

CALLDOWN CONTRACT

Framework Agreement with: AECOM Ltd

Framework Agreement for: DFID Goods & Equipment
Procurement Supplier

Framework Agreement Purchase Order Number: 7387

Call-down Contract For: Procurement Oversight Agent (POA)
for the Malawi Health Sector

Contract Purchase Order Number: 7708

I refer to the following:

1. The above mentioned Framework Agreement dated 29th March 2016
2. Your proposal of 31st August 2016.

and I confirm that DFID requires you to provide the Services (Annex A), under the Terms and Conditions of the Framework Agreement which shall apply to this Call-down Contract as if expressly incorporated herein.

1. Commencement and Duration of the Services

- 1.1 The Supplier shall start the Services no later than 1st September 2016 ("the Start Date") and the Services shall be completed by 31st August 2017 ("the End Date") unless alternative dates are confirmed in accordance with Annex A or unless the Call-down Contract is terminated earlier in accordance with the Terms and Conditions of the Framework Agreement.

2. Recipient

- 2.1 DFID requires the Supplier to provide services to the Ministry of Health for the Government of Malawi (GoM) which includes Malawi Health Sector agencies including the Ministry of Health (MoH), Central Hospitals, Central Medical Stores Trust (CMST), and district health offices ("the Recipient").

3. Financial Limit

- 3.1 Payments under this Call-down Contract shall not, exceed £275,875 ("the Financial Limit") and is exclusive of any government tax, if applicable as detailed in Annex B. When Payments shall be made on a 'Milestone Payment Basis' the following Clause 28.1 shall be substituted for Clause 28.1 of the Framework Agreement.

28. Milestone Payment Basis

- 28.1 Where the applicable payment mechanism is "Milestone Payment", invoice(s) shall be submitted for the amount(s) indicated in Annex B and payments will be made on satisfactory performance of the services, at the payment points defined as per schedule of payments. At each payment point set criteria will be defined as part of the payments. Payment will be made if the criteria are met to the satisfaction of DFID.

When the relevant milestone is achieved in its final form by the Supplier or following completion of the Services, as the case may be, indicating both the amount or amounts due at the time and cumulatively. Payments pursuant to clause 28.1 are subject to the satisfaction of the Project Officer in relation to the performance by the Supplier of its obligations under the Call-down Contract and to verification by the Project Officer that all prior payments made to the Supplier under this Call-down Contract were properly due.

4. DFID Officials

- 4.1 The Project Officer is:

REDACTED

- 4.2 The Contract Officer is:

REDACTED

5. Key Personnel

The following of the Supplier's Personnel cannot be substituted by the Supplier without DFID's prior written consent:

REDACTED

6. Reports

- 6.1 The Supplier shall submit project reports in accordance with the Terms of Reference / Scope of Work at Annex A and Annex E and Annex K .

7. Duty of Care

All Supplier Personnel (as defined in Section 2 of the Agreement) engaged under this Call-down Contract will come under the Duty of Care of the Supplier:

- I. The Supplier will be responsible for all security arrangements and Her Majesty's Government accepts no responsibility for the health, safety and security of individuals or property whilst travelling.

- II. The Supplier will be responsible for taking out insurance in respect of death or personal injury, damage to or loss of property, and will indemnify and keep indemnified DFID in respect of:
- II.1. Any loss, damage or claim, howsoever arising out of, or relating to negligence by the Supplier, the Supplier's Personnel, or by any person employed or otherwise engaged by the Supplier, in connection with the performance of the Call-down Contract;
- II.2. Any claim, howsoever arising, by the Supplier's Personnel or any person employed or otherwise engaged by the Supplier, in connection with their performance under this Call-down Contract.
- III. The Supplier will ensure that such insurance arrangements as are made in respect of the Supplier's Personnel, or any person employed or otherwise engaged by the Supplier are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.
- IV. The costs of any insurance specifically taken out by the Supplier to support the performance of this Call-down Contract in relation to Duty of Care may be included as part of the management costs of the project, and must be separately identified in all financial reporting relating to the project.
- V. Where DFID is providing any specific security arrangements for Suppliers in relation to the Call-down Contract, these will be detailed in the Terms of Reference.

