
**Kenya Country Programme
2016-2020**

**Thematic Programme for
Green Growth and Employment**

**Development Engagement
Document**

**Greening Kenya's Development
Pathway**

**(National Environment
Management Authority –
NEMA)**

Dev. Engagement GGE 5	Outcome	Outputs
Greening Kenya's development pathway	A greener development pathway	<ul style="list-style-type: none"> • Enhanced capacity of counties to undertake devolved environmental functions • Reduced environmental crime
Budget	DE partner	<ul style="list-style-type: none"> • Environmental performance targets integrated in ministries, departments and agencies (MDAs) operations within and reported back to the Performance Contracting Secretariat
The Danish contribution is DKK 40 million out of a total estimated budget of DKK 212.1 million.	The National Environment Management Authority (NEMA)	<ul style="list-style-type: none"> • Enhanced private sector adoption of green technologies and practices through public private partnerships (PPPs)
Management arrangements		
Denmark will contribute funds for activities that are part of NEMA's Strategic Plan for 2013–17. NEMA shall provide a programme manager and other staff and overheads and will implement the activities through its regular organisational set-up. The oversight role of the programme will rest with the NEMA Board of Directors.		
Description		
Danish support will enable NEMA to work with different stakeholders to shift Kenya's brown economic growth trajectory to a greener path. NEMA will work with the private sector to create PPPs that encourage the private sector's uptake of cleaner production processes such as waste recycling and reuse as well as resource and energy efficiency. It will build the capacity of counties on devolved environmental functions such as waste management and noise pollution, in addition to integrating strategic environmental assessment (SEA) into CIDPs. The institution will also support environmentally relevant MDAs, such as ministries dealing with infrastructure to integrate environmental management programmes into their core activities. Lastly, NEMA will continue to enforce compliance with environmental standards and regulations.		

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Abbreviations

AIA	Appropriation in Aid
AIDS	Acquired Immune Deficiency Syndrome
AIE	Authority to Incur Expenditure
BAU	Business as Usual
CEAP	County Environment Action Plan
CEC	County Executive Committee
CIC	Constitution Implementation Committee
CIDP	County Integrated Development Plan
CoC	Council of Governors
CS	Cabinet Secretary
CSO	Civil Society Organisation
Danida	Danish International Development Assistance
DDT	Dichlorodiphenyltrichloroethane
DFID	Department for International Development (UK)
DP	Development Partner
EC	European Commission
EMCA	Environmental Management and Coordination Act (1999)
EPS	Environment Programme Support
ERP	Enterprise Resource Planning
ESD	Education for Sustainable Development
EU	European Union
GCF	Green Climate Fund
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GoK	Government of Kenya
HRBA	Human Rights Based Approach
KAM	Kenya Association of Manufacturers
KCDP	Kenya Coastal Development Project
KCIC	Kenya Climate Innovation Centre
MDAs	Ministries, Departments and Agencies
MENR	Ministry of Environment and Natural Resources
MESPT	Micro Enterprises Support Programme Trust
MoFA	Danish Ministry of Foreign Affairs
MtCO ₂ e	Million tonnes of carbon dioxide equivalent
MTP	Medium Term Plan
NCCAP	National Climate Change Action Plan
NCCRS	National Climate Change Response Strategy
NEAP	National Environment Action Plan
NEMA	National Environment Management Authority
NGOs	Non-Governmental Organisations
NRM	Natural Resource Management
OFAG	Office of the Auditor General
OHS	Occupational Health and Safety
PCBs	Poly Chlorinated Biphenyls
PCS	Performance Contracting Secretariat

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RDE	Royal Danish Embassy
SCP	Sustainable Consumption and Production
SDGs	Sustainable Development Goals
SEA	Strategic Environmental Assessment
TA	Technical Assistant/Assistance
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change

Development Engagement Document: Greening Kenya’s Development Pathway (National Environment Management Authority)

1. Introduction

- 1.1 The present development engagement document details the objectives, expected results, implementation framework and management arrangements for the development cooperation concerning the National Environment Management Authority (NEMA) (2016–2020) as agreed between the parties specified below. The development engagement document is annexed to the *Bilateral Agreement with Implementing Partner* and constitutes an integrated part hereof together with the documentation specified below. The Danish support is provided within the framework of the thematic programme on Green Growth and Employment, one of three thematic programmes under the Danish Country Programme for Kenya 2016–2020. This engagement document is also available to the External Grant Committee of Danida.
- 1.2 The development engagement entails Danish support in the form of earmarked funding and technical assistance to the National Environment Management Authority (NEMA) of DKK 40 million for the implementation of NEMA’s Strategic Plan 2013–18 and its successor document, as well as additional activities and interventions as specified in the present document. The support covers the period July 2016 to June 2020.

2. Parties

- 2.1 The Danish Embassy, Nairobi and the National Environment Management Authority (NEMA).
- 2.2 Signatories will be the Danish Ambassador representing the Government of Denmark, and the Director General of the NEMA.

3. Documentation

- The NEMA Strategic Plan 2013–17.

Other reference documents:

- The National Climate Change Action Plan (NCCAP) 2013–17.
- The Environmental Management and Coordination Act (EMCA 1999) (recently reviewed to align with devolution requirements of the Constitution 2010).

4. Brief description of the National Environment Management Authority

NEMA is a government agency created by an Act of Parliament (EMCA, 1999) with a mandate to coordinate and supervise all environmental matters in the country, as well as to implement environmental policies on behalf of the government. It works with national and county governments, ministries, departments and state agencies (MDAs) and other stakeholders via established coordination mechanisms to implement this mandate. The (previous) Ministry of Environment and Mineral Resources (MEMR) under which NEMA falls has been greatly expanded through the merger of former related ministries and has recently (July 2015) been renamed the Ministry of Environment and Natural Resources (MENR)¹. It currently also incorporates what used to be the regional development authorities.

¹ For a brief period, from June 2013 to June 2015, this ministry was also called the Ministry of Environment, Water and Natural Resources (MEWNR).

The mandate of the ministry, and therefore that of NEMA, has been brought into focus following the 2013 Economic Survey Report which indicated that 42% of the country's GDP was derived from natural resources based sectors. This has a direct bearing on NEMA, being one of the key implementing arms of the ministry.

A devolved system of government is now in place following the enactment of a new constitutional order. With these developments, the key focus areas for NEMA include devolved environmental management with special emphasis on the interface with county governments, business sector engagement in green growth, and strengthening of strategic environmental assessment (SEA). A number of environmental functions hitherto under the national government (NEMA) have been devolved. These are county health services (including solid waste disposal), control of air pollution, noise pollution, county level planning and implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation; and forestry. NEMA’s mandate has thus been expanded to include capacity building of counties to undertake these functions. The principal environmental law, EMCA, has recently been reviewed and aligned with the Constitution 2010 to make it possible to undertake the necessary engagements with counties.

