

***Roads in the East of the Democratic
Republic of Congo Phase II:
Project Management***

Terms of reference

1. Introduction

1.1 DFID DRC approved in January 2012 a major new programme to build and maintain roads in eastern DRC (the 'Programme') which is set out in more detail in the DFID business case. The Programme was designed in support of the Government of DRC's (GoDRC) and the UN mission – MONUSCO's – stabilisation plan, phase I.

1.2 The original objectives of the programme were to provide development assistance for the build/upgrade of priority strategic roads, a sustainable maintenance system to safeguard them in the longer term, to generate employment that is equitably distributed, and to manage the environmental and social impacts of the roads. It was also intended that DFID DRC would also work with other donors, MONUSCO and GoDRC to leverage in other activities and interventions to ensure that the conditions were in place for the roads to lead to increased incomes and improved security for local people.

1.3 Wider developments, including the results of the feasibility studies delivered under the original TORs for this project management component, have led DFID DRC to roll back substantially on its ambitions under this programme. Two out of four of the programme's components are being shut – the component being delivered by UNOPS to rehabilitate the Burhale-Shabunda road in South Kivu, and the monitoring and evaluation component being delivered by DAI (now shut). It was decided, however, to progress with works in North Kivu, which remain a high priority for the Provincial Government and where there is political willingness to explore maintenance options. This decision has been taken over a protracted time period due to the overarching rationale for the programme remaining strong.

1.4 DFID DRC, therefore, requires the services of a Supplier ("the Services") to act as a Project Manager and Engineer to assist the GoDRC's North Kivu Provincial Government by advising, designing and procuring on behalf of the MATUHITPR contracts for the implementation of certain elements of the Programme and in particular the upgrading of a key road axe in North Kivu more particularly described in section 4 below (the 'Works'), their handover for maintenance to the Provincial Government and national roads fund, and the management of the direct and short-term environmental and social impacts of the roads.

1.5 DFID DRC has also retained a technical consultant to support both the GoDRC and the implementing partners, and to assess progress. The technical consultant will make quarterly visits to the project sites and the Supplier in North Kivu.

2. Objective

2.1 DFID's continued support to road rehabilitation in eastern DRC is intended to reduce income poverty and improve security in North Kivu. This impact will be delivered by catalysing economic activity and service provision through secure, all-weather, climate resilient roads.

3. Recipient

3.1 DFID is the contracting authority for the Services described in these terms of reference.

3.2 The Provincial Government of North Kivu – represented by the North Kivu Governor, and technically, by the Ministre Provincial de l'Administration du territoire, Ordre Public, Affaires coutumieres et Reconstruction – is the direct recipient of the Services and will be the 'Employer' in contracts procured by the Supplier on behalf of the Ministre Provincial de l'Administration du Territoire, Ordre Public, Affaires Coutumieres et Reconstruction as described above. DFID will consult the Provincial Government on key decisions and approvals in connection with the Services.

4. Scope

4.1 The Supplier will advise and assist the Provincial Government by procuring on their behalf, by competitive process if possible, local contracts for construction of the Works and their initial maintenance for the duration of the construction period, and to implement a Social and Environmental Management Plan ("SEMP") for the direct and short-term environmental and social impacts of the project. The Supplier will supervise and manage the contracts for the Works and the SEMP. The Supplier shall recommend conditions of contracts and specifications necessary and appropriate to the context and, to the extent feasible, design risk sharing mechanisms that incentivise cost-effective and quality delivery.