8. Call-down Contract Signature

- 8.1 If the original Form of Call-down Contract is not returned to the Contract Officer (as identified at clause 4 above) duly completed, signed and dated on behalf of the Supplier within 15 working days of the date of signature on behalf of DFID, DFID will be entitled, at its sole discretion, to declare this Call-down Contract void.

For and on behalf of
The Secretary of State for
International Development
Manager

Name: REDACTED
Position: Procurement & Commercial
Signature:
Date:

For and on behalf of
AECOM Limited
Aecom House
63-77 Victoria Street,
St Albans, Hertfordshire,
AL1 3ER

Name: REDACTED
Position: Director
Signature:
Date:

Table of Annexes per Calldown Contract

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Annex B	Specifications
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Annex E	KPIs and SLAs
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Annex I	the Joint Declaration of Intent for Common Fiduciary Oversight of the Malawi Health Sector (JDI CFOA)
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ANNEX A

TERMS OF REFERENCE (TOR)

TERMS OF REFERENCE FOR THE PROCUREMENT OVERSIGHT AGENT (POA) FOR THE MALAWI HEALTH SECTOR

Date: June 2016

Purpose

1. The overall purpose of the Procurement Oversight Agent (POA) is to ensure the Malawi health sector agencies procurement practice follows the Government of Malawi (GoM) Public Procurement Act 2003 and Procurement Regulations 2004 and that procurement is done with due regard to principles of efficiency, economy and the achievement of Value for Money. In this context, Malawi health sector agencies are understood to encompass the Ministry of Health, Central Hospitals, Central Medical Stores Trust, and district health offices.
2. Whilst the primary role of the Procurement Oversight Agent is co-approval of procurement processes, the post will also identify where procurement technical assistance and capacity building is required. Where feasible the post may provide some of this technical assistance support directly, or seek other agencies/programmes to provide such support.

Background

3. Since 2012, DFID on behalf of a number of donors providing pool financing to the Malawi health sector have provided the services of a Procurement Oversight Agent in the Malawi Ministry of Health. The current POA was provided under the terms of a Joint Financing Arrangement (JFA) that covered pool donor sector budget support (SBS) to the Malawi health sector. Despite SBS being suspended in November 2013 due to the 'cashgate' scandal, the POA has continued to provide procurement co-approval and technical assistance support to Malawi health sector agencies.
4. In December 2015, the Government of Malawi and 4 health sector donors (UK, Norway, Germany and Flanders) signed 2 new linked sector financing arrangements – the Joint Declaration of Intent for Common Fiduciary Oversight of the Malawi Health Sector (JDI CFOA) and the Joint Declaration of Intent for the Health Services Joint Fund (JDI HSJF). These documents are at [Annex I](#) and [Annex J](#) respectively.
5. The JDI CFOA sets out specific understandings and mutual endeavours of the Government and the CFOA Development Partners (DP's) to sustainably strengthen the operation of the Governments' health sector fiduciary systems, including public procurement. The JDI also aims to facilitate harmonised ways of working between Government and CFOA DP's in order to more efficiently and effectively strengthen Health Fiduciary Systems.
6. The HSJF is a funding mechanism designed to receive funding from multiple DP's and uses elements of Government systems (such as planning, budgeting, procurement, reporting) but maintains a parallel funds flow with strong fiduciary and procurement oversight and controls. It is designed as a means to efficiently and securely channel DP funds to approved, priority government budget lines/ activities; reduce fragmentation of DP support; and strengthen government fiduciary and related systems, as long as DP's deem it not feasible to use alternative mechanisms for channelling funds that are more fully integrated with Government financial systems.

7. Both these agreements contain provision for the continuation of the services of a POA. They define the role of the POA as:
 - a. A contracted individual(s) whose role is to review and co-approve the important procurement decision points (the main ones being bid documents, selection of the preferred tenderer; and contract award) conducted within the health sector – for both Government and DPs.
8. These terms of reference set out the detailed requirements for an individual/company to provide POA services for Malawi health sector agencies for both Government resources and donor resources provided under the Health Services Joint Fund (HSJF).

