

ESWATINI ENERGY REGULATORY AUTHORITY



REQUEST FOR PROPOSAL

FOR

**INDIVIDUAL CONSULTANCY SERVICES – ENVIRONMENTAL AND SOCIAL IMPACT
SAFEGUARD SPECIALIST CONSULTANT**

REFERENCE NUMBER: ESERA/RFP/08/2022-2023

DECEMBER 2022





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1 LETTER OF INVITATION TO TENDER

The Eswatini Energy Regulatory Authority (ESERA) hereby invites competent and qualified national individual consultants to submit their bids for the following tender:

- Bid Number:** ESERA/RFP/08/2022-2023
- Bid Description:** Procurement of Consultancy Services: Environmental and Social Impact Safeguard Specialist Consultant
- Objective:** The general objective of the consultancy is to ensure compliance with national environmental legislation, as well as with the UNDP's Social and Environmental Standards (SES) in the context of the project. Further, it serves to identify social and environmental impacts (positive and negative) and risks and to design respective measures to prevent, reduce, mitigate and/or offset/compensate (for) them.
- Access to Bid Documents:** The RFP is available on ESERA's and ESPPRA's websites.
- Closing Date:** 12 noon (CAT) on 28 December, 2022. Bidders are invited to attend Tender Opening which will occur immediately after the closing time.
- Details on Bid Submission:** A technical and a financial proposal shall be submitted either in hard copy or soft copy (through a flash drive) enclosed in plain, wrapped and sealed separate envelopes clearly marked with the Bid number and description on the outside and deposited in the ESERA tender box situated at the ESERA offices reception. They must be delivered on or before the Date of Closure and addressed to:
- The Chief Executive Officer
Eswatini Energy Regulatory Authority
First Floor, RHUS Office Park
Karl Grant Street, MBABANE**

All enquiries relating to this tender should be directed in writing to Mr. Saneliso Makhanya through email to makhanyas@esera.org.sz





TERMS OF REFERENCE (TOR) FOR CONSULTANCY SERVICES

Environmental and Social Impact Safeguard Specialist Consultant

Eswatini National Project under the Africa Minigrids Program (AMP)

REFERENCE NUMBER: ESERA/RFP/08/2022-2023

2 Project Background

The Ministry of Natural Resources and Energy (MNRE) nominated Eswatini Energy Regulatory Authority (ESERA) to implement a project under the Africa Minigrids Program (AMP) - the 'National child project under the GEF Africa Minigrids Program – Eswatini' (PIMS 6432) (AMP in Eswatini).

The AMP is a country-led regional technical assistance program for minigrids, active in an initial 21 African countries. It is led by the United Nations Development Programme (UNDP) with funding primarily from the Global Environment facility (GEF), and implemented together with Rocky Mountain Institute (RMI) and the African Development Bank (AfDB), linking up with a wide array of minigrid stakeholders in Africa and beyond.

As part of this programme, the AMP in Eswatini aims to support access to clean energy by increasing the financial viability and promoting scaled-up commercial investment in renewable energy (RE) minigrids. The project has been approved and officially started implementation on 22 July 2022.

The project will provide technical assistance and investment support to improve energy access in rural areas. It is designed to accelerate renewable energy minigrid development, building data and knowledge resources and 'proof of concept' business models that can inform planning, de-risk investments and encourage private sector participation in the country. This aligns with the country targets for renewable energy (RE) and the expectation that minigrids will contribute to the goal of achieving universal energy access, as set out by the National Energy Policy (2018) and the Kingdom of Eswatini Energy Masterplan, 2034.

This contribution will be achieved through three outcomes:

1. appropriate policies and regulations addressing policy, institutional, regulatory and technical barriers to investment in RE minigrids;
2. innovative business models, based on cost reduction, operationalized;
3. increased awareness and network opportunities in the minigrid market and among stakeholders as well as lessons learned for scaling up rural electrification using RE minigrids

3 TOR Background

An Environmental and Social Management Framework (ESMF) was developed for the AMP National Project in Eswatini to ensure compliance with relevant policies, including UNDP's Social and Environmental Standards (SES). That ESMF is a management tool to assist in managing potential adverse social and environmental impacts associated with activities of the AMP National Project in Eswatini, in line with the requirements of UNDP's SES.

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In particular, the ESMF identifies the steps for detailed screening and assessment of the project’s potential social and environmental risks, and for preparing and approving the required management plans for avoiding, and where avoidance is not possible, reducing, mitigating, and managing these adverse impacts. Its scope covers all project activities, which include co-financing in terms of in-kind contributions, grants and equity investment by various government agencies and the private sector needed to implement the project.

ESERA is seeking a consultant to prepare and implement an Environmental and Social Impact Assessment (ESIA) and its respective Environmental and Social Management Plan (ESMP) for the Eswatini AMP Project.

4 Objectives of the Consultancy

The general objective of the consultancy is to ensure compliance with national environmental legislation, as well as with the UNDP’s Social and Environmental Standards (SES) in the context of the project. Further, it serves to identify social and environmental impacts (positive and negative) and risks and to design respective measures to prevent, reduce, mitigate and/or offset/compensate (for) them.