4.2 The scope of the Supplier's services includes but is not limited to the following:

- a. **Project manage** (i.e. design, prepare contract documentation, invite tenders, procure on behalf of the North Kivu Provincial Government supervise, quality assure and certify works and make payment on behalf of DFID) the building/upgrading¹ of one sustainably all-weather, climate resilient, sustainable, two-lane, road (totalling 56km) in Eastern DRC to be open to 32t, 4x2 traffic at an average speed of 40 kph. The total cost of the construction works is estimated at approximately £ 7.5m. This covers the prioritized works detailed out in the re-evaluation survey report between Sake to Massisi (56 km) in North Kivu.
- b. **Feasibility studies** shall be well reasoned, comprehensive but concise appraisals of all relevant issues giving recommendations for DFID. They shall include review of geographical, geotechnical, traffic, costs and benefits and include preliminary designs, cost estimates and programme.
- c. **Contract documents** shall be appropriate for the forms of procurement envisaged. They shall be based on standard

¹ Building structures and upgrading/rehabilitating of the road surface to the standard discussed with the Government and approved by DFID.

documents familiar to the local industry where possible, and include contract, specification, designs and bills of quantity.

- d. **Design:** The Supplier will design to DRC, Office des Routes and International Standards as appropriate. Drawings will be prepared by the Supplier. The resulting design documents will include (1) the level of investigation and type of specification and, (2) draft bidding documents including contract terms, and are to be agreed by DFID through a written submission, in advance of tender.

Detailed design prepared prior to construction will need to:

- Adequately address geotechnical, topographic and drainage issues and the like and set out how to take these into account².
 - Ensure all details are adequately described to, and agreed with, contractors prior to construction, including drawings of:
 - o General Arrangement
 - o Site Clearance
 - o Drainage Layout
 - o Earthworks
 - o Subgrade conditions
 - o Carriageway construction details
 - o Cross and Longitudinal Sections
 - o Standard construction details
 - Include bridge, drainage and retaining structure drawings at a minimum 1:50 scale including reinforcement details.
 - Highway contracts based on established standard contracts with detailed and comprehensive Specifications and Bills of Quantity. Contractors may prepare construction detail drawings, but should not carry out design.
 - Include consultation with local communities.
- e. The designs, drawings, specifications and tender documents are to take account of comments from GoDRC, DFID, and DFID's technical consultant, before the final payment is made for these components of the Services, provided the comments are received within reasonable deadlines to be set by the Supplier in agreement with DFID. Ensure that the programme adopts current best practice with respect to pro-poor, labour-based, environmentally friendly and participatory approaches. The Works contracts will be issued to small and medium enterprises (SMEs), non-governmental organisations (NGOs) or bureau d'études. The Works contracts shall adopt labour-based approaches when appropriate³. The Works contracts are likely to be small in size and short-term, e.g. for 5km to 10km sections of the road, starting at one end or both ends of the road; for bridges; or for particular hotspots such as quagmires. However this strategy may be reviewed and contracts let in larger packages, with DFID approval, should it be necessary to incentivise contractors and actually get works completed to the required standard. The Works contracts should start from points

² It is expected that most of the geometric design of the roads will be done by eye on site and that most survey data will be taken using GPS. Adequate geotechnical testing shall be undertaken.

³ Where it is assessed that it won't have a negative impact on the sustainability of the road.

where there is already good access. The Supplier is able to use flexible procurement procedures that are efficient and adapted to the situation of small labour based task forces, but which may not conform to conventional procurement procedures, for example giving contracts to local organisations at a fixed rate without competition on cost, but only based on reputation, experience, understanding of the local situation and accepting to participate in a training programme.

- f. Set appropriate targets for the employment of women and demobilised soldiers and participation by the poorest and most vulnerable households from the area of the intervention for each section of road, including, where feasible, piloting women-only work groups for certain phases of work. Where reasonably possible include in all Works contracts, and link certification of payments to, mechanisms and incentives to achieve targets on the employment of women and demobilised soldiers, and clauses including but not limited to awareness raising in communities of the opportunity for women to participate; employing a given number of women before commencing with the employment of men; training and employment of female supervisors; workforce safety and security; separate accommodation for women; provision of child care, water and fuel/firewood; frequency and type of remuneration to meet women's needs; targeted allocation of lighter tasks; prioritisation of local workforce, with a clear justification to be provided to, and verified by, the Supplier where this prioritisation is not possible; job rotation; flexible working; and use of piecework norms;
- g. Include strong communication and a high degree of public transparency in DRC's sensitive, post-conflict environment. The Supplier shall engage in a dialogue with local communities to understand, and manage their expectations with regards to the road, inform local communities about the works, their timing, potential labour opportunities and their potential direct environmental and social impacts and communicate with all beneficiaries and project stakeholders through the period of the Programme through an extensive consultation and communications strategy. The Supplier shall develop a risk management strategy to manage risks to successful achievement of the project objectives and conflict risks, as identified in the DFID business case, resulting from the road.
- h. Project manage the maintenance of each section of road to keep the section open and passable substantially all weather at 40 kph until construction of the whole section is complete, at which point arrange and oversee the handing over to the Provincial Government and national roads fund. Maintenance whilst works are still ongoing should be undertaken in a way that considers and understands how the Government will maintain the road once handed over and should exploit opportunities to build capacity to support longer-term sustainability of road maintenance. The inception plan that will be updated and agreed with DFID in the first 6 weeks of the Services will set out the deadlines for completion of