Green growth and a green economy are only possible if the environment can continue to provide ecosystem goods and services such as clean water and air as well as natural resources. This can only be guaranteed with the right environmental management setting that includes a wide array of approaches. Based on its mandate of regulating development projects in various sectors including manufacturing, building and construction as well as to monitor project operations so that they do not adversely affect the environment, NEMA has developed a number of instruments including:

- Relevant environment and related regulations;
- Strategic environmental assessment guidelines;
- Environmental guidelines;
- Environmental standards;
- Education and awareness programmes; and
- Voluntary compliance schemes.

The regulations, in combination with licenses and permits, are used as a means of enforcing compliance with environmental standards, applying “command and control” approach that NEMA currently deploys. Environmental guidelines are complemented by outreach programmes to support the regulated community in meeting environmental standards.

NEMA will employ the above instruments to achieve the desired outcome of the engagement — ‘a greener development pathway for Kenya’. The main strategy will be to move away from the traditional command and control approach by integrating participatory processes and deploying various tools at its disposal to provide space for both economic growth and a healthy environment to co-exist and thrive. NEMA intends to create incentives to encourage good practices and discourage those that are not environmentally friendly. Incentives could include implementation of the Economic Instruments Guidelines for Kenya (NEMA, 2014). The latter consists of several tools to encourage behavioural changes through market signals to reduce environmental degradation. This would in turn result in adoption of clean technologies for production and waste management/control. NEMA also has a variety of tools to manage institutions and individuals who do not comply with the national environmental legislation and regulations.

5. Background and Theory of Change

5.1 Context

The proposed development engagement responds to both Kenya’s development aspirations and Denmark’s international development support objectives.

A clean and healthy environment is at the centre of Kenya’s sustainable development agenda. The right to a clean and healthy environment is enshrined in the Constitution 2010 in Chapter 4 on the Bill of Rights. Specifically, Article 42(a) of this chapter calls upon the government and other relevant institutions to protect the “environment for the benefit of present and future generations through legislative and other measures”. NEMA has an important role to play in ensuring this entitlement is met.

This constitutional requirement is implemented through various instruments and means. The Vision 2030, through Medium Term Plan (MTP) II 2013–2017, articulates the need to enhance a clean, safe, and sustainable environment as well as access to water and sanitation services. NEMA’s Strategic Plan 2013–2017, which is the basis of the present development cooperation between NEMA and the Danish Embassy, is drawn largely from the mandate and responsibilities prescribed for NEMA by MTP II.

Climate change has been recognised both in the National Climate Change Response Strategy (NCCRS) of 2010 and the National Climate Change Action Plan (NCCAP) 2013-17 as presenting serious challenges but also great opportunities to Kenya’s socioeconomic development. For Kenya, responding to climate change represents a significant contribution to the green growth agenda as the country’s socio-economic development is significantly climate dependent and sensitive. It is for this reason that this development cooperation will address climate change. NEMA’s climate change mandate and responsibilities include the promotion of the Clean Development Mechanism (CDM) and associated carbon trading mechanisms. This is informed by NEMA’s role as the CDM Designated National Authority (DNA) as well as being the country’s National Implementing Entity (NIE) for the Adaptation Fund (AF).

Specific to the Green Growth and Employment Thematic Programme, Kenya has recently developed a *Green Growth Strategy and Implementation Plan (GESIP)*. Green actions or programmes envisaged for NEMA in GESIP include support for the manufacture of green products and use green technologies through enactment of appropriate legislation and regulations; enforcement of green standards in conjunction with the Kenya Bureau of Standards (KEBS); development of regulations to support market based instruments in natural resources management; and promotion of the use of inherently safer materials and processes.

The Development Engagement also addresses Denmark’s international development cooperation objectives on green growth. Two strategies in particular, have informed the formulation of this engagement framework. These are *The Right to a Better Life; Strategy for Denmark’s Development Cooperation 2012* and the *Strategic Framework for Priority Area Growth and Employment 2011–2015*. According to the latter, “Denmark wishes to promote green growth, minimizing the pollution and environmental degradation that have characterised previous processes of growth at the global level”. The *Right to a Better Life; Strategy for Denmark’s Development Cooperation 2012*, on the other hand, emphasises a human rights based approach to development/growth; an important principle that NEMA will seek to implement in this development engagement.

5.2 Justification including Lessons Learnt

A growing Kenyan population, projected to surpass 50 million by 2020, will exert immense pressure on the country’s natural resources, which form the basis for its economic growth. The growing population will exert considerable pressure on environmental, water and natural resources, including encroaching on marginal lands to cater for human settlement, a particular concern. Urban population growth coupled with poor urban planning has already resulted in significant negative impacts:

- Increased informal settlements in urban areas due to rapid rural-urban migration has resulted in overcrowding, poor garbage disposal, and an increase in environmental diseases such as cholera, dysentery and typhoid;
- Living standards are declining, air and water is increasingly polluted, there are an increasing number of informal settlements and slums, with people forced to live under unsanitary conditions, readily available fuels (primarily wood) are being depleted, and land degradation is increasing; and
- There are generally inadequate sewerage system and sanitation facilities in urban and rural areas.

Pollution and other forms of environmental degradation resulting from economic growth will add to the environmental pressure caused by population growth. There is evidence that Kenya’s growth trajectory is a brown one. The National Climate Change Action Plan 2013-2017 for instance, indicates that under a business-as-usual (BAU) scenario, greenhouse gas (GHG) emissions from the electricity subsector will increase from 10 million tonnes of carbon dioxide equivalent (MtCO_{2e}) in 2010 to 33 MtCO_{2e} in 2030 while those of the transport sector increasing by about three times in the same period. Waste and energy demand emissions will approximately double over the period.

Pollution, in particular the discharge of effluents from industries and residential areas, has serious local impacts. This is evidenced by poor air quality, particularly in urban areas; the presence of waste water and resulting heavy metals and Poly Chlorinated Biphenyls (PCBs), dioxins, agro-chemicals (pesticides and dichlorodiphenyltrichloroethane (DDT) in rivers and water bodies; as well as catchment degradation; all of which constitute significant risks to human health. The industrial sector in Kenya, despite its great contribution to economic growth, employment and income generation, is a major contributor to pollution. Industrial processes are presently associated with inefficiencies with respect to natural resources utilisation, destruction of habitats, and generation of waste and discharge of pollutants into the environment.

Kenya’s plans for sustainable economic growth are also at great risk due to climate change and climate variability — the country’s most important economic sectors are also the most vulnerable. Agriculture for instance is highly sensitive to climate change because of the sector’s high dependency on rainfall. Periods of drought and below normal rainfall often result in massive agricultural losses. Other vulnerable sectors and sub sectors include transport, hydro-dependent electricity, manufacturing and tourism.