Specific Objectives:

- To prepare an Environmental and Social Impact Assessment (ESIA) and its respective Environmental and Social Management Plan (ESMP) for the planned minigrid pilots to ensure the socio-environmental sustainability of their different components.
- To implement the ESMP for the planned minigrid pilots to ensure the socio-environmental sustainability of their different components.
- The consultancy aims to analyze, evaluate and propose measures to prevent, control, mitigate, restore and/or compensate the potential environmental and social impacts of the pilot investments so that the project complies with UNDP’s SES and national legislation.
- The ESIA must include management plans and other instruments detailing environmental and social requirements, in particular to guide the final design of the minigrid pilots and their components, including recommendations for changes to the pilot design as well as specific actions to be taken by contractors and subcontractors.
- Develop a consultation/stakeholder engagement plan, including an analysis of interested and affected parties, detailing documentation requirements, and dissemination of information about the pilots.
- Support the implementing partner (and responsible party) in carrying out meaningful consultations.

5 Principal Activities

Preparation of the Environmental and Social Impact Assessment (ESIA) of the project will include the following elements and activities:

Before you start:

- Identification of data availability and gaps for conducting the assessment.



- Ensure the availability of data/information from different sources to rely on (previous site visits, secondary data, scientific literature, government-provided information, etc.)
- Determine the extent of data gathering that will be required to ensure the qualitative depth of this study and which steps will be required (site visits, interviews, literature review etc.)

(a) Description of the Pilots:

- Detailed description of the minigrid pilots, which will clearly identify the specific environmental and social issues related to it, including all risks and health and safety aspects.
- Analysis of the alternatives considered, justification and environmental and social foundations of the pilot location. Consider all types of alternatives related to overall approach and pilot design, including the “no action” alternative. Factors to include:
 - Pilot site locations¹
 - Timing
 - Scales
 - Partners
 - Intensities
 - Technologies/processes
 - Facilities designs
 - Construction
 - Operations and maintenance
 - Organizational and management setups
 - Ways of dealing with impacts
 - Capacity to adequately address risks/impacts
- Description of the pilot location and sensitive environmental and social features. It includes a map of sufficient detail, showing the pilot site and the area that may be affected by the pilot’s direct, indirect, and cumulative impacts. (i.e. area of influence)
- Components and sub-components, which consider the main elements or units, support facilities, equipment or technologies to be used, raw materials, labor (construction, operations and maintenance stages), and work schedule. This includes any offsite activities that may be required (e.g., access roads, power supply, water supply, housing, and raw material and product storage facilities), as well as the pilot’s primary supply chain.
- How the principles of green building are incorporated (such as energy efficiency and the use of renewable resources, the environmental impact of the works, resource conservation, internal air quality, and community aspects, such as access to public transportation).
- Brief description of mechanisms and instruments for community participation (to be expanded in a separate section), including procedures for consultation and participation of groups affected and beneficiaries by the pilot, and mechanisms for complaints from the population directly using the services.

¹ Whenever feasible, preference should be given to pilots, or pilot components, that are sited on lands already converted (e.g. not on natural habitats). Among other factors, potential climate change risks need to be considered in pilot siting decisions.



- Moreover, a non-technical summary – that can be understood by different stakeholders – should be included to facilitate and encourage engagement and comments.

(b) Diagnosis of the Pilots' Area of Influence and Beneficiaries:

Data collection, analysis and interpretation of all data identified from reviewing existing documentation and initial scoping should be gathered to describe the existing environmental and social conditions including for the biophysical and socio-economic and cultural context.

Characterization of the area of direct impacts, describing the current environmental and social conditions in the area where the pilots are intended to intervene or implement.

- Map of sufficient detail showing the project site and the area that may be affected by the project's direct, indirect, and cumulative impacts (i.e. area of influence)
- Socio-economic and environmental characterization, which includes presenting concise information on the main socio-environmental factors that will be affected by the pilot. This information, whenever possible, should be based on qualitative and quantitative data. Factors will include:
 - On the environmental side: land use, meteorology, air quality, noise, geology, soil, natural disaster risks, water resources, flora and fauna, protected areas, environmental legacies from previous projects, pollution levels, (hazardous and non-hazardous) waste generation.
 - On the socio-economic side: population, social composition, levels of urbanization, income indicators, levels of health and education, social organization systems, sanitation infrastructure (water, sewage, solid waste), energy and transport, media (newspapers, radio, TV), cultural, historical and archaeological sites or monuments in the vicinity, potential for an influx of workers from other parts of the country and negative social impacts, indigenous peoples and communities, gender patterns, vulnerability assessment.

(c) Institutional and legal framework:

- Description of the regulations, system and requirements for minigrid licensing, environmental licensing and land ownership, and other authorizations necessary for the implementation of the pilot components and works; identification of the need to complement the rules governing pilot implementation.
- State applicable international obligations and agreements (e.g. Multilateral Environmental Agreements) that must be complied with.
- Social and environmental safeguard policies and procedures of other donors and project partners.
- Identify any gaps between national legislation and UNDP's SES, while acknowledging that higher standards will be used. Emphasis should be given to stipulations in national or local law that may impede compliance with UNDP's SES and respective guidance or vice versa. In these cases, practical solutions need to be found in collaboration with the implementing partner and included in the ESMP.



- Identify the environmental and social studies required according to the level of socio-environmental risk, in order to comply with both national and local environmental legislation.
- Compliance with UNDP's SES:
 - State and describe each of UNDP's SES Principles and Standards.
 - Be specific about which of these requirements would be triggered/required in the context of this pilot.
- Describe the environmental management instruments for use by the project, to ensure the incorporation of environmental and social variables throughout the project cycle.
- Identification of the institutions responsible for the execution and environmental and social management of the program, at the respective levels of government; roles and functions of each of the institutions, identifying the needs for institutional strengthening.
- References to international good practices, such as those contained in the [World Bank Group Environmental Health and Safety Guidelines](#).

