

Ogun State Government
Terms of Reference for the Consultancy for
Reform of the Business Regulatory Environment in Ogun State, Nigeria

1 BACKGROUND

This document provides the Terms of Reference for a consulting assignment to carry out an analysis of the regulatory and institutional framework and a mapping of current procedures and formalities de jure and de facto under which businesses (foreign and domestic) conducting general commercial or industrial activities operate in Ogun for establishment.

The expected impact results of the project would be:

- Enhancing coordination and communication between different ministries, agencies and departments;
- Reducing the burdens of both the government and businesses in terms of time and cost spent ensuring regulatory compliance;
- Making requirements and processes clear and transparent, and time-bound in accordance with best international practices and rationalize requirements;
- Increasing awareness amongst involved officials of their roles and responsibilities
- Minimizing random, uncoordinated and discretionary procedures.

Ogun State

Ogun State is known as the Gateway State in Nigeria due primarily to its strategic position in the linkage of the commercial nerve center of the country (Lagos) to other cities as well as the trans-national highway to the Republic of Benin and the West African sub-region. Ogun State has an estimated population of 5.2 million in 2017, 7.2 million when adjusted for migration from neighboring states, with the rural population constituting about 55% and the urban 45%.

Ogun State has benefited from having committed and proactive leadership and has recorded significant progress across various sectors over the past six years. The government recognizes the need to plan for the medium to longer term, to

ensure the achievements recorded are placed on a sustainable footing, and to prepare adequately for the future. To this end, the State is in the process of finalizing its State Development Plan. The Ogun State Development Program 2017-30 (SDP) sets out the areas of focus for the State for the next three years, as well as the strategic direction for the State up until 2030. Acknowledging that fiscal constraints facing the State as a result of severely reduced federal allocations due to the national recession, the SDP emphasizes the need for diversification of revenues sources with concerted efforts to grow the state's economy. The SDP recognizes the importance of economic growth of the State in creating the fiscal space needed to cater to the welfare of its citizens.

Ogun State has the potential to benefit from the diversification agenda of the Federal Government through Agriculture led industrialization. To be able to significantly increase private investments, and thus job creation and revenue generation, Ogun State is focusing on supporting agricultural production and industrialization by leveraging its favorable agri-climatic conditions and improving the business environment to solidify its position as one of the leading investment destinations in Nigeria. According to the 2014 World Bank Enterprise Survey, firms in Ogun cite the following as major constraints: power (53% of firms), corruption (48%), access to finance (27%), transport (6%) and around 10% for business environment (regulations, licensing, taxes, trade, etc.). The States distance to the global frontier increased from 54 percentage points in 2010 to 64 percentage points in 2014 however, opportunities for reform remain.

The current institutional set-up for business environment reforms has potential yet lacks capacity. Business Environment Council will be created with the intention to support reform efforts, particularly by supporting inter-institutional coordination and alignment, which are essential to business environment reforms. Communication and engagement with private sector in the design of reform strategies and verification of implementation are also lacking representing a potential risk to reform sustainability.

2 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:

- a) Make the business environment in Ogun State more investor- and business friendly, thus increasing investor interest in the State; and
- b) Have a significant positive impact on the operating environment for private sector businesses in Ogun State in a sustainable way

3 PROJECT COMPONENTS AND SPECIFIC TASKS

The assignment will comprise four separate components:

- A comprehensive assessment of the effectiveness of the current institutional arrangements for reform and proposal for institutional mechanisms to support and sustain regulatory reform capacity;
- The design of an effective stakeholder engagement and communication strategy to support the identification, prioritization and sustainability of reforms and real impact on the ground for businesses;
- A comprehensive assessment of the regulatory framework, mapping of regulations, systems, and de facto requirements for business related to business operations in Ogun State with focus on business establishment, dealing with construction permits and land administration, and the development of recommendations for reform in these areas;
- The provision of assistance to the Government of Ogun State with the implementation of the recommended changes, which are adopted by Government of Ogun State.

3.1 Assessment of institutional arrangements for reform and stakeholder engagement and recommendations

Regulatory reforms often span a wide range of areas and require the involvement of multiple agencies. Strong commitment from the highest levels of Government is an important ingredient to achieve that inter-agency coordination. In addition, many countries establish reform structures—with various degrees of institutionalization. Effective structures involve relevant public agencies and private sector representatives, create clear mechanisms to ensure coordination and information flows across all parties involved, and determine effective escalation mechanisms to ensure reform progress as issues arise. Many establish high-level oversight committees or public-private councils that work to prioritize the reform agenda and maintain reform momentum. Technical working groups then lead implementation at the agency level. The most successful technical committees have representatives from all key agencies involved in a particular area, as well as knowledgeable members of the private sector. A dedicated team is designated to take responsibility and lead coordination of the overall reform efforts.