As the national agency in charge of environmental policy and regulations execution, NEMA faces a monumental task in ensuring that Kenya’s development takes place in a manner that avoids compromising its ecosystem.

NEMA has had a long and successful history of partnership with Danida that dates back to 2006 and spans two programmes; the Environment Programme Support (EPS, 2006–2010), and the current Natural Resource Management (NRM, 2010–2016) programme, where critical results were achieved. Examples include:

- The formulation of the national SEA guidelines and incorporation of SEA as a legal requirement in the revised EMCA;

- Establishment of a collaborative platform with the private sector;
- Formulation and implementation of a national solid waste strategy;
- The conceptualization and implementation of green points as interfaces with the counties;
- Establishment of the East African Network of Environmental Compliance and Enforcement, and an environmental police unit at NEMA;
- Implementation of demonstration projects under the Education for Sustainable Development (ESD) framework to provide practical examples of how local communities can solve their own sustainable development challenges; and,
- Support to adoption of common enforcement standards within the East African region.

The proposed engagement framework seeks to build on the results achieved under these past engagements.

The engagement objective is guided by strategic objective 4 of NEMA’s Strategic Plan 2013–2017: *to build and nurture strategic partnerships aimed at enhancing sustainable management of environment*. The programme will therefore be integrated with NEMA’s activities as defined in the Strategic Plan. This approach stems from lessons from past Danida funded programmes that show that integration of donor programmes into the organisation’s core mandate enhances ownership and delivery of results, with the execution of the programme activities constituting appraisal targets for the organisation’s programme implementation team. The strategic objective is in line with NEMA’s operational space and mandate as prescribed in EMCA. The Act envisages NEMA as a coordinator, working with partners such as MDAs, the private sector, NGOs, and county governments, to deliver ‘a clean and healthy environment for all Kenyans’. The decision to work with partners is informed by various factors. Past experience has shown that the command and control approach does not yield sustainable results — although in the case of problematic partners, NEMA reserves the right to undertake enforcement actions. There is a growing recognition that the environmental mandate, with so many required interventions such as Environmental Impact Assessments (EIAs), State of Environment (SoE) Reporting and other statutory requirements, among others, will be impossible to implement effectively without input from other institutions, both private and public.

5.3 Narrative for Theory of Change

A key outcome that NEMA aims to realise within the Danida Green Growth and Employment thematic programme” is ‘**a greener development pathway**’ for Kenya. Kenya has an ambitious development plan outlined in Vision 2030, desiring to sustain Gross Domestic Product (GDP) growth at 10% per annum in the short to medium term. GDP growth alone without environmental considerations is not sustainable as it will culminate in pollution, environmental degradation, and undesirable health impacts, negatively affecting the growth the country desires. NEMA intends to ensure that the Vision 2030’s ambitious plans are achieved in a sustainable or green manner — since this is the only way longer term growth can be sustained. In other words, NEMA intends to shift Kenya’s brown development pathway to a greener one. The proposed development engagement with Danida is premised on this very objective and is in line with the mandate of NEMA as a regulator of development to ensure that it takes place sustainably. This will be achieved through a four pronged approach, as described below.

NEMA will build a structured partnership with counties for capacity building (including training, mentorships and joint enforcements) to ensure a gradual and well managed transfer of devolved functions to the counties, with an expected output of **enhanced capacity of counties to undertake devolved environmental functions**. Support to counties is expected to gradually decrease as counties become more competent and confident in discharging their functions. For those functions that remain

national, environmental information (e.g., standards) will be shared with county governments on a regular basis though a comprehensive database that NEMA has been developing over several years. With development taking place at county level, building the capacity of counties in environmental functions and natural resource management as NEMA is proposing to undertake will help shift Kenya’s development pathway to a greener trajectory. In working with counties, NEMA sees possibilities for synergistic collaborations with other Danida partners in the Green Growth and Employment thematic programme such as the MENR and the Micro Enterprise Support Programme Trust (MESPT). MENR will lead the dialogue with the Ministry of Devolution and Planning, which is in charge of devolution, while MESPT’s greening of agricultural value chains could benefit from NEMA’s technical expertise in a range of sectors.

NEMA will continue to undertake enforcement of regulations and standards for problematic industries. This approach is also informed by experience, which shows that not all regulated entities comply with environmental standards without supervision and enforcement from NEMA. Enforcement of compliance will be improved through collaboration with other environmental related agencies such as the Kenya Wildlife Service, the Kenya Forest Service, and the Customs Services Department of the Kenya Revenue Authority in areas such as intelligence gathering, training and joint enforcement actions. To control environmental crime, NEMA will build the capacity of, and work with, a number of institutions, including the Police, the Office of the Director of Public Prosecutions, the Banking Sector, and the Judiciary. Capacity constraints within these actors and institutions have in the past hindered realisation of environmental crime prevention. Capacity of financial institutions for instance, will be built in matters concerning environmental and social safeguards as a prerequisite for offering credit to potential project developers. For the law enforcement agencies including the judiciary, enhanced capacities are expected to lead to better prosecution of environmental crime. The expected overall output will be “**reduced environmental crime**” and therefore cleaner or sustainable production and consumption (SCP) as a component of a green development pathway.

Mainstreaming of environmental issues across all MDAs will also be supported in this engagement. Focus will be on environmentally relevant institutions such as ministries and agencies of mining, roads, energy and others. This will be carried out in tandem with the appraisal of environmental performance of the MDAs based on the respective institutional level environmental action plans and policies in collaboration with the Performance Contracting Secretariat (PCS). Having environmental issues mainstreamed in all government agencies facilitates other environmental operations, such as response to environmental incidents that require multi-agency cooperation. Mainstreaming will in addition, assist in generation of data for environmental monitoring and reporting. The expected output of this engagement will be “**environmental functions mainstreamed in MDAs and their implementation reported back to the PSC**”. Having MDAs mainstream environmental functions in their policies and operations will instil a culture of *environmental stewardship*, which will in turn contribute to the desired *greener development pathway* for Kenya.

Lastly, an engagement with the private sector on a voluntary compliance scheme and offering of incentives for environmental standards compliance will be undertaken. The Government has developed a public-private partnership (PPP) policy and *Guidelines for the Use of Environment Economic Instruments in Kenya (2014)* to support engagement with the private sector given the important role the latter plays in Kenya’s development. NEMA’s engagement with the private sector will be anchored on these policy frameworks. The authority will seek to further develop PPPs it has initiated with the private sector especially in promoting clean technologies and practices for the manufacturing and construction sectors, and waste management, among others. The expected output of this engagement will be “**enhanced private sector adoption of green technologies and practices**”. For the engagement with the private sector particularly, NEMA will work closely with the Kenya Association of Manufacturers (KAM) and the Kenya Climate Innovation Centre (KCIC) who are also partners in the

Green Growth and Employment thematic programme. KAM will be instrumental in identifying firms/entities requiring advisory services from NEMA on clean technologies and other green solutions, while KCIC will link KAM members with providers of locally developed clean technology solutions.

