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OF PROFESSIONAL SERVICES) REGULATIONS**

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Physical and Land Use Planning Act

The Physical and Land Use Planning (Outsourcing of Professional Services) Regulations

Legal Notice 252 of 2021

Legislation as at 31 December 2022

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The Physical and Land Use Planning (Outsourcing of Professional Services) Regulations (Legal Notice 252 of 2021)

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PHYSICAL AND LAND USE PLANNING ACT

THE PHYSICAL AND LAND USE PLANNING (OUTSOURCING OF PROFESSIONAL SERVICES) REGULATIONS

LEGAL NOTICE 252 OF 2021

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Part I – PRELIMINARY

1. Citation

These Regulations may be cited as the Physical and Land Use Planning (Outsourcing of Professional Services) Regulations.

2. Interpretation

In these Regulations, unless the content otherwise requires—

"consultant" means a registered and practicing physical planner contracted to provide professional physical and land use planning services;

"consultancy services" means physical and land use planning services of an intellectual, technical or advisory nature;

"lead consultant" means a licensed physical planner contracted to provide physical and land use planning services;

"local consultant" means a licensed physical planner who is a resident in Kenya;

"physical and land use planning services" include—

- (a) specialized studies including scenario building necessary in the process of formulating of policies, standards, guidelines and strategies;
- (b) the preparation of physical and land use development plans;
- (c) undertaking research on matters relating to physical and land use development planning at national and county levels;

"planning team" a multi-disciplinary team of professionals constituted by a lead agency to undertake physical and land use planning services;

"procurement" means the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means, of any type of works, assets, services or goods or any combination thereof; and includes advisory, planning and processing in the supply chain system;

"public entity" has the meaning assigned to it in section 2 of the Public Procurement and Asset Disposal Act (Cap. 412C); and

"surveyor" has the meaning assigned to it in section 2 of the surveyor Survey Act.

3. object of the Regulations

The object of these Regulations is to provide for the procurement of physical and land use planning services by planning authorities.

Part II – PROCURING PHYSICAL AND LAND USE PLANNING SERVICES

4. Procurement of consultancy services

A planning authority or a person or entity authorized to perform a planning function shall ensure that the procurement of consulting services is conducted in accordance with the Public Procurement and Assets Disposal Act (Cap. 412C).

5. Mode of consulting

A planning authority may fully or partially procure the services of a consultant to undertake some components of physical and land use planning.

6. Functions and compositions of planning teams

- (1) A planning team shall co-ordinate the identification of key planning issues, analysis and formulation of physical and land use planning proposals.
- (2) Depending on the nature of the physical and land use planning service, the planning team shall include persons from the following disciplines—
 - (a) policy analysis;
 - (b) urban planning;
 - (c) urban design;
 - (d) architecture;
 - (e) transport planning;
 - (f) marine planning;
 - (g) environmental management;
 - (h) sociology;
 - (i) land economics;
 - (j) economics;
 - (k) surveying;
 - (l) agriculture;
 - (m) range land management;
 - (n) water management; and
 - (o) disaster risk management.

7. Reporting

- (1) A planning authority shall specify the quality control benchmarks to be satisfied by a consultant when performing the consulting services.

- (2) A planning authority shall specify the quality control benchmarks to be satisfied by a consultant when offering physical and land use planning services.
- (3) A consultant shall submit to the relevant planning authority periodic reports based on the specified quality control benchmarks.

8. Procurement of physical and land use planning services

When procuring the physical and land use planning services a planning authority shall—

- (a) conduct a planning needs assessment;
- (b) define the scope;
- (c) prepare a concept paper and terms of reference;
- (d) constitute a planning team;
- (e) give a public notice on the intention to undertake a physical and land use planning service;
- (f) give a public notice of the completion of the physical and land use planning service;
- (g) process approval or adoption of the output of physical and land use planning service in accordance with the Act; and
- (h) maintain registers of all approved or adopted output of physical and land use planning services.

9. Performance of consulting services

When providing consulting services in the development of a physical and land use development plan, pursuant to the Third Schedule, a consultant shall—

- (a) prepare a base map;
- (b) scope and undertake data collection;
- (c) undertake detailed situational analysis and synthesis of key planning issues;
- (d) conduct visioning and objective setting workshops;
- (e) formulate, compile and package the plan; and
- (f) submit the plan for approval and publication.

10. Ownership of professional work

A physical and land use development plan or report prepared and approved under these Regulations shall be deemed to be the property of the relevant planning authority.

Part III – COSTING OF CONSULTING SERVICES AND PHYSICAL AND LAND USE PLANNING SERVICES

11. Costing for provision of physical and land use planning services

The costing for the provision of physical and land use planning services shall be in accordance with the guidelines set out in the First Schedule.

12. Factors influencing costing

A consultant shall consider the factors set out in the Second Schedule when costing for the development of a physical and land use development plan.