Objectives

9. To co-approve all Malawi health sector agency procurement processes (bid documents, selection of the preferred tenderer; and contract award) involving Government health sector resources above the thresholds set out in the CDI CFOA in Annex I.
10. To co-approve all Malawi health sector agency procurement processes (bid documents, selection of the preferred tenderer; and contract award) involving Health Services Joint Fund (HSJF) resources as set out in the CDI HSJF in Annex J.
11. To support the development and approval by MoH of an annual health sector procurement plan.
12. To assess technical assistance and capacity development needs of procuring entities in Malawi health sector agencies, and either provide technical assistance directly or recommend support from relevant agencies.
13. To participate in appropriate technical working groups (TWG's) and management groups.
14. To co-approve the Terms of Reference (TOR), selection and contracting of the independent firm to conduct the annual financial and procurement audit of health sector resources.

Scope of Services

15. **With respect to objective 1: Co-approval of Government funded procurement processes.**
 - 15.1 The POA will (above an approved threshold to be set in consultation with the Technical Working Group - TWG), review and co-approve each procurement process (bid documents, selection of the preferred tenderer; and contract award) and endorse/not endorse to Internal Procurement Committee (IPC) for each procurement, in respect of Government funded health sector resources.
 - 15.2 The POA will also conduct spot checks on procurements below the approved threshold, and provide a report to the Directors of Finance on their findings.
 - 15.3 Co-approval will be provided by the POA and Chair of the Internal Procurement Committee, or such other official as the MoH may designate, for all Malawi health sector procuring entities. Such co-approval shall be required regardless of the procurement method. Only a joint approval of both is acceptable; an approval by one party only is not considered valid.

- 15.4 Undertake prior (before action is taken) review of technical, commercial and legal aspects of procurements at all stages of the procurement cycle to include planning, bidding documents, bid evaluation reports (BER), recommendations for awards of contract as per generally accepted procurement supervision guidelines;
- 15.5 Ensure when procurement files requiring a No Objection Letter (NOL) from ODPP are submitted to ODPP for a NOL, they have been carefully studied and corrected and that all the papers required to accompany such a submission for NOL by the terms of the Public Procurement Act 2003, Procurement Law 2004 and the ODPP Desk Instructions to GoM procuring Entities have been included with the procurement file. In the event of difficulties in securing NOL from ODPP, the POA will complete prior reviews within ten working days, unless the procurement involves so many contracts or is of such complexity that this schedule cannot be attained. In such a case the POA will inform MoH with clear justification for the delay and seek approval for a revised submission date;
- 15.6 In the event that any health sector procuring entity does not follow the recommendations of the POA or unreasonably delays the procurement procedure for more than four weeks, and such a situation cannot be solved through dialogue between the entity and the POA within four weeks, the IPC Chair shall request the Chair of the Financial Management and Procurement Technical Working Group to call an Extraordinary General Meeting. Additional dispute resolution approaches are set out in the JDI's for the CFOA and HSJF in Annex I and J.
- 15.7 Co-sign with relevant Government staff Letters of Authority to authorize procurements duly approved by ODPP and POA to proceed to contract award and signature and the disbursement of health sector funds in payment thereof. (N.B. The POA shall have the right to independently check that deliveries have been made as stated on delivery notes and payment vouchers, that the supplier has correctly delivered the goods specified in the Bidding Document and to make such other checks and to seek such other technical advice as is considered prudent);
- 15.8 Assist the procuring entities to resolve complaints from bidders resulting from procurements managed by them;
- 15.9 Support the timely and accurate maintenance of the procurement log of requests and responses for all documents requiring prior review under these terms of reference, including dates submitted for prior review as well as recommendations given;
- 15.10 Maintain a log of all decisions requiring NOL by the POA , including dates submitted as well as any objections raised to requests for NOL received and detailing how these objections were resolved;
- 15.11 Provide evidence-based operational advice to the procuring entity as required by the case files encountered in accordance with GoM Law and Regulations and in accordance with generally accepted procurement principles and practice;
- 15.12 Review any case made by health sector agency procuring entity for any waiver of the requirement for competition in the use of Government funds. All requests for emergency procurement will be dealt with as a matter of urgency by the POA.