(d) Main Environmental and Social Impacts:

- Develop a methodology/grading system for impacts to record severity in a matrix (long vs. short-term, reversible vs. irreversible etc.);
- Identification, analysis and rating of the environmental and social impacts of the project and for each of potential subprojects during the different phases of the project cycle (preparation, operation, maintenance etc.), including those impacts related to health and safety in the construction, operations and maintenance stages;
- Consideration of positive and negative, direct, indirect, cumulative impacts.
- Environmental viability of the program, by weighing the damages against the environmental and social benefits; evaluation of the effectiveness of the measures to control negative impacts; verification of compliance with environmental criteria and standards; and measures to prevent and mitigate environmental and social risks;
- Areas potentially impacted by cumulative impacts from the incremental adverse impacts of the pilot when added to other past, existing, planned or reasonably predictable future pilots and developments (e.g. incremental contribution to pollutant emissions, forest depletion due to multiple logging concessions). Assessing potential cumulative impacts enlarges the scale and timeframe for assessing combined effects of multiple activities and impacts;
- Areas potentially affected by impacts from unplanned but predictable developments (indirect and induced impacts) caused by the pilot investment that may occur later or at a different location (e.g. facilitation of settlements or illegal logging in intact forest areas through expansion of adjacent agricultural activities);
- Transboundary impacts, such as pollution of international waterways or transboundary river basins, airsheds and ecosystems; migration of populations; international relations;
- Global environmental and social impacts, e.g. greenhouse gas emissions, ozone depletion, loss of biodiversity and desertification; loss of cultural diversity and heritage.

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The temporal scope of potential impacts will encompass:

- Future anticipated or projected short-term impacts, e.g. increases in consumption, waste, pollution, capacity needs, and health problems resulting from the proposed pilot;
- Future anticipated or projected long-term impacts, e.g. indirect or secondary effects of induced unplanned development and changes in socio-economic conditions;
- Present or baseline pollution of the proposed pilot site or facilities, e.g. soil and ground water pollution originating from past disposal of or contamination with hazardous substances or wastes.

The organizational/management scope of potential impacts will include UNDP and the implementing partner as well as the:

- Role and capacity of third-party organizations, e.g. governments, contractors (with whom the proposed pilot or implementing partner has a substantial involvement), or an operator of an associated facility (to the extent of the Project Developer's control or influence over these organizations);
- Primary suppliers² (where the resource utilized by the proposed project is ecologically sensitive, or where child labor, forced labor and/or unsafe working conditions may be involved).

[Annex 3 of the UNDP SES Guidance Note on Social and Environmental Assessment and Management provides an indicative outline for preparing an ESIA report.]

(e) Preparation of the Environmental and Social Management Plan (ESMP) for the project.

The ESMP consists of a set of mitigation, monitoring and institutional measures, including policies, procedures and practices – as well as the actions needed to implement these measures – to achieve the desired social and environmental sustainability outcomes. An ESMP may apply broadly across UNDP and Implementing Partner organizations for project implementation, or it may apply to specific sites, facilities, or activities relating to the proposed project. The ESMP may range from a brief description of routine mitigation and monitoring measures (e.g. for Substantial Risk projects with limited, readily identifiable potential impacts) to a series of specific plans as required by UNDP's Social and Environmental Standards (refer to specific requirements of applicable standards), including, for example, Resettlement Action Plans/Livelihood Action Plans, Indigenous Peoples Plans, Biodiversity Action Plans, Cultural Heritage Management Plans, Emergency Preparedness and Response Plans. The level of detail and complexity of an ESMP and priority of the identified measures and actions will be commensurate with the proposed project's risks and impacts. All plans will contain specific monitoring measures.

The ESMP will define desired social and environmental management outcomes and specify social and environmental indicators, targets, or acceptance (threshold) criteria to track ESMP implementation and effectiveness. It will also provide estimates of the human and financial

² "Primary suppliers" are those suppliers who, on an ongoing basis, provide goods or materials directly to the minigridd operator essential for the core functions of the pilot.



resources required for implementation and monitoring and identify organizational structure and processes for implementation.

Recognizing the dynamic nature of the project development and implementation process, the implementation of an ESMP will be responsive to changes in project circumstances, unforeseen events, and the results of monitoring (adaptive management).

Essential components of an ESMP:

- Measures to mitigate negative impacts during operations, and evaluation of their effectiveness. Mitigation measures must be identified for each impact/risk that was identified during the ESIA process;
- Flow chart of the minigrid's design, construction, commissioning, and operations and maintenance timeline, identifying the stages and times of execution of the environmental and social management actions;
- Description of the environmental monitoring plan in the construction and operation stages of the pilot, identifying the parameters to be measured, the places of measurement, the methods used and the periods/frequencies in which the measurements will be made, the costs, and the institutions responsible (see separate section);
- Identification of a set of sensible, readily measurable quantitative and qualitative indicators of the mitigation measures proposed for the main impacts and risks that accompany the implementation of the pilot (see separate section);
- Contingency and Emergency Response Plan, such as for accidents, fires, floods, earthquakes (among those that apply);
- Reporting template for the implementing partner (and/or responsible party) that include said indicators and provide clear guidance on how to measure them.