This development engagement between NEMA and Danida addresses gender and other human rights based issues in several ways including the aforementioned support to, and working with financial institutions to ensure that only projects that have mainstreamed environmental and social safeguards are funded. Most importantly, the programme’s outputs will contribute to a clean and healthy environment, which is one of the fundamental human rights in the Kenyan Constitution. This in particular, will benefit the poor and other marginalised groups who presently bear the greatest burden of pollution, e.g., those living in informal settlements situated next to manufacturing industries or downstream of effluent discharges or those dependent on natural resources for their livelihoods.

In addition, NEMA has in place several policies and instruments that address gender and the human rights based approach (HRBA) to development. These include policies on recruitment, promotion, and procurement. NEMA has reserved a significant proportion of its procurement for youth, women, and people with disability, in line with the government’s policy on inclusiveness. According to the institution’s revised human resources manual and its Human Resource Policy, recruitments and promotions must also reflect the national diversity. Other key policies shaping HRBA at NEMA include the NEMA Gender Policy (which complements the Human Resource Policy but specifically addresses issues such as maternity/ paternity, and sexual harassment); the NEMA Anti/corruption Policy; and the NEMA Procurement Policy.

6. Development Engagement Objectives

- 6.1 The overall vision for the partnership is to support the Government and people of Kenya in implementing their *Vision 2030* to create ‘**a globally competitive and prosperous country with a high quality of life by 2030**’.
- 6.2 The Thematic Green Growth and Employment thematic programme objective is to contribute to ‘**inclusive greener growth and higher employment**’ in Kenya.
- 6.3 **The development engagement expected outcome is ‘a greener development pathway for Kenya’.**
- 6.4 **Outputs:**

The following outputs have been defined as leading to the desired outcome of a green development pathway:

- Enhanced capacity of counties to undertake devolved environmental functions
- Reduced environmental crime
- Environmental functions mainstreamed in MDAs and their implementation reported back to the PCS
- Enhanced private sector adoption of green technologies and practices through PPPs

7. Results Framework

- 7.1 The National Environment Management Authority (NEMA) is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system as detailed in Section 12 below. The parties have, however, agreed that the Danish Embassy will use the results framework presented in the table below, with a limited number of outcome and output indicators, for reporting to the Danish

constituency. Data to inform the reporting will be supplied by NEMA as part of the routine monitoring of the engagement.

7.2 The parties have agreed to measure progress and performance by the following key outcome and output indicators. Within the first ½ year of implementation, NEMA will establish annual targets for these indicators. Baselines will also be established where they are missing.

Outcome		A greener development pathway for Kenya	
Outcome indicator		Environmental Performance Index (EPI) ²	
Baseline	Year	2014	36.99
Target	Year	2020	50.00
Output 1		Enhanced capacity of counties to undertake devolved environmental functions	
Output indicator		Level of implementation of devolved environmental functions	
Baseline	Year	2014	<ul style="list-style-type: none"> • No county environment committees in place • 4 county environmental action plans (CEAPs) being developed • 6 green points providing green growth linkages between communities and technology and information providers • 5 ecosystems requiring management plans identified • 2 CIDPs subjected to SEA (Nairobi and Machakos) • Limited capacity of counties to undertake devolved environmental functions
Target	Year	2020	<ul style="list-style-type: none"> • 47 effective county environment committees established and functional • 47 CEAPs developed and implemented (**measurement on targets such as water quality, waste management, etc) • 11 providing green growth linkages between communities and technology and information providers • At least 15 CIDPs subjected to SEA • 5 ecosystems requiring management plans • 47 counties capable of effectively implementing selected devolved environmental functions i.e. waste management, noise pollution and environmental planning (inspections, enforcements, licensing and permitting)
Output 2		Reduced environmental crime	
Output indicator		Level of environmental crime as measured with the environmental crime/incidences index	

² The Environmental Performance Indicator (EPI) is an environmental performance or quality measure that tracks how well a country performs on environmental management against two overriding issues or objectives: Environmental Health (measures the protection of human health from environmental harm) and Ecosystem Vitality (measures ecosystem protection and resource management). These two objectives are further divided into nine issue categories that span high-priority environmental policy issues, including air quality, forests, fisheries, and climate and energy, among others. See <http://epi.yale.edu/epi> for more details

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Baseline	Year	2014	<ul style="list-style-type: none"> • 6000 licenses/permits issued (excluding noise & waste) annually • 4000 environmental audits submitted to NEMA annually • 2 control audits of high risk facilities annually • No rapid response framework for environmental incidents • Environmental crime incidence index under development
Target	Year	2020	<ul style="list-style-type: none"> • 7000 licenses/permits issued (excluding noise & waste) annually • 5500 environmental audits submitted to NEMA annually • 5 control audits of high risk facilities annually • A rapid response framework in place (<i>target to be developed</i>) • Environmental crime index in place and used to track environmental crimes
Output 3		Environmental functions mainstreamed in MDAs and their implementation reported back to the PCS	
Output indicator		No. of MDAs with and implementing their environmental policies and action plans	
Baseline	Year	2014	<ul style="list-style-type: none"> • 5 MDAs with operational institutional level environmental policies and action plans • Limited knowledge by MDAs on green growth and sustainable development issues • Limited capacity and knowledge by MDAs on their role environmental crime monitoring and reporting
Target	Year	2020	<ul style="list-style-type: none"> • 25 MDAs with operational environmental policies/ action plans • 50 percent of MDAs practising sustainable production and consumption as a result of increased knowledge and awareness facilitated by NEMA • MDAs supporting environmental crime prevention by reporting cases to NEMA
Output 4		Enhanced private sector adoption of green technologies and practices through PPPs	
Output indicator		No. of PPPs established to support implementation of green technologies and other practices	
Baseline	Year	2014	<ul style="list-style-type: none"> • 28 institutions (manufacturing; building, and construction) participating in a voluntary environmental compliance scheme/cleaner production scheme • Draft Economic Instruments Guidelines in place
Target	Year	2020	<ul style="list-style-type: none"> • 40 institutions (manufacturing; building, and construction) participating in a voluntary environmental compliance scheme/cleaner production scheme • Implementation of economic instruments guidelines (targets: privatisation of solid waste management in selected municipalities; royalty charges; and user fees, etc).

8. Risk Management

This will be executed in line with NEMA’s risk management framework and policy, both of which are based on ISO 31000 standards. Many of the programme’s risks are deemed contextual, i.e., affecting the entire organisation, and have thus not been included in the risk matrix below.