the Works, and the way in which sections are to be handed over to the Provincial Government within the contract period.

- i. In order to deliver points (a) and (h) above, refresh tender assessments including an assessment of successful bidders to determine their capacity to complete the works to the required standard, and ensure the management of the short-term maintenance of the roads in line with the wider Government approach to road maintenance, where appropriate.
- j. Procure on behalf of the Provincial Government and project manage a contract for the implementation of a SEMP to manage the direct and short-term environmental and social impacts of the roads. The Environmental and Social Impact Assessments and draft SEMPs are attached at Annex B. The Supplier shall finalise and agree with DFID the direct and short-term elements of the SEMP based upon the experience of the first phase of Roads in the East and the experience of the Monitoring and Evaluation Service Provider, implemented by DAI under this programme. Short term and direct impacts include, but are not limited to, the impacts of the Works (such as pollution and HIV/AIDS), management of quarries and borrow pits, mitigation of deforestation as a direct result of road building, workers' health and safety, the engineering elements of road safety, and inclusion of poor and vulnerable groups in employment on the road works.
- k. Set up and support a project steering committee to include all key stakeholders to the project to ensure maximum transparency and to strengthen Provincial Government ownership.
- l. Collect and report data in line with a results framework to be agreed with DFID, including on: kilometres built/upgraded and other aspects of road construction works done; road maintenance; progress in design and implementation of the SEMPs; volume of employment generated; % of demobilised ex-combatants in the work force; % of women in the work force; % of the workforce that lives within 10 km of the worksite; value of resources paid for employment; and daily pay rates; road usage. Data on employment must be broken down as far as possible by gender, by type of worker and location/road.

4.3 The Supplier will propose in its inception plan the plant, labour, material and consumables unit costs for all the Works that are to be delivered over the course of the Services and the proportion of the Programme cost that each accounts for, and monitor these costs throughout the life of the Programme. The items concerned are to be agreed with DFID during the inception phase.

4.4 The Works are expected to be delivered within a cost per km limit to be agreed in the inception plan. The Supplier is to monitor these costs throughout the programme and if they at any point appear likely to exceed this agreed limit, the Supplier is to notify DFID at the earliest opportunity, and seek DFID approval before incurring any excess in budget or spend. DFID may require the Supplier to carry out economic analysis in justification of proposed unit costs in excess of an \$800,000 per kilometre threshold.

4.5 The Supplier will be required to interface and coordinate its activities with all other relevant agencies relating to this roads programme, including those specifically undertaking rehabilitation activities on the road axes covered by these TORs. DFID must be notified immediately of any impact that activities of others will have on project implementation, and, the supplier's proposed contingency plan.

4.6 The Supplier shall make detailed records of all key decisions and in any event in relation to evaluation of tenders for works contracts and any concerns or challenges made by third parties. The Supplier shall be subject to audit by DFID or its authorised agents to ensure procurement practice is conducted in accordance with best principles of openness, non-discrimination and equal treatment including the publication in appropriate media of opportunities to tender for contracts.

4.7 The Supplier shall establish an appropriate management structure and office/sub-office location, including materials testing/laboratory facilities, allowing convenient coverage of the project area. The Supplier will be responsible for establishing and maintaining these facilities.