The design of institutional mechanisms defines how responsibility for performing these roles is allocated. Accountability mechanisms require effective identification of priorities, specific measurable goals and actions to achieve them, along with clearly

defined deadlines and responsibilities. Against this background, under this component the following should be provided:

- Assessment of the effectiveness of current institutional arrangements in terms of identifying and prioritizing relevant reforms, implementing them, and monitoring results on the ground
- Stakeholder identification and assessment for business environment reforms in the State
- Assessment of existing mechanisms and needs to ensure sustainability of reforms (e.g. robust monitoring framework, private sector and user feedback loops, accountability mechanisms)
- Propose institutional arrangements to ensure and sustain regulatory reform capacity
- Design effective communication strategy for communication with the private sector for the identification, implementation and monitoring of business environment reforms.

3.2 Mapping and recommendations - Specific Tasks

Business regulation, in this context, is defined as those regulations with which a business conducting general commercial or industrial activities needs to comply with. This component should, therefore, map all business related regulatory requirements, administrative procedures, and their cost required at all departmental levels to start and operate a business. This includes specifically business registration and post-registration (tax, social security, etc.), as well as procedures related to obtaining permits and complying with regulations throughout construction (inspections, obtaining occupancy permits, etc.) and registering and transferring land and property.

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 (i) business registration (including post-registration procedures such as tax and social security registrations), (ii) complying with construction regulations (construction permits and required documentation, compliance with regulations and inspections throughout building process until the building can be used as collateral for a mortgage, obtaining necessary water and electricity connections, and (iii) registering land and property (land with a building) as part of a property transfer between two companies.

By generating such a map for each of the three areas, 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 business registration and regulatory requirement, the following information should be obtained and recorded:

- Description of the requirement, including the frequency for renewal;
- And 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
- Differences in processes or restrictions that impact on female investors or female owned businesses such as the need for additional signatures for female-owned businesses or procedures that disproportionately negatively impact women e.g. requirement to be physically present
- 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
- 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

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

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

Development of reform recommendations

In developing the recommendations, the consultant must bear in mind the fact that Government of Ogun State has little power to influence the nature of legislation, regulation and procedures at the Federal level, particularly in the short term. Thus the focus should be on reforms, which are within the authority of Government of Ogun State to effect.

The recommendations developed should cover legislative, regulatory, procedural (including IT systems and database solutions) changes, as appropriate to the issue under consideration. It is not expected that the recommendations will be highly detailed – for example, suggesting specific changes to individual application forms. Rather, broad recommendations as to the areas, which appear to require attention, will allow the detailed work, which will follow to be targeted effectively. However, the recommendations should be prioritized to provide Government of Ogun State with an indication of their relative importance.

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.

3.3 Implementation Assistance - Specific Tasks

The inputs required from the consultant will be determined following the consideration of the Final Report by Government of Ogun State. When it is clear as to what changes Government of Ogun State wishes to proceed with, supplementary Terms of reference for this component will be issued to the consultant.

4 CONDUCT AND TIMING OF THE ASSIGNMENT

It is anticipated that the proposed consulting assignment will be executed approximately in parallel with two other major reviews related to the Investment Climate project. One of these studies will examine the constraints and impediments to entry of foreign investment – in Ogun State. The other review will be of the structure, organisation and operations of the Ogun State Investment Promotion Agency. The consultant should ensure that contact is established with the teams carrying out these assignments and that effective liaison is maintained so as to be able to take account of the outcomes from those studies.

4.1 Inception

An inception mission will be required immediately after mobilisation of the consulting team. At least the overall team leader and one other team member will travel to Abeokuta for initial meetings with the Ogun State government. Immediately

following the completion of the inception mission, an inception report will be prepared and submitted. The fieldwork required for Phase 1 of the assignment will commence once Ogun State has conveyed its acceptance of that report.

4.2 Fieldwork

The consulting team will be based in Abeokuta during the data gathering components of each of the four components. An interim report will be prepared at an approximate halfway point of the fieldwork. At the conclusion of the fieldwork component, the consultant will make a presentation to the Government of Ogun State, which covers two separate but related areas:

- An explanation of elements of good international practices which are relevant in the context of Ogun State, using national and sub-national examples as appropriate; and
- A summary of the principal findings from the review.

4.3 Preparation of the assignment report

Following the completion of the fieldwork and the associated presentation, the consultant will prepare the Project Report, taking into account the discussion of the principal findings which occurred at the presentation. A draft of this report will be submitted to the Government of Ogun State. Subsequently, the consultant will make a presentation to Government of Ogun State of the Draft Report, highlighting the principal findings from the analyses and the recommendations, which are proposed to address major areas of concern. In addition to the discussion, which takes place at that presentation, consolidated comments from these three parties will be provided to the consultant to allow the final report to be completed.

4.4 Assistance with implementation

The commencement of this component of the project will be determined by the time taken by Government of Ogun State to consider the recommendations in the Final Report and decide the extent to which each will be adopted, in part or whole. Once this process is complete, supplementary Terms of Reference will be issued, against which the consultants will prepare and submit a supplementary proposal.

5 OUTPUTS AND DELIVERABLES

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

5.1 Inception report

This report will contain:

- A detailed work plan (including timing and duration) for the proposed period of fieldwork and subsequent phases of the assignment;
- 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.