Risk Factor	Likelihood	Background to assessment of likelihood	Impact	Background to assessment of potential impact	Risk response	Residual risk
Programmatic						
Continuing conflict over devolved environmental functions	Likely	Transitional challenges brought about by the new constitution	Major	Delayed implementation of programme activities	Dialogue with council of governors committee on environment and natural resources	Minor
Emerging challenges with the evolving green growth as a concept	Likely	Emerging concepts and issues green growth that require mainstreaming during programme implementation	Significant	Inadequate capacity to keep abreast with the latest thinking in green growth	Short term technical assistance to support programme implementation particularly on complex and emerging challenges and/or concepts	Minor
Slower uptake of green growth practices by the Private Sector	Likely	Green growth likely perceived by the private sector as a costly option	Significant	The immense importance the private sector plays in Kenya’s growth	Involving the Private Sector in green growth policy dialogue, with emphasis on the economic/financial benefits to the sector	Minor
Institutional						
More than anticipated delay in the adoption of the revised EMCA	Unlikely	Control of process is out of NEMA’s hands	Major	Revised EMCA is the one that gives NEMA the legal mandate to operate, and particularly critical for engagement with counties, which are now in charge of some devolved environmental functions	Dialogue with parent ministry, the Commission for Implementation of Constitution (CIC), and parliament to help speed up the process	Significant
Higher than expected staff turnover	likely	Many openings for environmental professionals in new entities at national and county levels	Major	Delay in implementation of the programme	Adequate succession planning and cross departmental capacity building in a range of green growth related issues	Minor
Unanticipated loss of critical data	Rare	Lack of robust data back-up systems	Minor	Delays in programme implementation	Enhance off-site data backup	Minor

9. Inputs

For this engagement, a total budget of 40 million DKK shall be provided to NEMA for the implementation of the proposed programme activities for the five years of its duration. The Government of Kenya will also provide counterpart funding, currently estimated at about 29 million DKK per year to cover the organisation’s entire operations including implementation of this programme’s activities. In addition and in line with common practice, NEMA undertakes to meet all costs associated with salaries, daily subsistence allowances (DSAs) and other allowances for staff seconded to the programme. NEMA shall provide office space and attendant utilities to the long term technical advisor.

The grant budget for this specific engagement is 40.0 million DKK and is allocated as below.

Annualised Total Budget and Support from other Development Partners

Development engagement: Greening Kenya’s development pathway					
Outputs	Budget in DKK million				
	2016/17	2017/18	2018/19	2019/20	Total
Output 1: Strengthened capacity of counties to undertake devolved environmental functions					
Denmark	4.5	3.0	3.5	2.5	13.5
GoK (NEMA)	3.4	3.4	3.4	3.4	13.6
Output 2: Reduced environmental crime					
Denmark	2.9	2.7	2.4	2.5	10.5
GoK (NEMA)	37.0	37.2	37.5	37.7	149.4
Output 3: Environmental functions mainstreamed in MDAs and their implementation reported back to the PSC					
Denmark	0.6	1.1	1.0	0.5	3.2
GoK (NEMA)	1.2	1.1	1.1	1.1	4.5
Output 4: Enhanced private sector adoption of green technologies and practices through PPPs					
Denmark	1.0	1.5	2.1	1.2	5.8
GoK (NEMA)	1.0	1.2	1.2	1.2	4.6
Technical assistance					
Denmark	1.75	1.75	1.75	1.75	7.0
Annualised Totals					
Denmark	10.75	10.05	10.75	8.45	40.0
GoK (NEMA)	42.6	42.9	43.2	43.4	172.1
Total	53.35	52.95	53.95	51.85	212.1

The projected annualised budget is as indicated in the table above. In the period 2016–20, the Government of Kenya will provide up to 75 percent of the funds required for the implementation of the Strategic Objective on Partnerships that Danida will be supporting. Danida funds will in particular, support the initiation and advancement of the environmental dimension of green growth, an area which has emerged as one of interest to Kenya.

Other development partners supporting current and future programmes and projects at NEMA include the World Bank, which is supporting the 42 million USD Kenya Coastal Development Project (KCDP) (closing in 2016), and a UNEP/GEF programme with a balance of 7 million DKK of the initial commitment for the period 2016–19. In addition, NEMA, as the National Implementing Entity (NIE) of the Adaptation Fund, will lead the implementation of the *Integrated Programme to build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya*, funded by the Adaptation Fund to the tune of 10 million USD for a period of 3 years starting 2016.

NEMA will play similar roles/functions with respect to the anticipated funds from the Green Climate Fund (GCF). NEMA and other lead government agencies including the National Treasury have undertaken preparatory work to attract the GCF funds.

10. Management Arrangements

- 10.1 The overall principles for management of the present development engagement are described in the implementing Partner Agreement to which this Development Engagement Document is annexed.
- 10.2 The daily management of the present engagement is undertaken by the National Environment Management Authority.
- 10.3 NEMA will be responsible for the implementation of the activities, directly reporting to the Royal Danish Embassy (RDE). The coordination of the implementation activities of the programme will be based in Nairobi. The activities will be implemented by the organisation (NEMA) through its regular organisational set-up in order to facilitate continuity of the activities that were initiated under other partnerships. The oversight role of the programme will rest with the NEMA Board of Directors. In its oversight function of the programme, the NEMA Board will approve work plans and budgets, and provide overall strategic guidance, which includes the issue of harmonizing and integrating activities of the different donor programmes implemented by NEMA in accordance with the board charter, clearly outlining due process, policies and structures, performance expectations and measurement.
- 10.4 Based on previous experience with donor funded programmes, NEMA will integrate the programme into its internal operations (the programme is actually derived from one of NEMA’s strategic objectives in the Strategic Plan 2013-17). A programme manager and other human and structural resources required to run the programme shall be provided by NEMA. The personnel will be drawn from NEMA core staff (not recruited for the purposes of the programme). Implementation of the programme activities shall constitute appraisal targets for the personnel who will implement the programme.
- 10.5 Advisory facility: Both long term and short term technical advisory services will be required to support the implementation of the programme. The TA inputs will be strategic and focussed on technical issues and not management decisions. The inputs shall not be for gap filling purposes but rather provide input to complex issues where NEMA may be lacking the requisite technical capacity. This will be informed by the landscape in which the new programme will be operating, including a new strategic plan for NEMA that comes into force in 2018. The TA facility will in particular focus on incorporating new thinking from the evolving international environmental regime (for example, Sustainable Development Goals, Sustainable Consumption and Production practices, etc). Other areas could include support to new policy shifts that might come to the fore after the 2017 general elections, incorporation of new elements of the revised EMCA and a new National Environment Action Plan into the programme’s activities, and devolution, amongst others. The funds allocated for TA (7 million DKK) will be directly managed by the Royal Danish Embassy. Draft Terms of Reference for the Long Term Technical Advisor are annexed to this document.

