

Terms of Reference
IDH Sustainable Trade Initiative
**for a mapping assignment with the aim of building a safe and decent textile,
apparel, and footwear sector**

December 8, 2021

1. Introduction

IDH Sustainable Trade Initiative (“IDH”) accelerates and up-scales sustainable trade by building impact-oriented coalitions of front running companies, civil society, governments, knowledge institutions and other stakeholders in several commodity sectors. We convene the interests, strengths and knowledge of public and private partners in sustainability commodity programs that aim to mainstream international and domestic commodity markets. We jointly formulate strategic intervention plans with public and private partners, and we co-invest with partners in activities that generate public goods.

On basis of these Terms of Reference (“ToR”) IDH aims to select a party to conduct an assignment with the aim of building a safe and decent textile, apparel, and footwear sector in Kenya.

2. Background

Though often a catalyst for economic development, the textile sector continues to be plagued by CSR risks. As a response to some of the most tragic events in the Tazreen, Ali Enterprise, and Rana Plaza garment factories in Asia, multiple stakeholders have stressed the utmost importance of developing collaborative efforts to improve working conditions in the textile, apparel, and footwear industry. Whilst the industry needs to be retrofitted to better incorporate sustainability in Asia, the African continent still offers an opportunity to ‘get it right’ from the beginning. Compared to countries such as Bangladesh, Kenya finds itself at a different level of industrialization. By developing a scalable program that identifies and evaluates life safety risks in this sector and potentially other manufacturing sectors, the industry can see to address and mitigate these risks upfront in an effective, targeted way.

IDH has pre-competitively promoted worker well-being, e.g., through the Life and Building Safety (LABS) Initiative which addresses the most pressing life safety issues, related to fire, electrical, and building safety and evacuation in the apparel and footwear industry, as well as the Race to the Top initiative, that addressed worker voice and other working conditions. IDH is looking to build on this experience and develop a similar program for the Kenyan and possibly wider East African market. In the journey to industrialization in East Africa, there is an urgent need to act to promote a safe and decent working environment and especially to mitigate risks of workers’ exposure to fire, electrical and structural hazardous conditions in factories. To address these risks IDH will develop a program that defines a roadmap to sustainable industrial parks/factories and its tenants, and which delivers a method to assess factories and industrial park attributes, combined with resources for risk mitigation.

IDH aims to create a win-win situation for workers, factories, international brands, and governments as the Program strives to increase safety and wellbeing for workers, which is the number one concern for all. In addition to following all applicable country laws, the industry can benefit from comprehensive guidance on best practices for sustainable operations.

Vision and Milestones

The overall goal is to “Catalyze sustainable growth through a Better Job Acceleration program” (hereinafter “Program”) and to build a mechanism to mitigate critical risks, a thoroughly scoped and technologically sound Program needs to be developed. Key stakeholder and expert consultation and collaboration is essential.

The Program will be developed in two phases:

0. The scoping and development phase: this initiative is currently in the scoping and development phase. In this stage, the strategy, structure, methodology and intelligence of the Program is to be developed. In the scoping and development phase the selected service provider and IDH will jointly engage in outreach and intelligence gathering activities. From there, the work will dive into the delivery of an Assessment Framework (or similar deliverable) that defines the roadmap for accelerating Better Jobs in the textile, apparel, and footwear sector in Kenya. What this entails in detail is to be defined, but it is envisioned that it can include Assessment framework that lists out key sustainability criteria that could be prerequisites for incentive programs provided for industrial development.
1. The Assessment Framework stage: in this stage, the Program will conduct the first assessments with the reference standard and protocol, and drive towards the first improvements. In the process, the government will be engaged on integrating better safety policies and related guidance for the wider sector, based on early experiences in dedicated locations where the Better Jobs Acceleration Assessment Framework is applied. In subsequent stages (beyond Phase 0 & 1), scaling activities will be implemented, such as vetting and training local assessors, installing tools such as worker hotlines and safety panels, and creating access to finance for mitigation.

Key stakeholders will establish a collaborative platform and develop an implementation plan to increase the decent work and safety provisions in the industry. The methodology of the Program will build on international best practices, such as accepted fire, electrical, and building safety standards to set up a harmonized framework with rapid scalability.

3. Assignment

Objectives

IDH has experience in facilitating and supporting similar and other initiatives in the cotton, apparel, and footwear sector currently ongoing in various countries, such as LABS, the Better Cotton Initiative GIF in among other India and Pakistan, and the Race to the Top program in Vietnam. To scale efforts in a new geography, it is necessary to understand local needs, prepare a localized tool / reference standard and protocol for assessing risks, and to map the alignment of this against local laws and provisions.

General scope of the assignment

The request for services is a two-tiered assignment, that delivers on a mapping exercise and delivery of a tool in the form of an assessment framework, the latter combined with an understanding of its relation to local laws applicable in Kenya. The framework should be based on sectoral best practices and internationally recognized standards, for ease of use in different countries and by international experts. As the framework could be scaled to other countries over time, requirements of local authorities need to be taken onboard, as these take precedence over the assessment framework. However, where a difference between the local codes and standards and the assessment framework exists, the most stringent requirements shall apply. In the case of contradictory requirements, the selected service provider shall advise on the optimum solution available.

The service provider should make best use of the existing knowledge and resources of engaged stakeholders and their network.

Specific support and deliverables expected per phase

The activities for which we require external support are listed below, including the corresponding deliverables. In your proposal we welcome your feedback on how you perceive said deliverables, how you can meet these and if support from partners to this Program is needed for certain elements.

Activities

Phase 0: Documentation and Scoping of relevant players

- Mapping of current performance (business as usual), legal requirements and potential gaps to enable the definition of, in coordination with IDH, the most critical need and use for an Assessment Framework for industrial park / factory performance in Kenya
- Stakeholder mapping to identify the most relevant players for a stakeholder panel including government players, local and global industry players, sector organizations and supporters.

Phase 1: Adapting the harmonized reference standard and assessment framework

- Doing an analysis of existing standards and protocols and how they relate to current national standards and performance in Kenya
- An on-going task throughout the process will consist of highlighting technical or legal challenges
- Input from various stakeholders to this Program will need to be included for the creation of the end product.

Deliverables

The deliverables of this assignment are outlined in the table below. The timelines are tentative and will be confirmed with the selected service provider, based on the proposed workplan.

Deliverables of assignment	Deadline (tentative)
Documentation providing an in-depth understanding of the life safety framework, in terms of public, private and civil society elements (report as well as summary on PPT)	2022-02-28
Database of identified actors that can execute the work on the ground	2022-02-28
A harmonized reference standard applicable in Kenya	2022-02-28
An assessment framework / 'how to use' guide for the standard including advise on dealing with to be expected legal and technical challenges which has been tested and piloted	2022-03-31
An advisory report with recommendations on how to relate the deliverables to industry standards	2022-03-31

General requirements and profile

Expected inputs and starting points

- Building on existing tools developed in other IDH Programs
- The International Building Code, Eurocodes, IEC, NFPA 5000, Brand protocols, and protocols of existing initiatives
- Contacts at industry organizations such as the Sustainable Apparel Coalition (especially the team working on convergence of the Social and Labor Module of the Higg Index), and other standard bearing organizations such as BSI

For this assignment, IDH is looking for a consultant with the following profile:

- Experience in policy analysis and advisory
- Experience in assessing social and OHS performance of industry
- Demonstrated experience in and knowledge of structural, electrical, fire safety and evacuation codes and protocols¹
- Understanding of Structural Safety with regard to:
 - Building codes
 - The basis of structural design
 - Loading (including dead loads, live loads, wind loads, seismic loads, thermal loads and load combinations, considering varieties in geotechnical aspects)

¹ Including but not necessarily limited to: International Building Code 2015; BS EN 1990:2002 Eurocode: Basis of Structural Design; BS EN 1991 Eurocode 1; EN 1998 Eurocode 8: Design of structures for earthquake resistance; BS EN 1992 Eurocode 2; BS EN 1993 Eurocode 3; BS EN 1994 Eurocode 4; BS EN 1997 Eurocode 7: Geotechnical Design; IEC 60364; IEC 61140; IEC 61008; IEC 61009; IEC 439; IEC 947; IEC 60898; IEC 60519; IEC 61642; IEC 62305; NFPA 5000; NFPA 1; NFPA 10; NFPA 13; NFPA 14, NFPA 20; NFPA 22; NFPA 24; NFPA 25; NFPA 70; NFPA 72; NFPA 92; NFPA 110; ASTM E 119; UL 263; FM Data Sheet 7-1 2012; CFPA E Guideline No 34: 2015 F; CFPA E Guideline No 25:2010 F; CFPA E Guideline No 5 2003 F; CFPA E Guideline No 19 2009 F; CFPA E Guideline No 1 2015 F.

- Design
- Deflection limits
- Materials (including concrete (including concrete grades and cover related to geotechnical aspects such as humidity), steelwork (including reinforcement aspects and minimum grades), composite structures, and foundations).
- Experience with concrete quality/mix and proper installation practices as well as concrete test reporting (E.g. non-destructive and core sample testing reporting needs)
- Chemical storage
- Warehouse racking
- Understanding of Electrical Safety with regard to:
 - Codes such as IEC
 - Protection against shock (both direct and indirect contact)
 - Protection against overcurrent and short-circuit
 - Arc flash safety requirements
 - Protection against thermal effects
 - Protection against voltage disturbances and electromagnetic influences
 - Protection against power supply interruption
 - Protection against lightning
 - Personal Protective Equipment (PPE) for factory technicians
- Understanding of Fire Safety with regard to:
 - Safety codes
 - Building occupancy
 - Fire compartmentation
 - Fire systems and equipment (including fire detection/alarm systems, standby power/back-up power supply, fire suppression system/extinguishers, smoke control, emergency lighting) including proper installation
 - Fire brigade and other emergency services access (including water supply, external hydrants, standpipes and hose systems)
 - Structural fire protection and structural element ratings and specifications
- Understanding of Evacuation with regard to:
 - Fire or other emergency evacuation plan (exits, procedures, training and awareness)
- Demonstrated experience in international project management
- Significant experience in and contextual knowledge of Kenya
- Significant knowledge and understanding of the global apparel and footwear industry
- Knowledge of environmental standards (e.g. ZDHC, REACH, ZLD operations, LEED certification, best practices for energy efficiency and renewables) highly appreciated

The selected service provider can consider partnering with other parties in order to cover a wide range of expertise and geographical presence. In that case the submitting party should make clear which party takes up the role as lead contractor that is sub-contracting potential partners. The selected service provider will be responsible for the contractual arrangements and quality of deliverables of the sub-contractor.

4. Selection Procedure

The procedure will be as follows:

1. Publishing the tender and inviting services providers to submit a proposal based on this ToR.
2. Evaluation of the proposals by the evaluation committee. The evaluation committee will evaluate the proposals based on the selection criteria as published in this ToR.
3. Decision on selection of the service provider.
4. Inception meeting with the selected service provider.

The schedule below indicates the timelines for the tender procedure:

Tender process	Timeline
ToR published	08.12.2021
Deadline for submission of proposals*	22.12.2021
Selection of Service provider	28.12.2021
Start of assignment	10.01.2021

** Proposals submitted after the deadline will be returned and will not be considered in the tender procedure.*

After the deadline to submit a proposal has passed, the evaluation committee will evaluate the proposals.

The proposals will first be tested for completeness:

- The absence of the documents referred to in Section 6 of this document can lead to exclusion from further participation in the tender procedure. This is also the case when minimum requirements listed in this ToR are not met.
- If the proposal is complete, the evaluation committee will evaluate the proposal based on the criterion as mentioned in Section 6.

The assignment will be awarded to the service provider with the most economically advantageous tender. This is determined based on the evaluation criteria price and quality (see Section 6 below).

IDH will reject the proposal if any illegal or corrupt practices have taken place in connection with the award or the tender procedure.

5. Proposal requirements

IDH is requesting the service providers to hand in a proposal of maximum 20 pages (excluding company biographies, CVs, sample work and references). The proposal must be handed in a MS Word or PowerPoint version next to a PDF submission to facilitate any copy-and-pasting of content that we may need during evaluation.

The proposal must at least include:

[Content:](#)

- a. A succinct, well-documented approach addressing the requirements set out this ToR. We request that the proposal structure match the selection criteria as closely as possible
- b. Maximum of three client references and a sample of previous work relevant to the deliverables in this ToR
- c. An overview of the project team, including the CVs of the project team members
- d. Budget presented in Euros (ex VAT) with a break-down of days/rate per project team member
- e. Statement on Ground for exclusion (see section 6 below)

Administrative:

- f. Completed detail request form (Annex 1)
- g. Copy of most recent (audited) financial accounts
- h. Statement of acceptance draft contract (Annex 4)

The proposal must be submitted to Jenny Löfbom at lofbom@idhtrade.org with a copy to Valentina Gurinovich at gurinovich@idhtrade.org before **December 22, 2021, 2 pm EAT**.

6. Selection Criteria. Testing and weighing

The assignment will be awarded to the service provider with the most economically advantageous tender. The most economically advantageous tender is determined on the basis of the evaluation criteria of price and quality.

Grounds for exclusion

1. Service providers shall be excluded from participation in this tender procedure if:
 - a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
 - c) they have been guilty of grave professional misconduct proven by any means which the IDH can justify;
 - d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the Netherlands or those of the country where the contract is to be performed;
 - e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity.

Service providers must confirm in writing that they are not in one of the situations as listed above.

2. Service providers shall not make use of child labor or forced labor and/or practice discrimination and they shall respect the right to freedom of association and the right to organize and engage in collective bargaining, in accordance with the core conventions of the International Labor Organization (ILO).

Scoring and weighing

The evaluation criteria are compared and weighed by the evaluation committee according to the procedure below. This concerns a general outline of the scoring methodology and an explanation how the service provider can demonstrate compliance with the requirements.

Step 1 - Criterion Quality

Separate scores will be awarded for each of the components listed in the table below. The evaluation committee will score each component unanimously.

IDH values quality highly, therefore a minimum grade of 3 must be scored by the service provider on each component. If the service provider scores a grade of 3 or less on one of the components he will be excluded from the tender procedure and awarding the contract.

The proposal will be assessed based on the following selection criteria:

Component		Criteria	Max. Grading
1	Proposal overall	The extent to which the proposal meets the requirements set out in Section 3 above and throughout this document. Does the Service provider show understanding of the ToR and the required experience/competence required for the assignment? Can the Service provider deliver the required deliverables in a timely manner?	5
2	Design and Development process	<p>The extent to which the Service provider demonstrates that a clear design and development process will be followed and IDH is adequately consulted for input during the design and development.</p> <p>The extent to which it is clear what is required of IDH in terms of human resources, digital assets and other input to deliver the project.</p>	5
3	Track record	<p>The extent to which the Service provider presents the required level of expertise and knowledge to fulfil the requirements both at team member and company level.</p> <p>The extent to which the Service provider gives a clear description of the project team, relevant (delivering similar projects) experience of team members and time allocation per team member.</p>	5

The evaluation committee will unanimously score each component by assigning scores from 1 to the maximum grading, with the maximum grading representing optimal performance on the component and 1 representing extremely poor performance on the respective component.

Step 2 - Criterion price

A combined price in Euros (ex VAT) is to be presented. This is to be broken down by team member rate and hours. VAT and all other applicable taxes should be mentioned separately as well as the final total amount.

The criterion of assessment is “the best price for the proposed level of quality” with a maximum grading of 5.

Step 3 - Weighting

The final score will be weighted 70% on Quality and 30% on Price.

If scores of service providers are equal, priority will be based on the total scores that were given for the Criterion Quality. The assignment will be awarded to the service provider that has received the highest score for the Criterion Quality. If the evaluation of the Criterion Quality does not lead to a distinction, the score for the component “Proposal overall” will be decisive. If this does not lead to a distinction, the ranking will be determined by the drawing of lots.

Award

Once IDH has decided to which Service provider it intends to award the assignment, a written notification thereof is sent to all Service providers participating in the tender procedure.

The Service provider is contracted via a letter of assignment, following IDH’s template (Annex 2).

7. Communication and Confidentiality

The Service provider will ensure that all its contacts with IDH, with regards to the tender, during the tender procedure take place exclusively in writing by e-mail to Jenny Löfbom at lofbom@idhtrade.org with a copy to Valentina Gurinovich at gurinovich@idhtrade.org. The Service provider is thus explicitly prohibited, to prevent discrimination of the other Service providers and to ensure the diligence of the procedure, to have any contact whatsoever regarding the tender with any other persons of IDH than the person stated in the first sentence of this paragraph.

The documents provided by or on behalf of IDH will be handled confidentiality. The Service provider will also impose a duty of confidentiality on any parties that it engages. Any breach of the duty of confidentiality by the Service provider or its engaged third parties will give IDH grounds for exclusion of the Service provider, without requiring any prior written or verbal warning.

All information, documents and other requested or provided data submitted by the Service providers will be handled with due care and confidentiality by IDH. The provided information will after evaluation by IDH be filed as confidential. The provided information will not be returned to the Service provider.

8. Disclaimer

IDH reserves the right to update, change, extend, postpone, withdraw, or suspend the ToR, this tender procedure, or any decision regarding the selection or contract award. IDH is not obliged in this tender procedure to make a contract award decision or to conclude a contract with a participant.

Participants in the tender procedure cannot claim compensation from IDH, any affiliated persons or entities, in any way, in case any of the afore-mentioned situations occur.

By handing in a proposal, participants accept all terms and reservations made in this ToR, and subsequent information and documentation in this tender procedure.

9. Annexes

Annex 1: Detail request form

Annex 2: Letter of Assignment

Annex 3: IDH General Terms and Conditions for Services

Annex 4: Statement of acceptance draft contract

10. Annex 1.

Detail Request Form

Please, refer to the publication

11. Annex 2.

Letter of Assignment

LETTER OF ASSIGNMENT ("AGREEMENT")

THE PARTIES:

IDH Sustainable Trade Initiative, a foundation under the laws of the Netherlands, registered with the Dutch Chamber of Commerce under number 53521129, having its registered office and its place of business at Arthur van Schendelstraat 500, (3511 MH) Utrecht, the Netherlands, in this matter duly represented by Mr. Daan Wensing, hereinafter referred to as "**IDH**", and;

[Name Partner], a [form of legal incorporation] under the laws of [name country], registered with the [name National Registration Authority] under number [registration number], having its registered office and its place of business at [address], [name country], in this matter duly represented by Mr./Mrs. [name representative], hereinafter referred to as the "**Consultant**".

IDH and the Consultant also together referred to as the "**Parties**" and individually as "**Party**".

HEREBY AGREE AS FOLLOWS:

1. The IDH General Terms and Conditions for Services (attached hereto as Annex 1) (hereinafter referred to as the "**IDH General Terms and Conditions**") apply to this Agreement between IDH and the Consultant.
2. Unless otherwise specifically agreed to by the Parties, in the event of any conflict between the terms of this Agreement and its annexes, the following order or precedence will be applied: i) the terms of this Agreement; ii) the IDH General Terms and Conditions; iii) the Proposal; iv) other annexed documents, if relevant.

Scope of Services

3. The Consultant will provide services to IDH with regard to insert generic type of services (the "**Services**"), in accordance with the proposal enclosed to this letter as Annex 2 (the "**Proposal**"), which includes the approved budget and planning, all of which are integral part of this Agreement. The Services shall consist of the following:
 - I. example
 - II. example
 - III. example

This will result in the following deliverables:

- I. example
- II. example
- III. example

4. The Services by the Consultant will be completed before [date].
5. The Consultant hereby agrees that the Services under this Agreement shall actually be performed by the following project team: [insert name(s)]. Notwithstanding the individual(s) assigned to the Services, the Consultant remains responsible and liable for the Services under this Agreement.
6. [In reference to and in addition to article 12.1 of the IDH General Terms and Conditions, the Parties are obliged to promptly inform each other and consult with each other regarding any (suspected) changes in circumstances or irregularities that may affect the implementation of the Project, and/or affect compliance with the Agreement. Such notifications should include the financial interests involved (if applicable) as well as mitigating measures taken. If any (suspected) changes in circumstances or irregularities, including but not limited to epidemics such as Covid-19, lead to any delay in the implementation of the Project, IDH shall have the right to adjust the instalment schedule.]

Payment

7. For the satisfactory completion of the Services in compliance with the Proposal, the Consultant is entitled to a payment of [EUR [amount]] (including VAT and all applicable other taxes), based on consultancy fees calculated in the budget.
8. If IDH and the Consultant agree that additional time is needed to complete the Services, Parties will confirm their agreement to the amount of additional time needed in an addendum to this Agreement. The Parties agree that the rates used in calculating the cost of such agreed additional time spent by the Consultant on the Services will be in accordance with the rates set out in the Proposal.
9. [The Consultant will invoice the amount due in two equal parts: the first invoice (which includes an advance payment for any expenses included in the Proposal) may be sent after signing of this Agreement, the second invoice can be sent after IDH's written approval of satisfactory completion of Services. The second invoice should include a settlement of the actual expenses made: in the event the Consultant spends less than the expenses budgeted in the Proposal, the actual costs shall be settled accordingly with the final invoice. The invoices shall make specific reference to the contract number [Salesforce number] and be sent by email to: 'invoice@idhtrade.org'.
10. Any expenses made within the scope of this assignment shall only be reimbursed against original receipts, to be provided to IDH by the Consultant together with the final invoice. [Any additional expenses not contained in the Proposal must be approved by IDH in writing, prior to making the expenses.
11. All funds provided by IDH will be transferred and disbursed to the Consultant at the following bank account:

Bank Name:	Name bank + country
Account Name:	•
Account Number:	•
Routing/ABA Number:	•
SWIFT Code:	•

Intellectual Property

12. The Consultant acknowledges that IDH is and maintains to be the owner of all intellectual property arising from the performance of this Agreement, including but not limited to copyrights, database rights, trademarks, patents and know how (the “**Arising Intellectual Property**”).
13. Any Arising Intellectual Property vested in the Consultant is hereby transferred, assigned and delivered to IDH (in advance), including the right to publicly communicate about the Project. The aforementioned transfer, assignment and delivery is hereby accepted by the Consultant and IDH (in advance).

Duration

14. The Agreement will be effective as from [date] and shall terminate automatically on [date], unless extended by the Parties in writing.
15. Any Party may exit the Agreement before the end of the term of the Agreement, subject to 30 days written notice.
16. The rights and obligations of the Parties which by nature are meant to survive this termination, shall not terminate on this date.

SIGNATURE PAGE FOLLOWS

SIGNED BY THE PARTIES FOR AGREEMENT:**For IDH**-----
Name: Mr. Daan Wensing

Position: CEO

Date: _____

For the Consultant-----
Name: _____

Position: _____

Date: _____

Attached to and integral part of this Agreement are:

Annex 1: IDH General Terms and Conditions for Services

Annex 2: insert name Proposal

12. Annex 3

IDH General Terms and Conditions for services

Please, refer to the publication

13. Annex 4

Statement of acceptance draft contract

By signing this statement of acceptance, the service provider accepts the IDH general terms and conditions for service and the general provisions of the draft letter of assignment.

Name service provider:	
Name signatory:	
Position:	
Date:	
Signature: <i>Signed by a person with authority to represent the enterprise as appears from the Dutch Trade Register (handelsregister) or a comparable trade register in the enterprise's country of registration.</i>	