(1) Social and environmental impact mitigation. The ESMP will include environmental and social impact mitigation actions, in accordance with the following, listed in descending order of preference (i.e. the mitigation hierarchy):

- Avoid, prevent or eliminate environmental and social risks and adverse impacts, wherever technically and financially feasible; for proposed pilots involving existing facilities, remediation may need to be undertaken instead of, or in addition to, mitigation;
- Where it is not technically or financially feasible to avoid, prevent or eliminate risks and impacts, identify measures and actions to minimize and mitigate impacts so that the pilot operates in compliance with applicable international, national and local environmental and social laws and regulations and UNDP requirements, or achieves acceptable levels of impacts otherwise defined and agreed;
- Where it is not technically or financially feasible to minimize and mitigate risks and impacts, identify measures to offset them by enhancing the proposed pilot's positive environmental and social impacts;³

³ Refer to UNDP SES Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management, para. 12 regarding conditions and limitations on use of biodiversity offsets.



- Where avoidance, mitigation and offset measures are not technically or financially feasible, identify compensatory measures to balance the residual adverse impacts.

The ESMP will describe each mitigation measure, including the type of impact and social and environmental parameter(s) to which it relates, the location and frequency, timing or conditions under which the measure is required (e.g., continuously or in the event of contingencies), and provide technical details on the mitigation technology, process, equipment, design and operating procedures, as appropriate. Potential social and environmental impacts of these measures will be estimated. Linkages with other mitigation plans (e.g., for displacement, indigenous peoples, or cultural heritage) required for the proposed pilot will be identified.

(2) Social and environmental risk monitoring and reporting. The ESMP will detail the social and environmental monitoring to be conducted during project implementation to:

- Provide information about actual versus predicted social and environmental impacts;
- Measure the effectiveness and evaluate the success of mitigation, remediation and enhancement measures;
- Evaluate compliance with applicable international, national, and local policies laws, regulations, UNDP SES, other relevant performance standards, policies and procedures;
- Allow corrective action to be taken when needed.

Specifically, the ESMP will detail the:

- Mitigation measures being monitored;
- Parameters to be measured; introduction of sensible indicators to measure the implementation of mitigation measures.
- Sampling and analytical or other monitoring methods to be used, including staff, procedures and detection limits (where appropriate);
- Sampling or monitoring locations;
- Frequency or timing of measurements;
- Definition of thresholds that will signal the need for corrective actions.
- Define responsibilities for monitoring and reporting during the life cycle of the project.

In addition to recording information to track performance and establishing relevant operational controls, the monitoring plan will require the use of dynamic mechanisms, such as inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes. Monitoring activities should involve direct participation of affected stakeholders, where possible. Stakeholder complaints or grievances are to be tracked and monitored and any corrective actions are also tracked and monitored.

Monitoring and reporting should include data disaggregated by categories of potential beneficiary and/or affected groups and include specific gender indicators. The monitoring plan should require the retaining of qualified and experienced external experts to verify monitoring information.

Evaluation, reporting and management of monitoring measures will also be specified in the ESMP. This will include required documentation and reporting of monitoring results and



provisions for adjusting and amending the ESMP (e.g. incorporating corrective actions) in accordance with monitoring experience and feedback (see also stakeholder engagement section below). A monitoring plan, detailing responsibilities for its implementation and required site-visits will need to be developed as part of the ESMP.

Periodic reports are to be provided to the affected communities that describe progress with implementation of the ESMP and related action plans and on issues that the consultation process or grievance process has identified as a concern. Any material changes or additions to the mitigation measures or actions plans will be communicated to affected communities. Reports will be provided at a frequency proportionate to the concerns of affected communities but not less than annually; quarterly reporting is recommended. This reporting line should be part of a broader communication and continuous stakeholder outreach plan, which clearly states responsibilities for execution.

(3) Capacity development. The ESMP will assess and detail a plan to develop implementation capacity, where needed. This will involve a capacity assessment of the implementing partner itself and any affiliated organizations or institutions for implementing the ESMP. If not, a determination should be made as to whether it will be possible to develop the appropriate capacity and, if so, at what cost and in what timeframe.

The capacity development section of the ESMP will:

- Recommend management arrangements for the pilot, including structure, roles, responsibilities, and authorities;
- Designate specific personnel, including management representative(s), with well-defined and clearly communicated lines of responsibility and authority;
- Require sufficient oversight and human and financial resources be provided on an ongoing basis to achieve effective and continuous environmental and social management throughout the life of the proposed pilot.

If needed, the capacity development section of the ESMP will outline a plan for strengthening capacities of UNDP staff, Implementing Partner staff, and contractors with direct responsibility for activities relevant to the social and environmental sustainability of the proposed pilot so that they have the knowledge and skills necessary to perform their work, including current knowledge of the host country's regulatory requirements and the applicable requirements of UNDP environmental and social policies and procedures. Capacity development will also address the methods required to perform the specific actions and measures of the ESMP in a competent and efficient manner. The capacity development plan will have the following components:

- Identification of capacity needs;
- Development of a capacity development plan to address defined needs;
- Monitoring and Evaluation of capacity development plan.

(4) Implementation action plan (schedule and cost estimates). For above aspects (mitigation, monitoring, capacity development, and stakeholder engagement), the ESMP provides (a) an implementation schedule for measures that must be carried out as part of the pilot, showing phasing and coordination with overall project implementation plans; and (b) the capital and



recurrent cost estimates and sources of funds for implementing the ESMP. These figures are also integrated into the total project cost tables.

(f) Public Consultation and Disclosure Procedures

The ESMP will be developed in close consultation with project stakeholders and disclosed in draft and final form. The ESMP is to include a section that either (a) provides an overview and link to the project's Stakeholder Engagement Plan (it may be necessary to update the project SEP with new stakeholder information from the ESIA/ESMP process) or (b) outlines a Stakeholder Engagement Plan to promote meaningful, effective consultations during project implementation, including identification of milestones for consultations, information disclosure, and periodic reporting on progress on project implementation and issues of concern to project stakeholders. The plan should also include a description of effective processes for receiving and addressing stakeholder concerns and grievances regarding the project's social and environmental performance.