13. Costing elements

The costing of the activities specified in the third column of the table set out in the Third Schedule, for the phase specified in the second column thereof, shall be based on the elements set out in the fourth column thereof.

14. Professionals' roles

The roles of the professionals engaging in consulting services or physical and land use planning services shall be as set out in the Table set out in the Fourth Schedule.

Part IV – MISCELLANEOUS

15. Lead consultant

- (1) In this regulation, "consortium" means an association of two or more firms contracted to provide physical and land use planning services beyond the capacity of any one firm.
- (2) Where a planning authority has procured the services of a consortium to offer consulting services under these Regulations, the lead consultant of the consortium shall be a licensed physical planner of firm.

16. Preference for local consultants

Planning authorities shall give preference to local consultants during the procurement of physical and land use planning services under these Regulations.

FIRST SCHEDULE [r. 11]

GUIDELINES FOR COSTING PHYSICAL AND LAND USE PLANNING SERVICES

The main costing elements may be clustered into the following—

- (a) public participation - publications and stakeholder workshops;
- (b) personnel - hiring of planning department personnel;
- (c) tools and equipment - procuring computers, GPS, software, plotters, printers, servers, internet, vehicles and setting up a GIS laboratory;
- (d) data acquisition-socio-economic data, mapping information (satellite images, aerial photography, topographic information);
- (e) work sessions/technical workshops-expert work sessions;
- (f) packaging, printing and dissemination; and
- (g) logistical costs-transport, daily subsistence allowance (per diem), airtime and lunch allowances.

SECOND SCHEDULE [r. 12]

FACTORS CONSIDERED WHEN COSTING FOR THE DEVELOPMENT OF A PHYSICAL AND LAND USE DEVELOPMENT PLAN

The cost of preparing a plan is dependent on several factors which include the-

- (a) geographical characteristics of the planning area;

- (b) number of experts;
- (c) range of equipment and tools;
- (d) type of plan;
- (e) mechanism of delivery;
- (f) population of the planning area;
- (g) number of public work sessions;
- (h) source of planning information; and
- (i) number of copies to be produced.

THIRD SCHEDULE [r. 13]

COSTING ELEMENTS

<i>S/No.</i>	<i>Phase</i>	<i>Activity</i>	<i>Possible costing elements</i>
	Initiation	Conducting planning needs assessment	Field work-rapid appraisal of the area
		Delineation of the planning area	Planning needs assessment workshop
		Preparing a concept paper	Technical workshop for development of concept paper
		Preparing Terms of Reference (ToRs)	
		Deciding the mode of delivering the plan	Meeting

		Procurement of consultancy services (when outsourcing)	Advertisement for consultancy services
		Presentation of inception report	Technical workshop
		Constituting of the planning team	Team building workshop
		Conducting data needs assessment	Technical workshop Field work
		Stakeholder analysis	Work session
		Sensitization and awareness creation	Publication of the notice of intention to plan in the local dailies, electronic media, public barazas.
	Preparation of base map	Data acquisition	Satellite imagery Aerial photography Spatial data Ground controls Participatory mapping
		Data processing (digital and topographic mapping and preparation of base map)	Reconnaissance research Work session
	Scoping and data collection	Expert and sector engagement work shop	Stakeholder workshops
		SWOT analysis and preliminary visioning Socio-economic data collection	Research and field work
	Detailed situational analysis and synthesis of key planning issues	Preparation of thematic maps	Work session
		Socio-economic data analysis	Work session
		Situational analysis Validation	Analysis validation workshops Technical workshop
	Visioning	Setting objectives Scenario building	Visioning workshop

	Plan formulation and associate outputs	Development of the land use plan	Work session
		Formulation of policies and measures Development of strategies	Work session
		Formulation of the implementation frame work	Work session
		Validation of draft plan	Technical workshop Stakeholder workshop
		Finalization of the plan and associated outputs	Work session
	Compilation and packaging	Printing, publishing and publication	Printing, publishing and publication of notice of completion
	Plan approval and gazettelement	Sensitization and awareness creation	Gazettelement of the approved plan

FOURTH SCHEDULE [r. 14]

ROLES OF DIFFERENT PROFESSIONALS IN THE PREPARATION OF A PHYSICAL AND LAND USE PLAN

<i>Professional</i>	<i>Role</i>
<i>Transport Planner</i>	Guides in formulation of future policies, goals, investments and designs to prepare for future needs to move people and goods to destinations
<i>Environmentalist</i>	Presents concerns and advice on the mechanisms for the protection of the environment
<i>Sociologist</i>	Guides on issues concerning development, structure, and functioning of human society
<i>Economist</i>	Brings issues of production, consumption, and transfer of resource
<i>Urban Designer</i>	Presents and advices on how to design the physical setting for life in cities, towns and villages.

<i>Surveyor</i>	Data capture and preparation of base maps, confirms areas of parcels and buildings, and fixes boundaries
<i>Land Value</i>	Provide advice on land Surveyor Land Values land values and return on investment