- 15.13 Undertake a post review of any procurement event of any value and from any procurement route if deemed appropriate by the POA or the MoH or in the event of concerns being expressed;

16 With respect to objective 2: Co-approval of HSJF (DP) funded procurement processes.

- 16.1 The POA will review and co-approve each procurement process (bid documents, selection of the preferred tenderer; and contract award) and endorse/not endorse to IPC for all procurements in respect of HSJF (DP) funded health sector resources.
- 16.2 Co-approval will be provided by the POA and Chair of the Internal Procurement Committee, or such other official as MoH may designate, for all Malawi health sector procuring entities procuring using HSJF DP funds. Such co-approval shall be required regardless of the procurement method. Only a joint approval of both is acceptable; an approval by one party only is not considered valid.
- 16.3 Undertake prior (before action is taken) review of technical, commercial and legal aspects of procurements at all stages of the procurement cycle to include planning, bidding documents, BER, recommendations for awards of contract as per generally accepted procurement supervision guidelines;
- 16.4 Ensure when procurement files requiring a NOL from ODPP are submitted to ODPP for a NOL, they have been carefully studied and corrected and that all the papers required to accompany such a submission for NOL by the terms of the Public Procurement Act 2003, Procurement Law 2004 and the ODPP Desk Instructions to GoM procuring Entities have been included with the procurement file. In the event of difficulties in securing NOL from ODPP, the POA will complete prior reviews within ten working days, unless the procurement involves so many contracts or is of such complexity that this schedule cannot be attained. In such a case the POA will inform MoH with clear justification for the delay and seek approval for a revised submission date;
- 16.5 In the event that any health sector procuring entity does not follow the recommendations of the POA or unreasonably delays the procurement procedure for more than four weeks, and such a situation cannot be solved through dialogue between the entity and the POA within four weeks, the IPC Chair shall request the Chair of the Financial Management and Procurement Technical Working Group to call an Extraordinary General Meeting. If this fails to resolve the issue, it should be referred to the HSJF Management Group and if necessary resolved as per para 51 in the JDI HSJF (Annex 2).
- 16.6 Co-sign with relevant Government staff Letters of Authority to authorize procurements duly approved by ODPP and POA to proceed to contract award and signature and the disbursement of HSJF funds in payment thereof. (N.B. The POA shall have the right to independently check that deliveries have been made as stated on delivery notes and payment vouchers, that the supplier has correctly delivered the goods specified in the Bidding Document and to make such other checks and to seek such other technical advice as is considered prudent);
- 16.7 Assist the procuring entities to resolve complaints from bidders resulting from procurements managed by them;

