation of the Assignment is represented as follows:

NO.	DELIVERABLE	TIMELINE FOR SUBMISSION AFTER CONTRACT SIGNING (IN WEEKS)
1.	Inception report and detailed project plan	1

2.	Desk Review report	3
3.	Stakeholders' consultation report	7
4.	Draft RIA report	8
5.	Stakeholder validation report and Rapporteur's report	10
6.	Framework for the implementation of the proposed options for regulation	10
7.	Final draft RIA report	11
9.	Assignment Completion Report	12

The above-stated timelines are to be understood as guidance and it is the responsibility of the consultancy firm to establish a detailed work plan/schedule within the above time estimates. The estimated staff time inputs should be provided in accordance with the consultancy firm's professional judgment and knowledge of the local conditions and needs. The consultancy firm's work plan/schedule should clearly reflect the staff to be deployed and their qualifications and skills for the execution of the assignment.

7. SUPERVISION AND ADMINISTRATIVE ARRANGEMENTS

7.1. Supervision

The direct supervision of the assignment will be done by the Executive Director, NITA –U in close consultation with MOICT & NG at the following address:

National Information Technology Authority, Uganda (NITA-U)

Palm Courts, Plot 7A Rotary Avenue (former Lugogo By-Pass)

P.O. Box 33151 Kampala, Uganda

Tel: +256 41 7 801041/2, Fax: +256 41 7 801050

7.2. Reporting

The Consultancy firm shall submit all requisite reports and documents to the address as stated above.

7.3. NITA-U and MOICT&NG's Obligations regarding reporting

NITA-U and MOICT&NG will review and provide timely comments on each report or in any case not more than five (5) working days of submission, and participate in the stakeholders' consultative workshops.

8. RESPONSIBILITY

8.1. Client's /NITA-U obligations

NITA-U shall have the following obligations:

- i. Ensuring that all relevant available documents, data, materials and information that provide background data and information are provided to the firm to facilitate the performance of the Consultancy services.
- ii. Provide introductory letters to the Consultant.
- iii. Carry out performance reviews and approval of reports submitted by the Consultant.
- iv. Liaise with the World Bank for necessary approvals where applicable.
- v. Provide details of the stakeholders (contacts and addresses) who are required to participate in meetings and workshops related to the assignment.
- vi. Participate in stakeholders consultative, and validation workshops for the assignment.
- vii. Make available to the Consultant an Authorised Representative(s) who will be the NITA-U's Representative(s) responsible for the coordination of activities under the Contract,

for receiving and approving invoices for payment, and for acceptance of the deliverables by the Consultancy firm.

8.2. CONSULTANCY FIRM'S OBLIGATIONS

The Consultancy firm shall have among others the following obligations:

- i. The Consultancy firm is obliged to hand over all deliverables in a timely and proper manner in line with these Terms of Reference.
- ii. The Consultancy firm shall not accept for their own benefit any trade, commission, discount or similar payment in connection with activities to this assignment or in the discharge of their obligations hereunder.
- iii. The Consultancy firm is obliged to observe the confidentiality of the assignment and information of the Client.
- iv. Perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices.
- v. Always act, in respect of any matter relating to this assignment to the Services as faithful advisers to NITA-U and MOICT&NG.
- vi. At all times support and safeguard the NITA-U and MOICT&NG's legitimate interests in any dealings with Sub Consultants or Third Parties.
- vii. The Consultant shall perform the Services in accordance with the applicable law and guidance provided from time to time by the Cabinet Secretariat and shall take all practicable steps to ensure that any Sub Consultants, as well as the Personnel of the firm and any Sub Consultants, comply with the applicable law and guidance.

- viii. The Consultancy firm shall hold NITA-U’s interests paramount, without consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.
- ix. All the work, documentation and presentations made during the execution of this consultancy, and intellectual property rights thereto, belong fully to NITA-U.

9. PAYMENT SCHEDULE

	Description	Percentage (%)
1	Inception Report	10% - After acceptance of the inception report
2	Desk Review Report capturing the relevant information obtained from the review of the relevant literature	40%
3	Framework for the implementation of the proposed options for regulation	10%
4	Final draft Regulatory Impact Assessment report	10%
5	Assignment Completion	30% after acceptance of the report
	TOTAL	100%

10. DATA/INFORMATION AND SERVICES TO BE PROVIDED BY MOICT&NG and NITA-U

To the extent possible, NITA-U and MOICT&NG shall provide free of charge applicable existing information, data, reports, policies, strategies, laws, and regulations in their custody and assist the Consultancy firm in obtaining other relevant information and materials from Government MDAs and LGs as far as possible. Notwithstanding the above assistance, the responsibility to identify the documentation required for the effective execution of the Assignment and sourcing of that documentation shall remain with the Consultancy firm.

The information, data, reports, etc. will be available for the Consultancy firm's use during the performance of the proposed services. For purposes of capacity building and ensuring adequate direct involvement of NITA-U in delivering the final project objectives, NITA-U will assign counterpart staff who shall be agreed upon with the Consultancy firm prior to commencement of consultancy services.

11. SERVICES AND FACILITIES TO BE PROVIDED BY THE CONSULTANCY FIRM

In carrying out this Assignment, the consultancy firm shall provide the following services, among others, at its own cost which should be duly provided for in the consultancy firm's proposal:

- a) Fees for the facilitator(s);
- b) Costs for the management/organisation of the different meetings and/ or workshops;
- c) Secretarial and administrative support staff;
- d) Transport services and other facilitation for official work for the Consultancy firm's staff during the term of the Assignment;
- e) Other applicable expenses, such as those mentioned above.