11. Financial Management and Audit

- 11.1 Both parties will strive for full alignment of the Danish support to the implementing partner rules and procedures.
- 11.2 Accounting and yearly auditing of the Danish funds for earmarked activities will be undertaken by the NEMA in accordance with “General Guidelines for Accounting and Auditing”. <http://amg.um.dk/en/technical-guidelines/financial-management/accounting-and-auditing/>
- 11.3 Accounting records shall be available for control by the Embassy of Denmark, by a representative appointed by the Embassy, or by the Danish Auditor General.
- 11.4 Funds, apart from those set aside for TA, will be on-budget and are to be channelled directly to NEMA under the Appropriation in Aid (AiA) mechanism. A special project account will be set up and be operational throughout the life of the project. All financial management systems operational in NEMA shall be deployed in the programme including robust enterprise resource planning (ERP) and knowledge management systems.
- 11.5 The grant will be provided in semi-annual tranches. The semi-annual transfer is based on the projections drawn from the annual work plan and budget, less the balance rolled over from the previous fiscal year. Re-allocation of funds within an approved work plan must receive express authorization from the Embassy. The funds budgeted for TA will not be disbursed to NEMA but will be managed directly by the Danish Embassy, using Danish procurement procedures in close consultation with NEMA.
- 11.6 NEMA will prepare an annual work plan and budget for the activities for approval by the NEMA Board and forwarded to RDE for approval and concurrence. The transfer of funds to NEMA is on the basis of a written request to the RDE with information on the amount and the bank account into which the money is to be deposited.
- 11.7 All procurement will adhere to the current Government of Kenya’s laws on Public Procurement and Disposal in accordance with the Joint Procurement Policy and Guideline³, which forms part of the Danish Aid Management Guidelines; as NEMA has built some appropriate procurement capacity they will undertake and be accountable for all procurement activities according to their own regulations and procedures. Furthermore, the Public Procurement Oversight Authority may undertake periodic assessments in order to ensure compliance and monitoring improvements.
- 11.8 The auditing of the Green Growth Programme funds will be done as part of the auditing of the accounts of NEMA. The audits will be carried out by the Office of the Auditor General (OFAG), but external audits can be commissioned if required. OFAG audits will be carried out in accordance with the provisions in the Kenya National Audit Act 2003 and any other relevant laws in place, and must comply with international auditing best practices. A copy of the audit report will be made available to the Danish Embassy not later than six months after end of the fiscal year. Failure to either the OFAG or compliance audits being undertaken six months after the closure of a financial year or should any of them reveal irregularities, the Embassy will not disburse funds to MENWR until necessary corrective measures have been undertaken.

³ <http://amg.um.dk/en/menu/PoliciesAndStrategies/Procurement/Joint+Procurement+Policy/>

12. Monitoring and Evaluation

NEMA is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system

Progress will be measured through NEMA’s monitoring framework that has verifiable indicators and outcomes. The framework takes cognizance of NEMA’s current design of five departments at the headquarters as well as county/field offices.

Monitoring products shall include:

- Monthly monitoring reports (for instance from departmental meetings)
- Quarterly monitoring reports- including those from field offices
- Annual reports (for Performance contracting, state of environment, donor projects etc.)

Evaluation products on the hand shall include:

- Mid-term evaluation reports (Strategic plan, donor programmes, and the National Environment Action Plan)
- End-term evaluation reports (NEAP, strategic plan, donor programmes/ projects)

The Danish Embassy shall have the right to carry out any technical or financial mission that is considered necessary to monitor the implementation of the programme.

The Danish Embassy will contract a strategic monitoring support for the entire country programme and all DED partners including NEMA will provide data needed to measure progress.

Danida Copenhagen will carry out Real Time Evaluation during the implementation period covered by this agreement and Danida will also, after the termination of the programme support, reserve the right to carry out additional evaluation in accordance with this article.