Actions:

- Conduct a stakeholder analysis that outlines the affected and interested parties, explains the methodology for their identification (ideally with a rating system/matrix for how strongly they are impacted or how strong their interest in the project is).
- In many cases, national or regional legislation also requires some kind of consultative process. It is required to verify these regulations and, if possible, align them with what is required under UNDP's SES.
- Provide a consultation plan, informing about
 - planned consultation events
 - information material
 - attendance recording
 - measures for encouraging the participation of women and the elderly.
- After the consultation event(s), document and update the consultation section with:
 - Description of the event.
 - General atmosphere of the event.
 - Questions asked and which answers were provided.
 - Any suggestions for project improvement that were taken into consideration.
 - Include scanned attendance lists.
 - Photos/Videos of the event(s).
- Support the implementing partner in conducting the consultations/stakeholder engagement process. The draft environmental and social assessment with its environmental and social management plan needs to be consulted with the affected people. Therefore, consultations should take place when the environmental and social documents are ready for sharing, but prior to being finalized.
- The Consultant will coordinate with the institution in charge of implementing the pilot and with the corresponding local institutions the most appropriate consultation



mechanism, taking into account national regulations, the local context and existing social standards for these cases.

- This consultation will be the opportunity to have a dialogue that will help to improve the design, promote a better understanding of the pilot and increase the chances of success and sustainability of the pilot.
- In addition, the consultation must promote the participation of women, indigenous communities, marginalized and disadvantaged groups during the consultation process, and comply with national rules and regulations that apply to the consultation process.
- If ESMP review and evaluation result in material changes in, or additions to, the mitigation, monitoring or capacity development measures or actions described in the ESMP on issues of concern to the stakeholders, the updated measures or actions will also be developed in close consultation with stakeholders and disclosed.
- Periodic reports will be provided to potentially affected communities describing progress with implementation of the ESMP and on issues that the consultation process or grievance mechanism has identified as a concern. The frequency of these reports will be proportional to the concerns of the stakeholders but not less than annually. For projects designated as highly complex and sensitive, quarterly reporting will be required.

[Annex 4 of the UNDP SES Guidance Note on Social and Environmental Assessment and Management provides an indicative outline for preparing an ESMP.]

(f) Implementation of the ESMP

- Oversee/develop/coordinate implementation of all safeguards related plans.
- Ensure social and environmental grievances are managed effectively and transparently.
- Review the Social and Environmental Safeguards Plan (SESP) annually, and update and revise corresponding risk log; mitigation/management plans as necessary.
- Ensure the ESMF is incorporated and considered in developing the environmental and social management plans for pilot projects.



6 Reports / Deliverables

Deliverable	Frequency/Timeframe
i. Inception report	Within one month of contract signature
ii. ESIA Report for Pilot 1 Project (Mvundla) that includes the requirements outlined in this plan as well as the stakeholder analysis and consultation plan	Within three months after contract signature
iii. ESIA Report for Pilot 2 Project (Bulimeni) that includes the requirements outlined in this plan as well as the stakeholder analysis and consultation plan	Within three months after contract signature
iv. ESMP for Pilot 1 Project (Mvundla) that includes the results of the public consultation and disclosure process	Within three months after contract signature
v. ESMP for Pilot 2 Project (Bulimeni) that includes the results of the public consultation and disclosure process	Within three months after contract signature
vi. Implementation Report of ESMP for Pilot 1 Project (Mvundla)	Quarterly
vii. Implementation Report of ESMP for Pilot 2 Project (Bulimeni)	Quarterly

All reports must be submitted to ESERA in an electronic file. The report must include a cover page, main document, and all annexes.

Approval of reports: Reports will be approved by the Project Manager; the period for approval of reports will be 14 days, if after this time the supervisor does not issue any observations, the report will be considered approved.

7 COORDINATION AND REPORTING

The national consultant will work within the PMU which is based at ESERA. S/he shall report to and perform under the overall guidance and supervision of the AMP Project Manager. Official reporting shall be in accordance with the respective deliverables timeframe. These reports will require clearance as satisfactory by ESERA.

8 DURATION OF THE ASSIGNMENT

The assignment is planned for a period of 8 man-weeks spread over four years.



9 QUALIFICATIONS OF THE CONSULTANT

The desired Consultant for this assignment shall possess the following qualities:

- Degree/Academic Level & Years of Professional Experience: Professional with a master's degree in social and/or environmental sciences with at least 10 years' experience in socio-environmental impact management/social environmental impact assessment.

- Languages: English, SiSwati

- Areas of Expertise:

- Experience in undertaking environmental and social impact assessment of energy infrastructure [specific to solar minigrids]
- In-depth understanding of socio-environmental management issues in Eswatini
- In-depth knowledge of the Social and Environmental Standards (SES) and Principles of UNDP
- Evidence of having carried out similar assignments for international organizations
- Extensive experience in supporting and undertaking stakeholder engagement processes

- Skills:

- Ability to work with little supervision
- Excellent written and verbal communication skills
- Efficient and effective time management

10 PROPOSAL SUBMISSION REQUIREMENTS AND PROCEDURE

Applicants shall submit their written proposals in English as follows:

10.1 Technical proposal with:

10.1.1 Detailed CVs and qualifications

10.1.2 Proposed methodology and implementation/work plan with clear timelines

10.1.3 List of at least three relevant projects undertaken/involved in with corresponding reference letters

10.1.4 Certified copies of academic certificates and professional affiliations

10.1.5 Signed Declaration of Eligibility as provided in Annexure 1

10.2 Financial proposal:

10.2.1 With all monetary amounts in the official Kingdom of Eswatini currency, which is Eswatini Lilangeni (SZL)

10.2.2 To be inclusive of all taxes. Non-resident Consultants must note that Eswatini Income Tax Act, requires that a 15% withholding tax be deducted from each



invoice. This tax can however be claimed at their country of residence if the country has an income tax agreement with Eswatini.

