

Section 3

Terms of Reference for DFID Nigeria's Facility for Oil Sector Transparency and Reform 2 (FOSTER 2)

Introduction

1. The Department for International Development's (DFID) mission is to help eradicate poverty in the world's poorest countries. In Nigeria, DFID is currently supporting 44 active projects with a total project budget for 2015/16 of £239 million. Although this is one of DFID's larger country programmes, the resources available are relatively small compared to Nigeria's needs. Nigeria has a quarter of Africa's extreme poor, with about 60 million of a population of 158 million living in poverty. To maximise its impact, DFID needs to use its funds to leverage broader improvements in the quality of governance and public sector management in Nigeria. The objective stated in DFID Nigeria's Operational Plan is to help the Nigerian federal and state governments to use their resources more effectively to reduce poverty.
2. In support of DFID Nigeria's Operational Plan and as the second of three new anti-corruption programmes, DFID Nigeria has developed a business case for a successor programme to its Facility for Oil and Gas Sector Transparency and Reform (FOSTER). The new programme, FOSTER 2, will partner with groups across the oil and gas sector to strengthen how Nigeria's key extractive sector is managed, help Nigeria prevent revenue losses, and minimise negative impact of the industry on local communities. This programme will need to be catalytic in creating and maintaining the drive for reform. This will involve partnering with a range of stakeholders including those working to reform the sector within the Nigerian government, the national oil company, the private sector, and non-government organisations pushing for reform. Often the issues involved will be highly sensitive.

Objective

3. The overarching objectives of hiring a service provider for the programme are:
 - i. To deepen the design of the proposed Facility for Oil and Gas Transparency and Reform (FOSTER 2) by building on the existing approach, methodology and results framework outlined in the Business Case.
 - ii. Deliver the programme results while ensuring maximum value for money using management systems that ensure strong financial controls over the use of DFID resources, rigorous monitoring and evaluation, and active lesson learning, adaptation and innovation.
 - iii. To work in support of wider UK Government influencing on Nigeria's anti-corruption approach and long-term economic development, by working closely with other DFID Nigeria anti-corruption and economic growth programmes and supporting relevant UK government agencies as required.

Recipient

4. There will be three main categories of recipients:
 - I. Those in the Nigerian Government who are committed to improving the governance of extractive industries;
 - II. Non-Government groups and individuals pushing Nigeria's extractive industries towards reform
 - III. Nigerian citizens and communities (particularly those in areas affected by extractive industries).

Scope

5. The impact that this programme will be expected to contribute towards is '*More effective use of Nigeria's extractive industries to support its national development*'. This is a key thrust of DFID Nigeria's long-term approach to graduating UK aid away from Nigeria. But understandably, this requires comprehensive reform of the governance of both the oil and gas sector and Nigeria's public service. Hence the FOSTER 2 programme, with its focus on oil and gas sector reform sits within an enhanced suite of anti-corruption programming within DFID Nigeria that will also push for stronger public financial management systems and safeguards¹, and a new programme to tackle corruption directly through enforcement and changing social attitudes². The service provider will be expected to cooperate and link with these other programmes in order to deliver its overall impact.
6. The outcome from the programme is expected to be *enhanced management of Nigeria's extractive industries*. This is defined over three key areas:
 - (i) Prevent losses of extractive industry revenues.
 - (ii) Strengthen management, transparency and accountability of extractive industries.
 - (iii) Improve policy outcomes for local communities affected by extractive industries.
7. DFID Ministers have approved the enhanced ambition scenario, which will target the following high level results:

Outcome-level results ambition over 5 years	
Result Area	Enhanced Ambition
Contribute towards additional revenues safeguarded for Nigeria's national development as a result of FOSTER 2 interventions	At least £1 billion
Number of key areas of natural resource management seeing improvement beyond baseline	6 out of 12 precepts of the Natural Resource Charter

¹ See Business Case: Nigeria Public Sector Accountability and Governance Programme,

² Forthcoming- currently under design by DFID Nigeria.