13. Prerequisites

Not applicable

14. Signatures

On behalf of

National Environment Management
Authority

Signature

Director General

Date

On behalf of

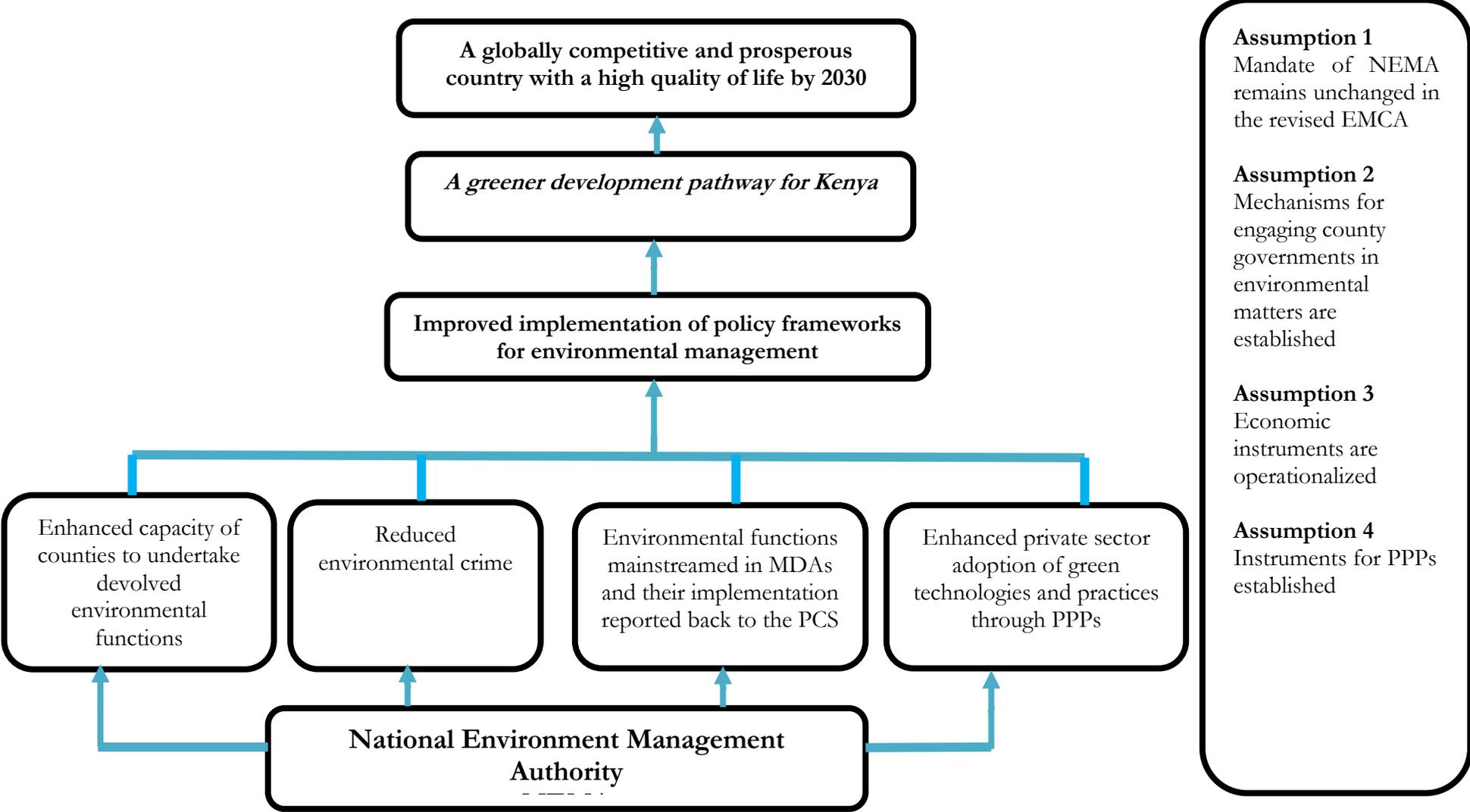
The Danish Embassy (RDE), Nairobi

Signature

Ambassador

Date

Annex 1: NEMA ToC Schematic Diagram



Annex 2: Terms of Reference (TOR) for Long Term Technical Advisor

NEMA – Draft Terms of Reference for Technical Assistance to the “Green Growth and Employment Programme” 2016 - 2020

Summary

The Governments of Kenya and Denmark (Danida) have agreed on a Green Growth and Employment Programme. Denmark will provide a grant of KSh XX Billion (DKK XXXX Million). Part of this grant is for a Technical Assistance (TA) package. The call for tender includes XXX long-term advisors (an Environmental Management Advisor (and Company Team Leader) and a Green Growth Devolution Advisor. The TA Facility also includes the management of a modality for the procurement of services from an unspecified pool of short-term consultants.

The TA team will be posted in Kenya from July 2016, over a period of four / five years.

The Programme

The National Environment Management Authority (NEMA) is established under the Environmental Management and Coordination Act (1999) to supervise and coordinate environmental matters countrywide and to implement environmental policy on behalf of the government. This structure provides a coordinating mechanism for NEMA to work with and through county and national governments, ministries, departments and state agencies and other stakeholders. The Danish support is part of the support provided as part of the Green growth and employment in Kenya programme under the Danish country programme for Kenya

Development Engagement Objective

The objective(s) of the development cooperation among the parties is to Support Kenya in fighting poverty and creating sustainable development through inclusive green growth, increased earnings and more jobs, especially for the youth and women. This strategy is in line with OECD Development Assistance Committee’s policy statement on inclusive growth where inclusive growth is concerned with opportunities for the majority of the labour force, poor and middle class alike

Specific Component

Support enabling frameworks that promote green economic growth & sustainable private sector development through improvement of policy and regulatory conditions at National and county levels)

Expected Outcome

The expected outcome of the TA support is increased stakeholder (private sector, county governments, and public institutions) engagement in developing the inclusive green growth agenda in Kenya, with priority focus areas on the private sector and county governments’ engagement.

Objective of the tender for Technical Assistance (TA) package

The objective is to engage a company or a consortium of companies to provide technical assistance to support the implementation of Component 1 in the Kenya Country Programme – “Green Growth and Employment in Kenya” in the most effective and efficient manner and according to best development practices. This includes adherence to the aid effectiveness agenda (i.e. principles according to the Paris Declaration and Accra Agenda for Action) adjusted to the Kenyan context.

In collaboration with the partners and RDE, the contracted company will from July 2016 to December 2020 deliver the TA team as specified in the attached ToR. The TA package is developed mainly within Component 1 but could be extended to include the entire Thematic Programme on Green

Growth, including provision of technical assistance on demand from Public and Private sector partners in Components 2 and 3.

Content of the TA package

The TA package includes:

- **An Environmental Management Advisor (Long Term) and Company Team Leader.** The duty station will be at the National Environment Management Agency (NEMA). The input is up to 48 person months over 4 years (full time). This includes tasks as the coordinator and team leader of the company contract. The advisor will also be available for other components/sub-components.
- **A “Green Growth - Devolution Support Advisor” (Long Term).** The duty station will be at the National Environment Management Agency (NEMA), and at a number of NEMAs “Green Point Offices”. The input is up to 36 person months over 4 years (mix of full and part time). The advisor will also be available for other components/sub-components.
- **A pool of Short Term (ST) TA.** The Company represented by the Company Team Leader will manage the procurement of a pool of short term TA. Initially the request will be for delivery of 2600 person days International, Regional and National TA. The inputs in the two phases of the tender are outlined in the table.

Scope of work for the Technical Assistance:

Support to strategic / institutional development

The scope of the services provided by the Technical Assistance team includes the following functions:

Institutional Capacity Development:

- Provide technical support to partners on the strategic and institutional development, and operational management.
- Assist in the identification and establishment of partnerships and collaboration with relevant GoK institutions, county governments, and non-state partners in the private sector and Civil Society Organisations (CSOs)

Technical Support:

- Provide relevant and high quality technical support in the respective field of expertise of the TA.
- Contribute to an effective and timely transfer of technical skills to relevant partners and counterparts.
- Provide technical assistance in achieving the programmes outputs/outcomes in collaboration with counterparts.
- Ensure a high quality short-term TA support, available on request for all the partners in all of the sub-components/components.

TA Management Support by the Company Team Leader:

- Reporting by the company on finances and progress
- Managing the procurement of ST TA and ensuring that the agreed services are delivered.
- Monitoring and reporting of LT and ST TA performance. Assess the effectiveness of the TA for institutional capacity development.
- Establish close working relations and communication lines between the other Components/Sub-Components, as well as with other donor-funded support

- The company may operate part of the TA management support activities from a Company Office in Nairobi, including a “Green Growth” liaison facility of a Kenyan partner or one of the participating partner institutions (the approach to programme management is part of the technical proposal).

Principles of the TA input

The TA team will operate from the following principles:

- The role of all advisors is to provide technical assistance. The only management tasks are related to the management of the company contract.
- The advisors will work as technical partners at the appropriate level in the relative institutions. The appropriate level is not necessarily the highest but where the impacts of the TA can be most effective. This could be with a team of mid- and senior-level officials.
- The LT and ST advisors will have designated counterparts in the institution where they are based.
- The technical advisors will not have direct decision-making authority regarding the grant that is routed through the GoK Treasury. The budget for activities and work plans is part of the partners work plan, and where needed the TA can contribute with technical and management advice in this regard. The approval is with the PSC and the responsibility and decision-making is with the relevant partner institution, according to their work plans and budgets.