10.2.3 To be inclusive of professional fees, transportation cost, accommodation and subsistence cost and administration fees (including logistical arrangements for meetings, workshops, venues and catering). Costs should be split according to categories.

The technical and financial proposals shall be submitted in hard copies wrapped and sealed in separate envelopes clearly marked on the outside and deposited in the ESERA tender box situated at the ESERA offices reception, found at the address provided below. The two envelopes should be in one outer envelope clearly marked with Bid number and Bid Description.

Contract No: ESERA/RFP/08/2022-2023

INDIVIDUAL CONSULTANCY SERVICES – ENVIRONMENTAL AND SOCIAL SAFEGUARD SPECIALIST

They must be delivered on or before the Date of Closure as addressed to:

The Chief Executive Officer
Eswatini Energy Regulatory Authority
First Floor, RHUS Office Park
Karl Grant Street
MBABANE

The closing date for submission of proposals is **12:00hrs (CAT) on Thursday, 28 December 2022**. Late, incomplete, telephoned or telegraphic tenders will not be considered. Bidders are invited to attend a Tender Opening meeting which will occur immediately after the closing time.

11 withdrawal, modification, or substitution

The Authority shall allow requests for withdrawal, modification or substitution of submitted proposals from consultants as long as the deadline has not elapsed. Such requests shall be in writing as addressed to the tender submission address provided

12 EVALUATION METHODOLOGY

Proposal will be evaluated on a **Quality** basis as detailed below. The minimum technical score required to be shortlisted is 70 %.

Technical Evaluation Criteria

	Description	Points
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EXPERIENCE OF THE CONSULTANT	Experience of candidate in development assistance or related work for a donor organization, governmental institutions, NGO or private sector / consulting firm	10
	Experience in developing a social and environmental management framework (ESMF)	10
	Experience in Implementing an ESMF	5
	Experience in developing lessons learnt	10
	Experience in developing ESMF impacts tracking indicators	5
	Experience in research and publication of ESMF impacts	5
	Experience in monitoring and evaluation of ESMF	5
PROPOSED APPROACH/ METHODOLOGY	Understanding of scope of work	10
	Adequacy and quality of workplan	5
	Adequacy of technical approach and methodology	10
QUALIFICATIONS, EXPERIENCE AND COMPETENCE OF CONSULTANT	Educational and experience	20
	Membership of professional organisations	5
	Total Technical Points	100
	Minimum Technical Points	70

13 ELIGIBILITY CRITERIA

Only Individual Consultants are eligible for this assignment provided they fulfil the following eligibility criteria:

- a. they are not bankrupt or being wound up, are having their affairs administered by the courts, have suspended business activities, are being subject of proceedings concerning those matters, or are being in any similar situations arising from similar procedures provided for in the national legislation;



- b. they have not been declared guilty of serious professional misconduct proven by any means which the Authority can justify or they have not been convicted of offences concerning their professional conduct by a judgment against which no appeal is possible;
- c. they have fulfilled obligations related to the payments of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are resident or with those countries where the contract is to be performed;
- d. they have not been the subject of a judgment for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the Authority's financial interests;
- e. they are not being currently subject to an administrative penalty;
- f. they are not current employees of any of the regulated entities/licenses within the Eswatini electricity supply industry; and
- g. they are not public officers as per Circular 1 of 2019 issued by the Eswatini Public Procurement Regulatory Agency (ESPPRA).

14 ADDITIONAL INFORMATION

- a. ESERA reserves the right to modify the scope of this project subject to negotiations with the successful tenderer.
- b. ESERA reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to the award of a contract, without incurring any liability to the affected tenderers or any obligation to inform the affected tenderers.
- c. The tender shall be valid for a period of **ninety (90) days**, and prior to the expiry of the validity period, ESERA will issue an intent to award the contract through the Eswatini Public Procurement Regulatory Agency (ESPPRA). **Ten (10)** working days after that, ESERA shall invite the successful tenderer for contract negotiations provided there are no objections to the intention to award.
- d. All enquiries relating to this tender should be directed in writing to Mr. Saneliso Makhanya via email at makhanyas@esera.org.sz on or before **Wednesday, 21 December 2022**.