4.8 The Supplier will employ sufficient technical, financial, environmental, social and other support staff and other resources to satisfy these terms of reference. The various schedules of inputs and expenses submitted in support of its accepted original and revised proposals will not be admissible in justification of any non-compliance with these Terms of Reference or request for additional compensation beyond the milestone payments specified in the Contract. No part of the Services shall be sub-contracted except as set out in the Supplier's proposals or as otherwise agreed by DFID.

- 4.9 During the construction supervision phase, the Supplier shall:
- a. Work cooperatively with contractors to secure quality of work and their capacity building.
 - b. Present a quality management plan for approval by DFID of its supervision of site works.
 - c. Prepare a programme and check list of its activities as set out in its strategy reports.
 - d. Verify quality and quantities of contractors' work. It should be understood to allow for verifying thickness of gravel placed by contractors by adding to the specification spreading a thin layer of coloured dust/silt on the prepared subgrade, and verifying volumes of material supplied by counting trucks.
 - e. Retain for inspection by DFID its records of supervision, including site visits, approvals of work, and test results.
 - f. Obtain record photographs for inspection by DFID of the works before start, at relevant stages and on completion, every 100m on roads and each structure. The photographs shall include name of road, location, kilometre, direction, date, GPS coordinate. Photographs shall be electronically filed and indexed with the same information for ease of retrieval.

- g. Take every opportunity to lobby the authorities on the need for effective and well resourced security and maintenance arrangements at every level. Heightened risk in these areas that severely threaten work plans and costs should be raised with DFID.

5. Outputs

5.1 The required outputs will include, but may not be limited to:

- a. An updated inception plan taking account of the changes to the scope of roads construction, to be approved by DFID within 6 weeks of the date of the contract extension and before final contracts are awarded, which includes but is not limited to the following:
 - agreed outcomes identified;
 - Updated output-based work plan for the Services, including proposed supervision visits from team members based outside the DRC;
 - Refreshed feasibility studies and updated survey spreadsheet identifying all structural issues and risks on the Sake-Masisi road, their PK and GPS coordinates, the options available for addressing those structural issues including their costs, and the extent to which the recommended Works will / will not address those issues/risks⁴.
 - Review of quarry options and sources of materials and the extent to which these are sufficient to address the historical structural issues on the road, and any proposals for addressing weaknesses (including adjustment of road materials specification).
 - Revised cost breakdown;
 - Quality management plan;
 - Updated (where appropriate) mechanisms for ensuring health and safety standards, labour rights standards and fraud prevention;
 - Mechanism and approach for fund management;
 - Results from refreshed tender assessments including the results of a due diligence exercise on proposed contractors, next steps for addressing any outstanding issues, and methodology of due diligence;
 - Stakeholder engagement plan;
 - Identified mechanism to ensure project and construction accountability with key stakeholders, including DFID.
 - Results framework containing specific and measurable indicators and targets to allow monitoring of works progress, implementation of the SEMP, delivery against employment targets and project outcomes.
- b. SEMP updated and submitted to DFID for approval as part of milestone XX (first quarterly report of construction phase), and implemented over the contract period according to the agreed output-based workplan.

⁴ The survey should delineate (PK to PK) hotspots to be treated, drainage works (culverts, ditches), retaining wall and slope stabilisation works.

- c. Updated strategy within the first six weeks of the date of the contract extension for proactive management of targets on women's and demobilised soldier's employment;
- d. Feasibility studies (field surveys and geotechnical, hydrological and other investigations, and designs, drawings and specifications to the standards detailed in 4.2(b) above) prepared for the project road constituting the Works and the three other roads for which studies and designs are to be prepared.⁵
- e. Tender documents and designs prepared for the project road constituting the Works to the standards detailed in 4.2(c) above. The documents shall include provisions that are usually adopted in DRC to provide as much protection as reasonably possible to the Employer, for example by the deemed transfer of ownership of plant and material used or intended for the Works to the Employer. The Supplier will require written agreement from DFID for the procurement process proposed for adoption. Any audit (see paragraph 4.6) will be conducted taking into account the specific nature of the agreed procurement procedures.
- f. Contracts for the Works and the SEMP awarded, supervised and administered, including the issuing of payment certificates in the case of the Works and disbursement of payments on behalf of DFID. These payments are for reimbursement monthly in arrears by DFID. All payment certificates and invoices should be copied to DFID before payment and will be subject to periodic *ex post* review. Quarterly monitoring and evaluation, environmental and social management, unit costs, maintenance and risk management reports (as set out in section 8 below).