- 16.8 Support the timely and accurate maintenance of the procurement log of requests and responses for all documents requiring prior review under these terms of reference, including dates submitted for prior review as well as recommendations given;
 - 16.9 Maintain a log of all decisions requiring NOL by the POA , including dates submitted as well as any objections raised to requests for NOL received and detailing how these objections were resolved;
 - 16.10 Provide evidence-based operational advice to the procuring entity as required by the case files encountered in accordance with GoM Law and Regulations and in accordance with generally accepted procurement principles and practice;
 - 16.11 Review any case made by health sector agency procuring entity for any waiver of the requirement for competition in the use of Government funds. All requests for emergency procurement will be dealt with as a matter of urgency by the POA.
 - 16.12 Undertake a post review of any procurement event of any value and from any procurement route if deemed appropriate by the POA, the MoH, or the HSJF DPs in the event of concerns being expressed;
- 17 With respect to objective 3: Health Sector Procurement Plan**
- 17.1 Work with health sector agencies and the HSJF Management group to identify annual budgets available for health sector procurements, taking account of ongoing contractual commitments for committed procurements.
 - 17.2 Assist health sector agencies identify priority new procurements that are consistent with available budgets, Health Sector Strategic Plans and annual implementation plans, including indicative costs, procurement method and timing.
 - 17.3 Review draft annual procurement plans budgets from health sector agencies and recommend improvements or approval.
- 18 With respect to objective 4: Technical Assistance and Capacity Building**
- 18.1 The POA will provide TA to Government in respect of its regular procurement processes and transactions. This TA will include the provision of recommendations for improvements to these procurement processes and transactions
 - 18.2 The POA will provide a range of technical assistance inputs to colleagues in the MoH and other health sector procuring entities using the material presented by the files being reviewed. These will include assisting in the design and conduct of issues-based workshops to educate MoH, and other, procurement staff on specialized procurement and common problems in procurement observed from prior review processes.
 - 18.3 If there are technical assistance/capacity building needs beyond the time/scope of the POA to provide directly, they will document needs and discuss with MoH and DPs alternate methods to respond to identified needs.
- 19 With respect to objective 5: Technical Working Groups and Management Groups**
- 19.1 Participate in the Medicines and Medical Supplies Technical Working Group (DMS TWG) and of the Finance and Procurement Technical Working Group

(FM&P TWG). Present reports on procurement and advice as requested by members.

- 19.2 Participate in the HSJF Management Group. Present reports on procurement and advice as requested by members.
- 19.3 Assist the MoH maintain and further develop its Procurement Improvement Plan (PIP). The PIP sets out the actions that are needed to address all significant weaknesses in the design and implementation Government procurement processes, and is overseen by the Finance and Procurement Technical Working Group.

20 With respect to objective 6: Independent annual audits

- 20.1 Endorse the procurement process for the annual procurement and financial audits ie prior review the TORs for the financial and procurement audits and the selection of auditors.
- 20.2 Support health sector agencies to prepare for procurement audits, and to understand and implement improvement recommendations.

21 Expert Technical Assistance Specifications

- 21.1 Based on the experience of the operation of the current POA, it is envisaged a full time individual based in the MoH is required to carry out the above scope of services.
- 21.2 Specifically a procurement specialist is required with the following skills and experience:
 - 21.2.1 Formal relevant qualifications in public sector procurement;
 - 21.2.2 At least 10 years senior level experience in planning, conducting and reviewing public sector procurements, preferably in the health sector and preferably in a developing country/high fiduciary risk context;
 - 21.2.3 Experience identifying needs and delivering capacity building in public procurement.
 - 21.2.4 Excellent communication and stakeholder engagement skills.

22 Accountability

- 22.1 The POA will set up a Procurement Oversight Agent Office in the MoH, which will coordinate the effective management and monitoring of the activity.
The POA will work directly with the DOF of the MoH. The POA will have access to all concerned departments in the MoH, the CMST and other health sector procuring entities.
As per the JDI HSJF and JDI CFOA:
- 22.2 The POA will familiarize themselves with those Government rules, regulations and procedures that relate to the carrying out of the functions of the POA.
- 22.3 The POA will liaise closely with those Government officers they need to work with in order to carry out the functions in such a way that (a) mutual respect between

Government officers and the POA can be maintained and (b) aid effectiveness principles, especially Government's ownership, are respected.

