

TERMS OF REFERENCE

“Development of a Vetting Framework for Public Officers”

1. Background and Context:

The Association of Professional Societies in East Africa (APSEA) is the umbrella body of professional associations and societies in Kenya, with a corporate membership of thirty (30) professional associations from diverse professional disciplines. The corporate member associations have a total membership of nearly 50,000 individual professionals in Kenya alone. Professionalism and professionalism is embedded within the Constitution of Kenya and as such, as the umbrella body of all professionals in Kenya, APSEA has a stake in the implementation of the constitution. A major area of importance in the constitution is leadership values

APSEA, through its National Advocacy Program for Governance Reforms project, has as one of its main objectives the improvement of Ethical leadership in the public sector improved through vetting of public officers. Kenya has emerged from a previous constitutional dispensation whereby nominees and appointments to public office were almost always on the basis of political cronyism, tribalism, nepotism and corruption in general. The new constitution offers Kenya a new and unique opportunity to ensure that people who hold public office are there purely on merit as opposed to the aforementioned vices that were prevalent in the country. A new constitution without transforming the institutions and the people who work in them will cause the implementation of the constitution to be an exercise in futility. Developing a framework for good governance and accountability is thus a necessity.

Currently, there is lack of a proper mechanism to vet persons recommended for appointment to public offices as required by Chapter Six of the new Constitution. The current vetting process is haphazard with no established systems for vetting public officers. The only attempts so far in developing a vetting criteria such as the Public Appointment (Parliamentary Approval) Bill, 2011 are being spearheaded by the political class yet the professionals are largely silent on the matter. As such, APSEA will in consultation with key stakeholders drawn from its membership, government institutions and the civil society develop a framework that will be used in vetting candidates or nominees to be appointed in public offices. Technical review meeting will be held inviting the key stakeholders and provisions in the new Constitution will form the basis of developing the framework. APSEA will also use the framework to ensure gender representation during nominations and appointments into public office. Once complete, APSEA proposes to share this framework with relevant constitution implementation agencies.

2. Objectives:

The objectives for the development of the vetting framework are as follows:

- I. To entrench a system of accountable and open governance.
- II. To ensure the realization of the values and principles as enshrined within Chapters Two, Six and Thirteen of the constitution.
- III. To ensure that institutions restore integrity and public confidence and uphold the rule of law and human rights.
- IV. To put in place the mechanisms that ensures that individuals adhere to relevant standards of professional conducts.
- V. To promote, protect and enhance popular participation in governance and public policy

The following are the goals specific to this project:

- I. To develop a document which will guide the vetting of public officials for the offices that shall be in place after the year 2012.
- II. To develop criteria that captures the spirit and letter of Chapter 6 of the Constitution of Kenya; is free from political bias mischief and; and one that is merit- based.

3. Description of Tasks to be Carried Out:

In order to meet the above objectives, APSEA is seeking the services of a consultant who will responsible for the design and development of the vetting framework for public officials.

I. Time frame:

The consultant shall begin their mandate on May 30, 2011 and complete it on July 29, 2011.

II. Framework Description and Areas of Consideration:

The consultant shall develop a vetting framework in line with the stated project objectives. The vetting framework must be governed by existing laws such as:

1. Chapter Six of the Constitution of Kenya. This chapter provides for leadership and integration and has among other provisions that anyone appointed in a state office should be a person of integrity and competence. He/she should practice honesty in the execution of public duties and should not compromise the interest of the public for his own interest.
2. Article 262 (23) of the Constitution of Kenya. It provides for vetting of all judicial officers within the first year of the passage of the constitution. The constitution further provides for recalling of members of parliament who do not perform (see article 104), for parliament to conduct its matters in an open manner and to involve the public (see article 119). The constitution further provides for approval of all presidential appointments by the National

assembly and the impeachment of the president for among other things gross misconduct and violation of the constitution (See Chapter Nine of the New Constitution).

3. Article 35: The constitution provides for right to access information. Such information can be used to deal with vetting of public officials.
4. Article 260. It provides the definitions of those who are subjected to standards contained in Chapter Six and they include all who hold constitutional offices as well as governors among others.
5. The United Nation vetting procedures and guidelines on vetting public employees.

III. Deliverables and other provisions:

The consultant will at the end of his/ her contract provide APSEA with the following tangibles:

- A completed vetting framework within the timeline stipulated.
- Two presentations of the framework to APSEA members and stakeholders.

IV. Qualifications

The consultant will have the following basic qualifications:

- Possess a Bachelors Degree in Law, Political Science or relevant field.
- Post- Graduate qualification in Governance, Ethics or related field.
- Proven experience in the development of nominations/ vetting criteria
- A keen understanding on constitutional and vetting matters
- Documented research and published works on the constitution and vetting of public officials will be an added advantage.
- Must be a professional of good standing within their respective associations
- Highly developed oral and written communications skills

Applications to be sent to apsea@apsea.or.ke by May 20, 2011