6. Constraints and dependencies

6.1 Timing: The Services will start on 29 October 2012 and end on 31 July 2017. There is the possibility of an extension of up to 12 months dependant on necessity and performance.

6.2 DFID shall be entitled to terminate the contract for the Services on the expiry of 90 days following 29 October 2012, at other key stages defined in the inception plan, following an annual review, or at any other time if it concludes that the supplier's performance is not satisfactory, that the objectives of the Programme will not be achieved or it is no longer economically viable.

6.3 Security: The services to be provided by the Supplier will involve visiting areas emerging from conflict which represent a significant security

⁵ This has been left for historical reference, however, the feasibility studies for these roads have been delivered and signed off.

risk. DFID will provide the Supplier with the same security information that is available to DFID staff located in, or visiting, insecure locations. The Supplier shall take all reasonable steps to ensure the security of its personnel. The Supplier shall be responsible for the provision of suitable security arrangements for its domestic and business property.

6.4 Dependencies: The Supplier shall involve the Provincial Government, and other key stakeholders to be identified in the updated inception report in the planning and monitoring of the Works and SEMP.

6.5 The Supplier shall work closely with DFID's technical consultant and shall share with him all requested and appropriate information within timeframes set to allow him to complete his work within the framework of his own agreement with DFID. Any concern over the nature of a request for information should be raised immediately with DFID who will determine appropriateness.

6.6 The Supplier shall build relationships with key partners, so as not to add transactions costs for government and community partners.

6.7 The Supplier shall engage the beneficiaries of the Programme at the community, territorial and provincial levels, through community, territorial and provincial authorities, NGOs and religious organisations.

6.8 Duty of Care: The Supplier is responsible for the safety and well-being of its Personnel (as defined in Section 2 of the Framework Agreement) and third parties affected by its activities under the Contract, including appropriate security arrangements.

7. Implementation requirements

7.1 The Supplier will be paid for the Services on the basis of satisfactory performance of the outputs in section 5. The output-based milestone payment schedule will be agreed in the inception plan, subject to subsequent revision, but is expected to include items such as designs complete, construction contract packages awarded and SEMP implementation commenced.

8. Reporting

8.1 DFID DRC will undertake reviews from time to time, in particular annual reviews and a project completion review of the Programme. The Supplier will be responsible for preparing reports prior to and facilitating these reviews and any related studies.

8.2 The Supplier shall provide DFID with quarterly progress reports by the 15th of the month following the end of each quarter. All reports will clearly describe progress on the Works, SEMP, and maintenance, updated costs (including the monitoring of unit costs) and time projections and progress against the relevant results framework indicators. The form of reporting shall be approved by DFID and include, for each section of work and each quarter,

planned start date, actual start date, a summary of achieved in the quarter, reasons for delays, comments on any difficulties, work planned in the next quarter and representation of progress in bar chart form, percentage complete, or number complete/number planned. The first report shall be submitted for the period ending on 28th February 2013.

8.3 The Supplier shall actively monitor, and where possible, manage risks to project implementation and the achievement of outputs and purpose as set out in the Roads in the East risk matrix in the DFID Business Case. DFID must be notified immediately of any significant changes in the risk situation the impact that it will have on project implementation, and, where appropriate the supplier's proposed contingency plan. Annual reviews will include a review of Programme risks.

9. DFID co-ordination

9.1 The Supplier will report to the Senior Responsible Officer for the Roads in the East programme, and to the Programme Manager within DFID DRC.

DFID – April 2016.