- 22.4 In the event that, in the view of the POA, the carrying out of any of the functions of the POA is being impaired by lack of support from Government officers, POA will attempt to resolve the issue with Government. Alternatively, in the event the POA notices that any aspect of the work of the POA in carrying out its functions may be impairing the ability of Government officers to carry out their own duties, then the POA will seek clarification and if appropriate attempt to resolve the issue with Government.
- 22.5 In event that any issue under iii. above is not being satisfactorily resolved, then the POA may call for a higher level meeting including both the Secretary of Health and a representative of the HSJF DPs at which all parties will endeavour to resolve the issue within the framework of the HSJF and CFOA.
- 22.6 In the event that, in the view of Government, any aspect of the work of the POA in carrying out their functions may not be sufficiently consistent with the terms of the CFOA and HSJF, and/or may be impairing the ability of Government officers to carry out their own duties, then the Government officers involved will seek clarification and if appropriate attempt to resolve the issue with the POA. In the event that any such issue is not being satisfactorily resolved, then the Government may call for a higher level meeting including both the Secretary of Health and a representative of the HSJF DPs, as well as the POA, at which all parties will endeavour to resolve the issue within the framework of the HSJF and CFOA.
- 22.7 Each quarter, the independently contracted Senior Fiduciary Risk Adviser (SFRA) will conduct an assessment of the operation of the HSJF, including the performance of the POA. This individual is separately contracted.

23 Quality Assurance and Surge Support

- 23.1 AECOM will be required to review and quality assure the work of the POA. This includes:
- Nomination of a senior Procurement Specialist from AECOM to provide ongoing quality assurance/oversight over the co-approval decisions being made by the POA;
- 23.2 A 6 monthly external review conducted by a senior staff/consultant from AECOM assessing work load; timeliness, co-approval decisions (sample basis); reporting; relationships, and technical assistance/capacity building provided by the POA.
- 23.3 In addition AECOM should also provide additional 'surge' capacity to support the POA if the workload increases to the point where it is more than one person can provide, and to provide cover when the POA is on leave.

24 Reporting

- 24.1 The POA will prepare and submit quarterly procurement reports, and annual procurement reports, to:
- the Director of Finance, MoH

- the HSJF DP's through DFID-M
- the DMS TWG and the FM&P TWG
- the CEO of CMST.

24.2 The reports will detail:

- the nature of each procurement undertaken or in progress
- the procurement method being used in each procurement
- the status of each procurement
- any issues requiring follow-up and the time taken by the POA and MoH to address the issues and to make amendments or recommendations
- details of both formal and informal training (desk-training) provided to identified staff at MoH procuring entities.

24.3 These reports will provide information on all procurements undertaken, issues for follow up and the period taken by the POA and MoH to address these issues. The reports will also include an annex summarizing the procurement log. The annual report will also include higher level outputs, including progress on external procurement audits.

24.4 A performance assessment framework to measure activities carried out by the POA is detailed in Annex K.

25 Financial Management

25.1 The POA will be required to maintain time sheets, record all expenditures incurred in the project activities and keep original copies for the record for the entire duration of the project.

25.2 An inventory of all assets procured under the project will be maintained by the POA. At the end of the project period, or once contracts have been completed, DFID Malawi will decide in consultation with key stakeholders agreed on how best to dispose of assets acquired with DFID funding.

26 Time Frame

26.1 The duration of the contract will be 12 months from 1st September 2016 to 31st August 2017, with a review after 6 months and 12 months to determine continuation or adaptation. There is the possibility for extension for another 12 months subject to review.

ANNEX B

Personnel Specification

Expert Technical Assistance Specifications

As detailed in Section 21 of the Terms of reference: Annex A

Based on the experience of the operation of the current POA, it is envisaged a full time individual based in the MoH is required to carry out the above scope of services.

Specifically a procurement specialist is required with the following skills and experience:

Formal relevant qualifications in public sector procurement;

At least 10 years senior level experience in planning, conducting and reviewing public sector procurements, preferably in the health sector and preferably in a developing country/high fiduciary risk context;

Experience identifying needs and delivering capacity building in public procurement.

Excellent communication and stakeholder engagement skills

Quality Assurance Personnel specifications

AECOM will be required to deploy senior procurement resources and project management support

ANNEX C
Not Used

ANNEX D
Schedule of Prices
REDACTED

ANNEX E
SAVINGS
REDACTED

ANNEX F
REDACTED

ANNEX G
Communication matrix
REDACTED

ANNEX H
REDACTED

ANNEX I
REDACTED

ANNEX J
the “Joint Declaration of Intent for the Health Services Joint Fund (JDI HSJF)”
REDACTED

ANNEX K
Performance Assessment Framework
REDACTED