15 CONTRACT TERMS AND CONDITIONS

15.1 DEFINITIONS

- 15.1.1. The clause headings in this Contract are used for convenience and reference purposes only and shall not be used in the interpretation nor be deemed to modify or amplify the terms of this Agreement or any clause thereof.
- 15.1.2. Throughout this document:
- unless the context clearly indicates a contrary intention, any words importing or connoting any gender includes all genders;
 - the term “in writing” means communicated in written form (e.g by e-mail, fax) with proof of receipt;
 - if the context so requires, “singular” means “plural” and vice versa;
 - day” means Gregorian calendar day; and
 - natural persons include artificial person and vice versa and shall in the eventuality of a change in the Laws of Eswatini to provide for the same, insolvency shall include judicial management.
- 15.1.3. The following expressions shall bear the meanings assigned to them below and cognate expression shall bear corresponding meanings: -
- “ESERA“ means The Eswatini Energy Regulatory Authority, a Government parastatal established in terms of the Energy Regulatory Act, 2007 with its principal place of business at First Floor, RHUS Office Park, Karl Grant Street, Mbabane, Hhohho Region, for purposes of executing this agreement into binding force, herein represented by Mr. Sabelo Dube, in his capacity as Acting Chief Executive Officer, he being duly authorized to so representatively act herein and he too, hereby warranting his lawful authorization to so act herein.
 - The “Consultant” means the individual that will be successful in the bid process.
 - “The Parties” shall mean ESERA and the Consultant.
 - “Commencement Date” means the date on which the last signature necessary to complete the formal signing of this agreement into existence is appended;
 - “Project Manager” means a person appointed by ESERA to act as Project Manager for the purposes of this contract;
 - “Contract Price” shall mean the fixed sum provided in the financial proposal of the successful bidder.



- 15.1.4. Expressions or words defined in this agreement shall bear their ordinary meaning unless otherwise defined in this contract or by law.
- 15.1.5. Annexure to the Agreement shall be deemed to be incorporated into and to form part of the Agreement. Provided that in the event there is a conflict between a particular provision of the main body of this agreement and any annexure thereof, the provision in the main body of the agreement prevails and shall be deemed to state the final intention of the parties in that regard.
- 15.1.6. The terms of this agreement having been negotiated, the rule of construction that provisions are to be constructed against the Party drafting an agreement, or part of an agreement, or on whose behalf an agreement or part of an agreement has been drafted, shall not apply to this Agreement.

15.2 COMMENCEMENT, EXECUTION AND COMPLETION OF THE PROJECT

15.2.1 Commencement

- 15.2.1.1. The services to be carried under the Contract are to commence from the date of signature of the Contract.
- 15.2.1.2. In the event that any delay in the completion of the project is occasioned by any fault and/or delay by either party, the project shall be completed within such extended time frame as the parties may agree in writing; provided that both parties shall avoid any delays to the project.



15.2.2 Execution

- 15.2.2.1 ESERA will appoint a person to be a Project Manager to administer the Contract on her behalf.
- 15.2.2.2 The Project Manager shall be the liaison person for ESERA and shall be responsible for directing the performance of this contract. The Consultant shall constantly report and/or update ESERA on progress of the project at all material times where necessary or when required to do so.

15.2.3 Scope of Work

- 15.2.3.1 The Consultant shall perform ESMF consultancy services as outlined in Section 4: Principal Activities.
- 15.2.3.2 With any manner, details and as may be necessary in ensuring an excellent and satisfactory development of ESIA's, ESMPs, and subsequent implementation of the latter.
- 15.2.3.3 Subject to the Consultant's due diligence and efficient execution and completion of the project, and/or the outputs specified herein above, the ESERA shall pay the sum of the contract price in clause 11.3.4 below and the breakdown particularized as follows;
 - a. Remuneration: *As stated in the financial proposal of the successful bidder*
 - b. Reimbursable expenses: *As stated in the financial proposal of the successful bidder*

15.3 PAYMENT

- 15.3.1 When claiming payment, the Consultant shall submit an invoice to ESERA. The invoice shall be submitted together with supporting documentations, addressed to The Eswatini Energy Regulatory Authority.
- 15.3.2 ESERA shall make payments to the Consultant within 30 days of receipt of a valid invoice.
- 15.3.3 Payment shall be made to an account specified by the Consultant free of any deductions, save for 15% withholding tax due under the tax laws of Eswatini; Provided that ESERA will provide the Consultant with all necessary documentation



in order to enable the Consultant to claim any withholding tax withheld or deducted by ESERA on such invoice.

15.3.4 The payment terms shall be as follows:

MILESTONE	PAYMENT PERCENTAGE
Contract Signature	10 %
Deliverables ii and iii	20%
Deliverables iv and v	20%
Deliverables vi and vii at 6.25% per quarter	50%
Total	100%

15.3.5 ESERA is open to negotiating payment terms linked to final project plan but WILL NOT make any upfront payments. All payments under the contract shall be made by bank transfer into the bank account indicated by the Individual Consultant in her/his invoices.

15.3.6 ESERA is open to negotiating payment terms linked to final project plan but WILL NOT make any upfront payments. All payments under the contract shall be made by bank transfer into the bank account indicated by the Individual Consultant in her/his invoices.

15.3.7 The currency of payment of the Contract shall be in the Kingdom of Eswatini Lilangeni (SZL).

15.3.8 Indirect Payment

15.3.8.1 The remuneration of the Consultant charged to the Contract shall constitute his only remuneration in connection with the Contract and the Consultant shall not accept any trade Commission, discount, allowance or indirect payment or other consideration in connection with or in relation to the Contract or to the discharge of Consultant’s obligations



15.4 POSTPONEMENT, VARIATION AND TERMINATION

15.4.1 Postponement and Termination.

- 15.4.1.1 Either party may, by written notice to the other party and at any time, give prior notice of his intention to postpone or abandon the project, in whole or in part, or terminate this contract.
- 15.4.1.2 11.4.1.2 The effective date of termination of the project shall not be less than fifteen (15) days after receipt of such notice, or such other longer or shorter period as may be agreed between the Parties.
- 15.4.1.3 11.4.1.3 Upon receipt of such notice the Consultant shall take immediate steps to bring the Services to a close and to reduce expenditure to a minimum.
- 15.4.1.4 Termination of the Contract, for whatever reasons, shall not prejudice or affect the accrued rights or claim and liabilities of either party to this Contract.