Requirements

8. The service provider would manage three outputs which should be able to deliver a portfolio of interventions:
 - **Output 1: Create widespread understanding of Nigeria's extractive industry issues.** The service provider would be expected to commission relevant research and evidence that highlights key areas of extractive industries that need reform and to go further still, to make sure this research is well communicated to the target groups.
 - **Output 2: Provide strengthened capability to those committed to reform.** The service provider would be expected to source and manage timely technical assistance (both long and short-term as appropriate) as part of a broader strategy on reform in order to help the Nigerian government implement reforms to the sector and strengthen key institutions.
 - **Output 3: Empower those demanding reform.** Here the service provider would be expected to help strengthen the voice of those demanding reform in ways that help to deliver reform momentum from government.
9. **Each output will have a managed fund for which there are indicative sizes set-out below³.** The managed fund will allow the service provider to flexibly source appropriate technical assistance, or provide grants for the purposes of research or advocacy. Often these grants may need to be complemented with technical assistance or the outputs strategically coordinated by the programme team. The service provider will be expected to shape an in-country team that can successfully manage these funds in a way to achieve the required results and maximise value for money and impact. Service providers should propose the composition of a dynamic and lean in-country team that can deliver on these terms of reference.
10. **The success of the programme depends on how the team implementing the programme understand the politics of the sector within Nigeria and strategically design their interventions across the three outputs.** This requires knowing when to partner with government and when to focus on building pressure for reform. Or knowing when to bring in international expertise and when to use local experts. The successful team will be able to demonstrate a proven capability at being able to think and work politically in implementing their development programming.
11. **The service provider will be expected to draw on oil industry expertise to support reform initiatives and should be able to propose cost-effective strategies for doing so.** The team proposed to manage the three funds must give DFID the confidence that it can deliver robust management of the funds in a way that delivers the key results for the programme at the best possible value for money for DFID.

³ The final distribution of the funds across the three outputs will be agreed with DFID at the end of the inception period based on the reform environment and areas of potential programmatic traction.

Performance Requirements

12. **Suppliers are encouraged to propose suitable models of performance based contracting which incentivise achievement of high-level results**, but these should be proportionate and protect the ability for the programme to be adaptive and responsive to unforeseen opportunities for sector reform.

Constraints and dependencies

13. The predecessor to FOSTER 2 is currently being implemented and is anticipated to run until June 30, 2016. FOSTER 2, is expected to commence immediately afterwards. For seamless transition between the two, FOSTER 2 should start not later than 1 July 2016, with the in-country team mobilised to immediately take up existing activities from its predecessor.
14. FOSTER 2 will work with other DFID anti-corruption projects and periodically share lessons with other programmes within the DFID Nigeria portfolio. DFID will also expect the supplier to flexibly respond to DFID requests such as policy briefs as may be required – this will most likely not be more than once a quarter.
15. The service provider will be required to cooperate with other DFID extractive programmes in Nigeria. This currently includes the Natural Resource Governance Initiative who receive central DFID funding and have a small team based in Nigeria and a new multiple country data transparency programme called USEDATA who will likely have one person based in Nigeria on a part-time basis. Cooperation will include sharing workplans and negotiating appropriate divisions of labour (in consultation with DFID lead advisers). It will also include sharing relevant analysis where appropriate and in discussions with the lead DFID adviser. Synergies should be explored such as opportunities for sharing office space with USEDATA (although duty of care for staff and information management should always remain with the service provider that has contracted the work/ staff).

Implementation requirements

16. After the award of contract, the supplier is expected to mobilise an in-country team to begin inception phase of the programme. At this time, the supplier would refine its methodology and approach in delivering the programme; put in place management arrangements, risk mitigation strategy, establish partnerships and develop a communication strategy of the programme.
17. At the end of this inception period which will be for three months July - September 2016, an inception report and an annual implementation plan will be produce. Based on the report, an assessment of the supplier's performance will be made. Any changes to the original approach and methodology, proposed in the technical proposal will be reviewed at this stage. If material, an amendment of the contract can be made at this stage to capture the changes proposed.