Tasks of the TA team positions:

Environment Management Advisor and Company Team Leader

The tasks of the Environmental Management Advisor include strategic and technical support on environmental management issues. The position is the Company Team Leader for the technical assistance contract and will cover the management of the ST TA procurement and support to programme level reporting for the TA contract. The advisor is based at NEMA and will on a daily basis be working closely with a designated NEMA counterpart at the director level. NEMA nominates the counterpart to the advisor.

The job functions include:

Strategic and Technical Support:

- The advisor will work with the staff and Management of NEMA on strategic and operational management issues relating to NEMA, in particular related to the mandates of NEMA under EMCA (Environmental Management and Coordination Act).
- The support required within environmental management is specified in NEMA’s strategic plan and in the annual work plans in annual work plans for the advisor.
- Strategic and Technical support to other components/sub-components of the Programme when requested.

Institutional Development:

- Institutional development support, transfer of skills and technology support in close cooperation with all relevant partners.
- Support to decentralised environmental management and the development of Green Growth strategies.
- Support to dissemination of environmental management tools and guidelines to NEMAs Green Point Centers.

Inter-governmental tasks:

Kenya Programme 2016–2020 Green Growth and Employment Thematic Programme — Greening Kenya’s Development Pathway Development Engagement Document

- Assist in the implementation of the NEMA strategic plan including support to the establishment of partnerships and to decentralisation and collaboration with county government.
- The budget for programme activities is integrated in the NEMA work plan. The advisor has no role in decision making on the content of the budget and the work plan, but can contribute with strategic management and technical support.

Company contract management and reporting:

- Reporting by the company on finances and progress
- Managing the procurement of ST TA for support to the agreed Components and ensuring that the agreed services are delivered.
- Monitoring and reporting of long and short term TA performance.
- Assess the effectiveness of the TA for institutional capacity development.

“Devolution and Green Growth Advisor”

The tasks of the “Devolution and Green Growth Advisor” include technical support on practical integration of Green Growth management, policy and strategy issues within the Counties. The adviser will be based in NEMA – supporting the institutional development of the functionality of NEMAs Green Points.

The job function includes:

Technical Support:

- The advisor will work with the staff and management of the NEMA County offices as well as with the relevant departments in the County Governments on matters related to Green Growth development – strategy, dissemination and coordination.
- The advisor will also be available for other programme components and partners - in particular at County level.
- Support the development of coordination among the devolved environmental functions and with the private sector agencies in the areas of Green Growth development, environmental mainstreaming and regulation of natural resources.
- Support studies and other activities as may be requested by NEMA assessing the impact of the Green Growth focus on the sustainable management of the Natural Resources.

Institutional Development:

- Institutional development support, capacity building and technology support in close cooperation with all relevant partners.

Inter-governmental tasks:

- Technical support to NEMA County staff related to the overall implementation of the programme.
- The budget for programme activities is an integrated part of the NEMA work plan. The advisor has no role in decision making on the work plans or budgets, but can contribute with technical support during the preparation.

Company contract management and reporting:

- Reporting on TA performance and progress to the Company Team Leader.

Specified short term technical assistance (ST TA)

Pool of short term technical assistance (ST TA)

The ToR outlines the modalities for the procurement and management of the TA. The purpose of the modality for ST TA procurement is:

- To achieve efficient ST TA procurement. The TA procurement shall harmonize and align the ST TA engagement of the Programme under one umbrella for simple procurement, quick and efficient delivery of ST TA.
- To ensure transparency and accountability of the process of selection and engagement of short term consultants by relevant partners and stakeholders.
- To reduce the management load for the partners and the RDE for ST TA contract procurement and management.
- To manage and separate the procurement and technical management of ST TA contracts.

The ST TA procurement can be accessed by all components of the Green Growth Component, as agreed by the GoK programme partners and RDE.

The design and the management of the ST TA pool is part of the technical proposal for the ST TA tender evaluation. In principle the management and modality of the TA facility should continue along the same lines as in the ongoing NRM Programme:

Composition of the TA team: Qualifications of the proposed team

The TA team shall cover the following competencies:

Position 1: Environmental Management Advisor:

General requirements:

- An advanced university degree (minimum Master’s degree) in environmental planning, physical planning, natural resource management..
- Several years of professional experience. Experience from an environmental ministry or environmental protection agency at senior level is preferable.
- Experience from development cooperation programmes. Proven experience in preparing work plans, result by management, performance monitoring programmes, and progress reporting.
- High level of proficiency in English language use (native language or for non-native a recognised language test score like IELTS (<http://www.ielts.org>)).

Specific experience:

- Experience with the preparation and implementation of development programmes for Danida and other development organisations. Previous experience with Danida Aid Management Guidelines and Danida decentralised aid management procedures as practised at the country level is preferred is an advantage.
- Experience as a Team Leader in managing development programmes. Recent experience is preferred. Proven experience in procuring specialist environmental services.
- Several years experience at senior management level including recent experiences, in the development and implementation of institutional and system development for environmental management development and implementation, including monitoring and reporting.
- Experience with environmental green growth, economics and financing, environmental regulation and management, EIA, communication methods or application of environmental education in

developing countries.

- Documented successes and experience with environmental management and strategy development and implementation in developing countries.

Experience from developing countries:

- Extensive work experience from developing countries is required.
- Work experience from East Africa / Kenya an asset.

Position 2: Devolution and Green Growth Advisor:

General requirements:

- An advanced university degree (minimum Master’s degree) in physical development planning, social or natural science.
- Several years of professional experience. Experience from non-state institutions (research, private sector or international NGOs) will be an advantage.
- Experience from development cooperation programmes. Experience with public – private focussed development programmes. Proven experience in preparing work plans, performance monitoring programmes, and progress reporting
- High level of proficiency in English language use (native language or for non-native a recognised language test score like IELTS (<http://www.ielts.org>)).

Specific experience:

- Several years of experience including recent experience with hands-on research, analytical assessment and policy advice to developing countries for sustainable green growth initiatives involving private sector engagement and including awareness activities, monitoring and reporting at a local and decentralised management level.
- Demonstrated technical competency across a range of green growth issues in developing countries including development and implementation of institutional capacity development.
- Documented successes and experience a “green economy / green change” strategy and implementation at the local level in developing countries.

Experience from developing countries:

- Extensive work experience in developing countries is required.
- Work experience from Kenya an asset.

General requirements for all short term TA (specified and pool):

General requirements:

- An advanced university degree (minimum Master’s degree) in international/development planning, natural science or social science.
- Several years of professional experience including relevant experience from recent years. Experience from non-state institutions (research, private sector or international NGOs) will be an advantage.
- Experience from development cooperation programmes.