5.2 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.

5.3 Presentation of preliminary findings

At the conclusion of the fieldwork and prior to the consultant team returning to their home office to prepare the project report, a presentation of the principal findings from the fieldwork phase will be made, as described above

5.4 Project report

A report containing the results of the consultant's work will be prepared for submission to the Government of Ogun State. 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 Ogun State, 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 Ogun State, the relationships, which the state and local agencies have with their Federal counterparts, should also be described;
- Provide suggestions on the composition of technical working groups to work on the implementation of reform recommendations based on the assessment of the institutional framework. Identify workshop or training needs that each

technical group may need in order to efficiently move forward with the reform process;

- 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:
 - It is not expected that the recommendations will cover the detail of the changes to be made; it will be sufficient at this stage to nominate the principal areas in which reform can be expected to have a significant impact on the attractiveness of the business environment in the State. Detailed work plans, for example, for re-engineering procedures in specific areas, will be developed in a subsequent phase of the project.
- 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 packages;
 - 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 and M&E arrangements
- Throughout the report, focus on actions which Government of Ogun State can undertake.
- Provide a detailed and effective communication strategy matrix for communication with the private sector throughout and after the implementation of business environment reforms. The strategy should include all parties involved in the communication strategy.

5.5 Presentation of the Project Report

Following submission of the Draft Report, the consultant will make a presentation of this report to Government of Ogun State. In preparing the Final Report, the consultant will take into account the content of the discussions, which occur at that presentation and the written comments, which Ogun State provides.

5.6 Implementation Progress Reports

Once the Implementation Assistance component commences, the consultant will be required to submit progress reports. The nature and frequency of these reports will be specified in the supplementary ToR, which are issued.

6 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	Duration	Cumulative time
Mobilisation	One week	One week
Inception mission	One week	Two weeks
Inception report	One week	Three weeks
Fieldwork	Eight weeks	Eleven weeks
Draft report	Three weeks	Fourteen weeks
Government consideration of draft	Two weeks	Sixteen weeks
Presentation of Draft Report	One week	Seventeen weeks
Government written comments	Two weeks	Nineteen weeks
Final report submitted	Two weeks	Twenty one weeks
Implementation assistance	To be specified	

7 REQUIRED SKILLS AND EXPERTISE

The consulting firm contracted for this assignment will have strong background of working with developing country governments in the areas of business environment reform and regulatory delivery. A proven track record of working successfully with governmental and public sector officials is a mandatory requirement, while knowledge of the political and economic dynamics at the state and federal government levels in Nigeria is desirable. Finally, all team members should have solid work experience for development agencies, ideally in large emerging markets and Sub-Saharan Africa. Previous experience of business environment consulting assignments will be an advantage.

The Lead Consultant should have the following qualifications:

- At least 15 years of relevant experience in the area of business environment, including similar assignments in developing countries, including large emerging markets, Sub-Saharan Africa and, preferably, Nigeria

- A thorough understanding of global developments in business regulatory frameworks, institutional set-ups and strategies for reform, including previous experience of process mapping and assessment.
- An in-depth understanding of the political and economic factors influencing the creation of business environments and the factors which influence investment location decisions by investors
- A demonstrated ability to work successfully within a multicultural environment and to adhere to tight deadlines with accuracy and professionalism
- Well-developed writing skills in English.

8 CONTRACT PAYMENT TERMS & TIME FRAME

Two contracts will be issued for this assignment, each of which will be a Lump Sum contract, denominated and payable in Nigeria Naira

- A contract for the data collection, analysis and preparation of recommendations component, which will be based on the proposal submitted by the consultant; and
- A contract for the provision of implementation assistance, which will be based on a subsequent proposal by the consultant when the extent of the assistance required can be estimated, following Government of Ogun State's consideration of the Final Report.

Progress or interim payments will be based upon Project team receipt and satisfactory acceptance of the consultant's delivered reports.

Time-frame

- The activity is expected to start by April 15th 2018

9 SPECIAL TERMS & CONDITIONS/SPECIFIC CRITERIA

In addition to the foregoing provisions, the following conditions and understandings shall apply:

- a) During the course of the performance of Consultant's duties, any correspondence with the authorities or officials shall be cleared through and coordinated with Ogun state.
- b) Copies of all documents, materials or work product received or produced in connection with employment shall be provided to Ogun state. Unless otherwise in the public domain, all documents, materials or work product

received or produced, constitute property of the Ogun state government and upon request shall be delivered to the government.

- c) Certain knowledge and information (whether oral or written, in documents, materials, or work product) that is not already within the public domain that the Consultant acquires from the Ogun state government, its staff or by virtue of Consultant's assignment shall for all time and purposes be regarded as strictly confidential and shall be held in confidence by the Consultant. Such knowledge and information shall not be directly or indirectly disclosed by Consultant to any person whatsoever without written permission from an authorized person of Ogun state.

The Consultant will report to Honourable Commissioner, Commerce and Industry.