15.4.2 Variation

- 15.4.2.1 This agreement can only be varied by agreement in writing entered into by the parties.
- 15.4.2.2 Either one of the parties can initiate negotiations with a view to reach such said agreement.

15.4.3 Claims for Default

- 15.4.3.1 Any claim for damages arising out of default and termination shall be agreed between ESERA and the Consultant or, failing agreement, shall be referred to arbitration in accordance with Clause.

15.5 FORCE MAJEURE

- 15.5.1 Neither party shall be liable under this Contract if so far as either or both of them are prevented from carrying out the same by “force majeure”, that is to say an act of God, act of war, warlike operations, civil commotion, strikes or any industrial action whatsoever, fire, tempest or any other cause or happening beyond its control.
- 15.5.2 If conditions of force majeure persist in respect of a party for a period in excess of 60 (sixty) days and have material adverse effect on the other party, and the parties are within such period unable to reach written agreement on amendments to the



relevant provisions of this contract to take into account such conditions, the other party may terminate this agreement with immediate effect on written notice

15.6 APPLICABLE LAW

15.6.1 This contract shall be deemed to be concluded in the Kingdom of Eswatini and shall accordingly be governed and construed according to the laws for the time being in force in the Kingdom of Eswatini.

15.7 RELAXATION

15.7.1 No latitude, extension of time or other indulgence which may be given or allowed by any party to any other party in respect of the performance of any obligation hereunder or enforcement of any right arising from this agreement and no single or partial exercise of any right by any party shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this contract or stop such party enforcing, strict and punctual compliance with each and every provision or terms hereof.

15.8 SKILLS, CARE AND DILIGENCE

15.8.1 The Consultant shall exercise all professional skills, care and diligence in the performance of the services under the Contract and shall carry out its responsibility at the best professional engagement.

15.9 COPYRIGHTS

15.9.1 The copyright of all documents prepared by the Consultant in connection with the Project shall be vested with ESERA.

15.9.2 The Consultant may take copies of such documents but shall not use the contents thereof for any purposes unrelated to the Contract without the prior written consent of ESERA.

15.10 OBLIGATIONS OF ESERA

15.10.1 Furnish data and information

ESERA shall:

- Furnish without charge and within a reasonable time all pertinent data and information requests by the Consultant in executing this Contract.



- Give such assistance as shall be reasonably required by the Consultant for the carrying out of its duties under the Contract.
- Give decisions on all reports, documents, recommendations and other matters properly referred to for decision by the Consultant in such reasonable time as not to delay or disrupt the performance by the Consultant of its obligations under this Contract.
- Any data they may require.
- Any assistance with regard to making appointments with Industry participants

15.10.2 Approval of amended documents

15.10.2.1 Where ESERA approved a report or document subject to modification by the Consultant, the changes requested shall be incorporated into the document within a reasonable period and in any case before the end of the Contract period.

15.10.3 Assistance to the Consultant

15.10.3.1 ESERA shall whenever possible assist the Consultant in obtaining necessary visas, permits, and customs clearance.

15.10.3.2 ESERA shall deduct the withholding tax to ensure that the Consultant complies with the tax laws of Eswatini. ESERA shall provide the Consultant with the withholding Tax Certificate.

15.11 BREACH

15.11.1 Either one of the parties shall be entitled after giving the other one of the parties 10 (ten) days' notice in writing, to terminate this agreement and to claim damages from the other one of the parties, should such other one of the parties commit any breach of the agreement and fail to remedy such breach within the said 10 (ten) days of notice.

15.12 SETTLEMENT OF DISPUTES / ARBITRATION

15.12.1 This Agreement relies for its efficacy on the exercise by the Parties of utmost good faith. Therefore, the general and specific terms and conditions of this Contract are to be construed accordingly and will be interpreted where necessary by mutual agreement.

15.12.2 If the parties are unable to resolve any dispute resulting from this Contract by means of joint co-operation or discussion between them within two weeks after a



dispute arises, then it shall be resolved by way Arbitration in accordance with the Arbitration Laws of Eswatini.

15.12.3 11.2.3 The arbitrator shall be chosen and appointed through consensus. The Arbitrator's decision shall be final and binding on both parties. The resulting award (if any) shall be in lieu of any other remedy.

15.13 PERSONNEL

15.13.1 The personnel of the Consultant shall all be involved, each within his/her expertise and experience in the execution of the project.

15.14 DOMICILIUM

15.14.1 The parties hereto choose *domicilium citandi et executandi* for all purposes of and in connection with this agreement.

15.14.2 Either party hereto shall be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it and any such change shall only be effective upon receipt of notice in writing by the other parties of such change.

15.14.3 All notice, demands, communications or payments intended for either party shall be made or given at such party's *domicilium* for the time being.

15.14.4 A notice sent by one party to another party shall be deemed to be received:

Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.



ANNEXURE 1 DECLARATION OF ELIGIBILITY

[The individual consultant must provide a signed declaration on its letterhead in the following format.]

[>>>Name of Consultant, Address, and Date>>>]

To: Chief Executive Officer

Eswatini Energy Regulatory Authority

First Floor, Rhus Office Park,

Karl Grant Street

Mbabane

Dear Sir,

Re: Tender Reference: **ESERA/RFP/08/2022-2023**

We hereby declare that: -

- (a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- (b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing;
- (c) I/We have fulfilled our obligations to pay taxes and social security contributions;
- (d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- (e) I/We do not have a **conflict of interest** in relation to the procurement requirement.

Signed:

Authorised Representative

Date:

