



Netherlands Commission for
Environmental Assessment

Appraisal of 3 Tender documents for the Water Sector between South Sudan and the Netherlands

South Sudan



NCEA – Memorandum of the Dutch Sustainability Unit
31 July 2012



Photos cover:
Floris Deodatus



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MEMORANDUM of the Dutch Sustainability Unit

From : DSU at Netherlands Commission for Environmental Assessment (Ineke Steinhauer)
To : Durk Adema, Netherlands Embassy, Juba, South Sudan and Omer van Renterghem, DGIS/DME, The Hague
Date : 31 July 2012
Subject : Desk study: Appraisal of 3 tender documents for the Water Sector between South Sudan and the Netherlands (ProWaS/SSN); PSGK, EES and Lakes, with regard to environment, climate change and sustainability, by Floris Deodatus
Our reference : SU-07

1. COMMENTS ON THE TERMS OF REFERENCE OF THE THREE SUB-PROGRAMMES

Following the appraisal by the Dutch Sustainability Unit of the three Program formulation documents for the water sector between South Sudan and the Netherlands (July 20, 2012), this documents comments and provides recommendations on the Tender documents which have been elaborated based on the formulation documents.

The Terms of Reference (ToR) for tendering parties provide background information of the proposed programme as well as the programme's objectives, expected results, assumptions and risks. The ToR also lay out the tasks, responsibilities and required competences of the Technical Assistance Team (TAT) and explain procedures and arrangements of the tender. To comply with the various frameworks for development and international cooperation (e.g. South Sudan Development Plan, Multi-Annual Strategic Plan 2012-2015 of the Netherlands Embassy), the ToR need to establish arrangements for environmental sustainability included in the programme strategy.

The Integrated Water Resources Management approach adopted by this programme forms a good basis to include and frame environmental sustainability in South Sudan's development strategy of the water sector. However, the success of this approach leans very much on coherence with other development initiatives and close consultation and tuning with the various partners and stakeholders of all sectors involved. Sustained results depend on a well elaborated exit strategy based on realistic assumptions with regard to technical, financial and institutional sustainability.

The three sub-programme documents (From Policy and Strategy to Governance and Knowledge, Eastern Equatoria State and Lakes State), state that "in due course of implementation, strategic environmental assessments (SEA), environmental impact assessments (EIA) and an impact analysis will be included in decision making". The ToR need to make clear how these tools would be used to manage interactions between the programme's interventions and for example the high biodiversity values in the region, land use planning and climate change. Obviously, the sub-programme PSGK could take a leading role in the promotion of SEA to inform the elaboration and implementation of a water policy.



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The following sections propose additions to the ToR to address environmental sustainability at the different levels of programme implementation to be included in the arrangements between the contractor, the funding agency and the beneficiary. The structure follows the structure (and paragraph numbering) of the ToR of the three sub-programmes. Additions/suggestions are printed in *Italics*. The three sub-programmes are covered in three separate chapters (chapters 2–4) to facilitate the review of the ToRs. Chapter 5 includes recommendations regarding the selection of contractors.

2. RECOMMENDATIONS TOR "SUB-PROGRAMME FROM POLICY AND STRATEGY TO GOVERNANCE AND KNOWLEDGE" (PROWAS/SSN-PSGK)

1.5 Water Policies and Strategies

The title of this section could be "Policy context of IWRM in South Sudan"

Add paragraphs:

Water resources management, development, utilisation and provision of sanitary services are part of the Economic Development Pillar of the South Sudan Development Plan. "Environment" is a cross cutting issue of this plan. Under the SSDP's Governance Pillar, the Government's role is to ensure that development is sustainable through enforcing environmental and social impact assessments for all development programmes and projects.

During the implementation of the proposed programme, two policy frameworks are expected to be adopted by the South Sudan government: the Lands Policy and the Environmental Policy. Both policies are significant for the development of IWRM. The current Lands Act and Environmental Bill are in fact anticipating these policies, but amendments are expected following the endorsement of the policies.

2.1 Programme design

Add paragraph:

The elaboration of an exit strategy is required to enable smooth taking over of project achievements by beneficiaries, including financial arrangements, maintenance arrangements, reliable filing of activity results, shift of responsibilities, monitoring and activity review procedures, sustainable mechanisms for capacity building and learning, etc.

2.2 Component 1 – Water Policy and Strategy

Add:

Strategic Environmental Assessment (SEA) will be applied for the elaboration and operationalisation of the Water Policy and Strategy under this programme.

2.5 Early implementation activities

Add:



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Determine decision levels for Strategic Environmental Assessment (e.g. policy, implementation plans, national/state level) and prepare terms of reference.

3.2 Risks

Add:

South Sudan is subject to risks due to climate change, which is manifested by (1) desertification, (2) extreme flooding and (3) irregular rainfall resulting in periods of drought. Deforestation (mainly caused by overstocking, forest fires, cultivation and charcoal burning) results in flash-floods, reduction of infiltration, erosion, siltation of rivers and hence a reduction of water availability. Hence, combined impacts of climate change and environmental degradation are a threat to water infrastructure.

Increasing demographic and economic pressure (incl. land grabbing and illegal resource use) on natural resources is expected to increase conflicts over use of land and water. This type of problems is worsened by complications related to post-war resettlement of refugees which has also disturbed governance and ownership of land and resources, including access to water.

At present the South Sudan Government lacks an adequate system to share revenues and allocate funds related to resource use management. As a result, operational budgets of national and state governments are insufficient for implementation and monitoring of policies and programmes. Since a major share of these budgets is provided by donor funding, this is a major threat to the sustainability of programme interventions after handing over.

The relation between Central and some State governments is not very strong. States (and lower level governments) have very limited resources and a limited number of experienced staff. These limitations constitute a risk with regard to the mainstreaming of policies and strategies at the lower administrative levels. To cope with this barrier, intensive collaboration should be sought with the Ministry of Local Government and the UNDP programme to support this ministry with the governance and decentralisation process.

4.2 Role of the Technical Assistance Team (TAT)

Add:

The role of the TAT includes:

Assisting the Ministry of Water Resources and Irrigation (MWRI) with the elaboration and implementation of the water policy and strategy in coherence with other land and resource use policies.

Assist the MWRI as well as the State and county governments with applying Strategic Environmental Assessment for policy, plan or program development. Collaboration with the Ministry of Environment would be important.

Assist the MWRI to take into account environmental concerns in the establishment of a water resources assessment and monitoring (e.g. water quality, eutrophication, wetlands biodiversity).



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4.5 Monitoring and evaluation

Add:

The monitoring and evaluation protocols require the development of specific indicators for monitoring of impacts related to environment and climate change such as vegetation cover, water river discharge versus precipitation, and biodiversity related indicators.

Indicators and baseline for environmental monitoring will be determined during the inception phase.

The monitoring protocols should be "resilient to post-project conditions", by determining a limited set of indicators which is easy and cheap to evaluate as much as possible based on data which are readily available. Activity review cycles should be linked to current operational planning and reporting cycles.

5. Project supervision

Add:

At national level (Programme Steering Committee) participation is required of the Lands Commission and the Ministry of Environment.

During the Inception Phase, coordination mechanisms with other ministries and governmental agencies (e.g. Water, Public Utilities, Power, Agriculture, Environment, Mining, etc.) need to be elaborated, either through the PSC, or otherwise. Coordination at above-ministerial level may be required.

Coordination with other donor initiatives will be achieved through the participation or liaison with the various coordination and exchange platforms such as the WASH Cluster Group, the Environmental Cluster Group, the Natural Resources Working Group, etc.

7.1 Contractor

Add under "2. Implementation of activities":

f. Assure compliance of interventions with arrangements made for environmental sustainability in the South Sudan policy and legislation (EIA, monitoring, alignment with policies and other relevant development initiatives).

7.2 Personnel

Add:

The contractor should indicate the responsibilities of project staff with regard to environmental management.



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3. RECOMMENDATIONS TO TOR "SUB-PROGRAMME EASTERN EQUATORIA STATE" (PROWAS/SSN-EES)

1.4 Eastern Equatoria State

Add:

EES shares an area of high biodiversity value: the Boma-Jonglei landscape. This area represents one of the last remaining areas in the world with large scale herbivore migration, but it is only partly protected. Apart from that, EES has a number of smaller biodiversity hotspots such as the Kidepo complex shared with Uganda, Imatong Mountain and other mountain ridges harbouring endemic species. Interventions in water management may influence wildlife habitat in these areas and changes in land use patterns, particularly when related to water holes and cattle.

1.5 Government policies in the water sector

The title of this section could be "*Policy context of IWRM in South Sudan*"

Add paragraphs:

Water resources management, development, utilisation and provision of sanitary services is part of the Economic Development Pillar of the South Sudan Development Plan. "Environment" is a cross cutting issue of this plan. Under the SSDP's Governance Pillar, the Government's role is to ensure that development is sustainable through enforcing environmental and social impact assessments for all development programmes and projects.

During the implementation of the proposed programme, two policy frameworks are expected to be adopted, the Lands Policy and the Environmental Policy. Both policies are significant for the development of IWRM. The current Lands Act and Environmental Bill are in fact anticipating these policies, but amendments are expected following the endorsement of the policies. Particularly in EES it is recommended to align development of IWRM with the landscape approach which is presently adopted to develop land use planning to match biodiversity conservation and economic development in larger areas which can be considered as more or less continuous landscape units covering specific ecological functions, such as catchments and mountain complexes.

2.1 Programme design

Add:

Integrate a strategy to address factors causing erosion and siltation in catchment areas dealing with risks related to climate change and deforestation.

Add paragraph:

The elaboration of an exit strategy is required to enable smooth taking over of project achievements by beneficiaries, including financial arrangements, maintenance arrangements, reliable filing of activity results, shift of responsibilities, monitoring and activity review procedures, sustainable capacity building and learning, etc.



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3.2 Assumptions and risks

Add risks related to environment, climate change and demographics:

South Sudan is subject to risks due to climate change, which is manifested by (1) desertification, (2) extreme flooding and (3) irregular rainfall resulting in periods of drought. Deforestation (mainly caused by overstocking, forest fires, cultivation and charcoal burning) results in flash-floods, reduction of infiltration, erosion, siltation of rivers and hence a reduction of water availability. Hence, combined impacts of climate change and environmental degradation are a threat to water infrastructure.

Increasing demographic and economic pressure (incl. land grabbing) on natural resources is expected to increase conflicts over use of land and water. This type of problems is worsened by complications related to post-war resettlement of refugees which has also disturbed governance and ownership of land and resources, including access to water.

At present the South Sudan Government lacks an adequate system to share revenues and allocate funds related to resource use management. As a result, operational budgets of national and state governments are insufficient for implementation and monitoring of policies and programmes. Since a major share of these budgets is provided by donor funding, this is a major threat to the sustainability of programme interventions after handing over.

The relation between Central and some State governments is not very strong. States (and lower level governments) have very limited resources and a limited number of experienced staff. These limitations constitute a risk with regard to the mainstreaming of policies and strategies at the lower administrative levels. To cope with this barrier, intensive collaboration should be sought with the Ministry of Local Government and the UNDP programme to support this ministry with the governance and decentralisation process.

4.2 Role of the Technical Assistance Team (TAT)

Add:

The role of the TAT includes:

Assisting county governments with the selection of sites for interventions in coherence with other land and resource use planning processes, including applying SEA for these planning processes.

Assist county governments with the determination of appropriate interventions. Experience has shown that sustainability and ownership correlates to own contribution of beneficiaries. Subsidies should therefore be kept to minimum. This refers also and particularly to the participation of livestock keepers in the creation of hafirs.

Assist county governments with arrangements for the implementation of Environmental Impact Assessment according to regulations set out in the Environmental Protection Bill 2010 for interventions which are expected to impact the environment.

To propose a gender strategy for the programme, particularly in the SWIS component.



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4.5 Linkage programme

Add:

To ensure that linkage programmes address and help to achieve the objectives of the programme, criteria need to be determined for the funding of these programmes as well as monitoring arrangements.

4.8 Monitoring and evaluation

Add:

The monitoring and evaluation protocol requires the development of specific indicators for monitoring of impacts related to environment and climate change such as vegetation cover, water river discharge versus precipitation, and biodiversity related indicators.

Indicators and baseline for environmental monitoring will be determined during the inception phase.

5. Supervision

Add:

At national level (PSC) participation is required of the Lands Commission and the Ministry of Environment.

At State level (PCC) participation is required of the Ministry of Environment, Wildlife & Tourism, Eastern Equatoria.

Coordination with other donor initiatives will be achieved through the participation or liaison with the various coordination and exchange platforms such as the WASH Cluster Group, the Environmental Cluster Group, the Natural Resources Working Group, etc.

7.1 Contractor

Add under "2. Implementation of activities":

e. Assure compliance of interventions with current arrangements made for environmental sustainability (EIA, monitoring, alignment with policies and other relevant development initiatives).

7.2 Personnel

Add:

The contractor should indicate the responsibilities of project staff with regard to environmental management.



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4. RECOMMENDATIONS TO TOR "SUB-PROGRAMME LAKES STATE" (PROWAS/SSN-LAKES)

1.4 Lakes State

Add:

The northern and eastern parts of Lakes State are covered with extensive floodplains and marshes of the Bahr el Gazhal and Sudd. These wetlands are an important habitat for many wetland species and migratory species. Interventions in water management may influence wildlife habitat in these areas and changes in land use patterns, particularly when related to water holes and cattle.

1.5 Government policies in the water sector

The title of this section could be "*Policy context of IWRM in South Sudan*".

Add paragraphs:

Water resources management, development, utilisation and provision of sanitary services is part of the Economic Development Pillar of the South Sudan Development Plan. "Environment" is a cross cutting issue of this plan. Under the SSDP's Governance Pillar, the Government's role is to ensure that development is sustainable through enforcing environmental and social impact assessments for all development programmes and projects.

During the implementation of the proposed programme, two policy frameworks are expected to be adopted, the Lands Policy and the Environmental Policy. Both policies are significant for the development of IWRM. The current Lands Act and Environmental Bill are in fact anticipating these policies, but amendments are expected following the endorsement of the policies.

2.1 Programme design

Add:

Integrate a strategy to address factors causing erosion and siltation in catchment areas dealing with risks related to climate change and deforestation.

With reference to linkage programmes add:

To ensure that linkage programmes address and help to achieve the objectives of the programme, criteria need to be determined for the funding of these programmes as well as monitoring arrangements.

Add paragraph:

The elaboration of an exit strategy is required to enable smooth taking over of project achievements by beneficiaries, including financial arrangements, maintenance arrangements, reliable filing of activity results, shift of responsibilities, monitoring and activity review procedures, sustainable capacity building and learning, etc.



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3.2 Risks

Add risks related to environment, climate change and demographics:

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4.2 Role of the Technical Assistance Team (TAT)

Add:

The role of the TAT includes:

Assisting county governments with the selection of sites for interventions in coherence with other land and resource use planning processes, by making use of Strategic Environmental Assessment information for the planning of sites and interventions.

Assist county governments with the determination of appropriate interventions. Experience has shown that sustainability and ownership correlates to own contribution of beneficiaries (cost and labour). Subsidies should therefore be kept to minimum. This refers also and particularly to the participation of livestock keepers in the creation of hafirs.

Assist county governments with arrangements for the implementation of Environmental Impact Assessment according to regulations set out in the Environmental Protection Bill 2010 for interventions which are expected to impact the environment.

To propose a gender strategy for the programme, particularly in the SWIS component.



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4.8 Monitoring and evaluation

Add:

The monitoring and evaluation protocol requires the development of specific indicators for monitoring of impacts related to environment and climate change such as vegetation cover, water river discharge versus precipitation, and biodiversity related indicators.

Indicators and baseline for environmental monitoring will be determined during the inception phase.

5. Project supervision

Add:

At national level (Programme Steering Committee) participation is required of the Lands Commission and the Ministry of Environment.

At State level (Programme Coordination Committee) participation is required of the Ministry of Environment, Wildlife & Tourism, Lakes State.

Coordination with other donor initiatives will be achieved through the participation or liaison with the various coordination and exchange platforms such as the WASH Cluster Group, the Environmental Cluster Group, the Natural Resources Working Group, etc.

7.1 Contractor

Add under "2. Implementation of activities":

e. Assure compliance of interventions with current arrangements made for environmental sustainability (EIA, monitoring, alignment with policies and other relevant development initiatives).

7.2 Personnel

Add:

The contractor should indicate the responsibilities of project staff with regard to environmental management.

5. RECOMMENDATIONS FOR CONTRACTOR SELECTION OF THE THREE SUB-PROGRAMMES

It is suggested to include in the selection procedure for contractors a selection criterion for the arrangements proposed for sustainability, including proposed expertise, eventual alliances, type of interventions, monitoring, exit strategy, etc.