Reporting

18. The service provider will be required to provide the following reports:

- **An inception work plan** to be submitted by DFID after three weeks in country. The work plan will be sent to the DFID lead adviser for his/her approval.
- **Inception Report and completed Logframe.** The service provider will submit an inception report covering the areas identified in para 13 along with an annual workplan of activities. This report would also include relevant content for a DFID annual review along with a completed logframe in the specified DFID format. The logframe will factor in results identified within the business case and include more detail on various in year milestones and targets. Both inception report and completed logframe will be sent to the DFID lead adviser for approval.
- **Annual Reports** – after the inception report (which will serve as an annual report in 2016) the service provider will be expected to provide an annual report covering all the information requirements for a DFID annual review before the end of November every year until the project completion.
- **Quarterly progress and financial reports** showing progress against the logframe, key activities completed, budget expenditure, relevant changes in the politics of Nigeria's extractive industries and the implications for programming, and ongoing monitoring of key value for money, gender, conflict and climate change measures.
- **Accurate monthly invoices and revised annual expenditure forecasts** by the second week of the succeeding month upon which payment will be made to reimburse expenditure incurred in arrears. The programme will provide DFID with revised annual expenditure forecasts, keeping within pre-agreed variance levels.
- **Annual Audited Statement (AAS)** of its operations, showing how DFID funds have been utilised annually, through the life of the programme. DFID may also commission an external, independent audit of the programme, to ascertain financial controls in place and ensure that development funds are used for intended purposes.
- **Regularly updated asset register of all programme assets** and report promptly any case of missing or damaged programme assets.
- **Provide evidence on results, analyse lessons learned**, and explain how the programme has been adapted in the light of evidence on its effectiveness and the changing political economy context.

Transparency

19. DFID has transformed its approach to transparency, reshaping our own working practices and pressuring others across the world to do the same. DFID requires Suppliers receiving and managing funds, to release open data on how this money

is spent, in a common, standard, re-usable format and to require this level of information from immediate sub-contractors, sub-agencies and partners.

20. It is a contractual requirement for all Suppliers to comply with this, and to ensure they have the appropriate tools to enable routine financial reporting, publishing of accurate data and providing evidence of this DFID – further IATI information is available from;

<http://www.aidtransparency.net/>

Time frame

21. The programme is a 5 year programme beginning from 1 July 2016 to the end of 30 June 2021. However DFID reserves the right to alter or terminate the programme, in consultation with the supplier.
22. Results for each year is assessed at the end of the programme year (November of each year from 2016), through an annual review process to ascertain whether this was achieved. Programme output is aggregated from activities carried out and at the end of the year, will form the basis upon which programme delivery is judged against set targets.
23. There will be a break-point in the contract one year after the contract has been signed to determine whether the Service Provider has met DFID expectations around performance and whether the service provider will continue for the remaining years of the programme.

DFID co-ordination

24. The programme will liaise with the DFID Nigeria appointed Senior Responsible Owner (SRO) and/ or lead adviser and programme officer.

Duty of Care

25. The Supplier is responsible for the safety and well-being of their Personnel (as defined in Section 2 of the Contract) and Third Parties affected by their activities under this contract, including appropriate security arrangements. They will also be responsible for the provision of suitable security arrangements for their domestic and business property.
26. DFID will share available information with the Supplier on security status and developments in-country where appropriate. DFID will provide the following:
 - All Supplier Personnel will be offered a security briefing by the British Embassy/DFID on arrival. All such Personnel must register with their respective Embassies to ensure that they are included in emergency procedures.
 - A copy of the DFID visitor notes (and a further copy each time these are updated), which the Supplier may use to brief their Personnel on arrival.

27. The Supplier should confirm a named person to be responsible for being in contact with DFID Nigeria to ensure information updates are obtained.
28. The Supplier is responsible for ensuring appropriate safety and security briefings for all of their Personnel working under this contract and ensuring that their Personnel register and receive briefing as outlined above. Travel advice is also available on the FCO website and the Supplier must ensure they (and their Personnel) are up to date with the latest position.
29. Tenderers must develop their Tender on the basis of being fully responsible for Duty of Care in line with the details provided above and the initial risk assessment matrix developed by DFID (see Annex A of this ToR). They must confirm in their Tender that:
- They fully accept responsibility for Security and Duty of Care.
 - They understand the potential risks and have the knowledge and experience to develop an effective risk plan.
 - They have the capability to manage their Duty of Care responsibilities throughout the life of the contract.
30. If you are unwilling or unable to accept responsibility for Security and Duty of Care as detailed above, your Tender will be viewed as non-compliant and excluded from further evaluation.
31. Acceptance of responsibility must be supported with evidence of capability and DFID reserves the right to clarify any aspect of this evidence. In providing evidence Tenderers should consider the following questions:
- IV. Have you completed an initial assessment of potential risks that demonstrates your knowledge and understanding, and are you satisfied that you understand the risk management implications (not solely relying on information provided by DFID)?
 - V. Have you prepared an outline plan that you consider appropriate to manage these risks at this stage (or will you do so if you are awarded the contract) and are you confident/comfortable that you can implement this effectively?
 - VI. Have you ensured or will you ensure that your staff are appropriately trained (including specialist training where required) before they are deployed and will you ensure that on-going training is provided where necessary?
 - VII. Have you an appropriate mechanism in place to monitor risk on a live / on-going basis (or will you put one in place if you are awarded the contract)?
 - VIII. Have you ensured or will you ensure that your staff are provided with and have access to suitable equipment and will you ensure that this is reviewed and provided on an on-going basis?
 - IX. Have you appropriate systems in place to manage an emergency / incident if one arises?

Background for FOSTER 2

Background on the programme is contained within the Business Case for FOSTER 2. Below is suggested background information to assist in preparing bids.

Required background reading:

1. Business Case for FOSTER 2.
2. 'The spoils of oil: Working politically on extractives in Nigeria' G4ED, DFID
3. Politically Smart, Locally Led Development
<http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9158.pdf>

Recommended background reading and materials:

4. FOSTER 1 Annual Reviews (2011,2012,2013,2014) available on DFID development tracker <http://devtracker.dfid.gov.uk/>
5. Inside NNPC Oil Sales: A case for reform in Nigeria – Natural Resource Governance Institute (NRGI)
<http://www.resourcegovernance.org/publications/inside-nnpc-oil-sales>
6. Nigeria Natural Resource Charter Group (including recent scoring)
<http://nigerianrc.org/>
7. Gas Flare Tracker (developed under FOSTER 1)
<http://gasflaretracker.ng/>
8. Oil Spills Monitor Platform (developed under FOSTER 1)
<https://oilspillmonitor.ng/>
9. 'Criminal Crude': Chatham House
http://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/0913pr_nigeriaoil.pdf
10. 'Communities not criminals' – Illegal Oil Refining in the Niger-Delta Stakeholder Democracy Network
<http://www.stakeholderdemocracy.org/sdn-report-communities-not-criminals-illegal-oil-refining-in-the-niger-delta/>
11. A Citizen's Guide to Energy Subsidies in Nigeria
http://www.iisd.org/gsi/sites/default/files/ffs_nigeria_czguide.pdf
12. Nigeria bank governor alleges oil subsidy racket
<http://www.ft.com/cms/s/0/6c4aea72-93cd-11e3-a0e1-00144feab7de.html#axzz3l8uqOK79>
13. 'Safe Sex in Nigeria' Economist Article on Malabu oil deal

<http://www.economist.com/news/business/21579469-court-documents-shed-light-manoeuvrings-shell-and-eni-win-huge-nigerian-oil-block/>

14. Meet Global Corruption's Hidden players: Charmian Gooch TED lecture
http://www.ted.com/talks/charmian_gooch_meet_global_corruption_s_hidden_players

Additional Background

15. Petroleum Revenue Special Task Force (PRSTF) Nigeria.

<http://saharareporters.com/sites/default/files/ribadu-report.pdf>

16. Farouk Lawan Report on the Fuel Subsidy

<http://uk.reuters.com/article/2012/01/19/nigeria-fuel-scam-idUKL6E8CJ1XQ20120119>

http://www.africa-confidential.com/special-report/id/27/HOUSE_OF_REPRESENTATIVES_Report_of_the_Ad_Hoc_Committee

17. PWC Forensic Audit of NNPC

<http://saharareporters.com/2015/04/27/download-full-pwc-audit-report-nnpc-here>