

**E-SIGN**This Document has been Signed with a **secure electronic signature** via E-sign.

Document Details

Title PO 7641 Nepa Recons ruc on FINAL Con rac A Cra g 8917

Author N co a McDona d (n co a-mcdona d@df d.gov.uk)

Document Created on Tue, 12 Sep 2017 10:27:53

Digital Fingerprint khUxMWd5wAvkpRjO-qwQ4CETk hskg

Document Signers

 Scan/Click the QR Code to view signature information

Name Nicola McDonald

Email n co a-mcdona d@df d.gov.uk

Company Name Depar men for In erna ona Deve opmen

Job Title Procurement and Commercial Manager

Contact Number 01355 843824

Status **SIGNED** at Tue, 12 Sep 2017 17:40:29

Signature Fingerprint 3gJo4s54rFbOODhwhfETYZhfmDRPG A



Name Chris Brown

Email chr s.brown@mo mac.com

Status **SIGNED** at Tue, 12 Sep 2017 17:35:15

Signature Fingerprint u 7n XVz75WeVI-hc3qRpDbeTsR6Q



Document History

Tue, 12 Sep 2017 17:40:30 The Document was Signed by **All Parties**

Tue, 12 Sep 2017 17:40:30 **Nicola McDonald** Signed the Document



Tue, 12 Sep 2017 17:36:54	Ema No fca on sen o Nicola McDonald
Tue, 12 Sep 2017 17:35:16	Chris Brown Sgned he Documen
Tue, 12 Sep 2017 10:27:53	Ema No fca on sen o Chris Brown
Tue, 12 Sep 2017 10:27:53	Nicola McDonald Crea ed he Documen





CONTRACT FOR SUPPLIER SERVICES

Section 1 - FORM OF CONTRACT

CONTRACT FOR : **Support to Post Earthquake Reconstruction in Nepal**
PURCHASE ORDER NUMBER : **PO 7641**

THIS CONTRACT is made

BETWEEN : The Secretary of State for International Development at the Department for International Development, Abercrombie House, Eaglesham Road, East Kilbride, G75 8EA ("DFID");

AND : Mott MacDonald ("Supplier")
whose registered office is situate at 22 Station Road, Cambridge, CB1 2JD

(together "the Parties").

WHEREAS:

- A.** DFID requires the Supplier to provide the services as defined in Section 3 (the "Services") to DFID (the "Recipient"); and
- B.** the Supplier has agreed to provide the Services on the terms and conditions set out in this Contract.

IT IS HEREBY AGREED as follows:

1. Documents

This Contract shall be comprised of the following documents:

Section 1	Form of Contract
Section 2	General Conditions
Section 3	Terms of Reference
Section 4	Special Conditions
Section 5	Schedule of Prices

This Contract constitutes the entire agreement between the Parties in respect of the Suppliers obligations and supersedes all previous communications between the Parties, other than as expressly provided for in Section 3 and/or Section 4.

2. Contract Signature

If the Original Form of Contract is not returned to the Contract Officer (as identified in Section 4) duly completed (including the applicable Purchase Order Number at the top of Section 1), and 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 Contract void.

No payment will be made to the Supplier under this Contract until a copy of the Form of Contract, signed on behalf of the Supplier, is returned to the Contract Officer.



3. Commencement and Duration of the Services

The Supplier shall start the Services on 11th September 2017(the "Start Date") and shall complete them by 10th September 2022 (the "End Date"), with an option to extend for up to a further two years, unless this Contract is terminated earlier in accordance with its terms and conditions.

4. Financial Limit

Payments under this Contract shall not, in any circumstances, exceed £39,999,965 exclusive of any government tax, if applicable (the "Financial Limit").

5. Time of the Essence

Time shall be of the essence as regards the performance by the Supplier of its obligations under this Contract.

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

Name:

Position:

Signature:

Date:

For and on behalf of
Mott MacDonald Ltd.

Name:

Position:

Signature:

Date:

Section 3

TERMS OF REFERENCE

Delivering UK Support to Post Earthquake Reconstruction in Nepal

1. Introduction

- 1.1 Following two devastating earthquakes in Nepal in 2015 the UK Government plans to support the Government and people of Nepal in the reconstruction effort. The UK will provide up to £63 million over 6 years (2016 – 2022) to meet reconstruction needs (“building back”) and also ensure that the poorest are not left behind, that there is a transformative impact for women and girls, and that the reconstruction effort leads to long-term positive change (“building back better”).
- 1.2 As part of this, DFID has developed a new business case “Post Earthquake Reconstruction in Nepal” which has been approved by the UK Secretary of State for International Development. This programme follows from extensive UK support from the UK on Humanitarian and Early Recovery programmes in Nepal.
- 1.3 In May 2016 the Government of Nepal published a Post Disaster Recovery Framework (PDRF) which outlines the legislative and institutional framework for earthquake reconstruction
- 1.4 DFID wishes to seek the services of a supplier (the “Supplier”) to implement the major component of the UK supported post-earthquake reconstruction programme. The full scope is described below and includes ongoing planning support for reconstruction needs, design, supervision and delivery of community infrastructure in earthquake affected districts, a component on addressing the barriers to private sector development, running a challenge fund to ensure the poor and most vulnerable are not left behind, and associated evaluation and learning activities.
- 1.5 For information, components of the overall programme which are outside of the scope of these TORs include: initial support to reconstruction planning, some early quick-win interventions predominantly in the WASH sector, and programme related costs associated with the DFID team. We have engaged UNOPS to resource a small DFID Field Office to provide monitoring and liaison services.
- 1.6 DFID is looking for a reconstruction delivery partner who is able to efficiently deliver the package of support here outlined. This will require a team which is demonstrably fit for purpose, who is equipped to deal with known needs and able to quickly respond to new needs; a supplier with the expertise and competence to operate in the politically complex context of Nepal; a Supplier that will build on and coordinate well with work undertaken by DFID and other development partners; a Supplier that is able to demonstrate value for money for DFID; a Supplier that understands and aligns the work to DFID’s objectives; and a Supplier that, all other things being equal, maximises the amount spent delivering results and minimises management costs – noting that all management related charges have an opportunity cost affecting the scope of how much reconstruction can be achieved under this programme.
- 1.7 This Terms of Reference (ToR) document should be read alongside the Nepal Earthquake Reconstruction Business Case, released as an Additional Document.

2. Recipients

- 2.1 The Reconstruction Delivery Partner will provide targeted support to the Government and people of Nepal (including parts of central government, District and local government) and additional entities such as sector associations, civil society organisations, businesses and others. The intended primary beneficiaries of the programme will be earthquake affected households in Nepal.
- 2.2 The primary points of contact for the Supplier will be: 1. At the National level, the National Reconstruction Authority, in particular the NRA executive member with the responsibility for community infrastructure, but also relevant line ministries and departments. 2. At the district level, the most senior official responsible for reconstruction. In many districts it is expected that this is the Local Development Officer, as chair of the District Development Committee. The supplier is required to have a flexible approach, as local government structures are expected to change over the course of the programme, particularly as relates to the role-out of federalism in Nepal as outlined in the 2015 constitution.

3. Scope of work

- 3.1 The intended impact of the overall programme is: long-term positive change in the lives of people in earthquake affected regions of Nepal. The intended outcome is effective, sustainable and timely recovery in affected communities. The Supplier, the Reconstruction Delivery Partner, will deliver this through detailed design, management and timely delivery of outputs under the following six pillars:

1. Support Government in detailed year-wise reconstruction planning.
2. Direct physical reconstruction, including subcontracting and supervision, of agreed priority earthquake reconstruction interventions.
3. Analysis of, and interventions to address, constraints to the private sector.
4. Designing and managing a challenge fund to leave no-one behind.
5. Coordination and capacity building.
6. Evaluation and learning.

The Supplier will be able to work across all of these pillars in a way that ensures the overall effectiveness of UK support to earthquake reconstruction in Nepal.

- 3.2 Suppliers should note the following principles, which apply across the programme:
- Alignment with the Government of Nepal's Post Disaster Recovery Framework.
 - High ambition
 - Focus on inclusion and poverty reduction
 - Flexibility
 - Strong approach to risk management
 - Coherence with existing UK activities
 - Support to effective coordination with other development partner funded activities.
 - Political intelligence and an ability to understand, continuously re-assess and respond to a dynamic political economy at local and national levels.
 - Smart programme management and delivery of value for money
 - A focus on women and girls.
 - Conflict sensitivity
 - Environmental sustainability
 - Innovation
 - Developing local capacity

- Robust approach demonstrated on Value for Money
- Robust Due Diligence of all downstream partners

3.3 The requirement under this programme is as follows (by output):

Output area 1 – Technical Advisory support to the Government of Nepal (central and local) to improve the planning and delivery processes for reconstruction and ensure effective coordination

3.4 As the contract under these TORs may not conclude its inception phase until mid-2017 the DFID Nepal Reconstruction Team envisages engaging an initial short term (one year tentatively starting in August 2016) technical assistance (TA) partner to support district governments in developing five-year reconstruction strategies. Any outputs from the short-term technical assistance, once published, will be available on the procurement portal for these TORs. Specific tasks for Supplier will be to take over from the short term TA partner¹ and to partner with district and central government on reconstruction planning. This will involve amending the 5 year strategic reconstruction plans, as appropriate, and developing detailed reconstruction plans for each year. This component will need to be flexible to be able to react to changes in the structure of local government in Nepal over the contract period, if arrangements proposed under the 2015 constitution are implemented.

3.5 Given the complex reconstruction landscape, the supplier will ensure effective coordination with government at national, district and sub district levels. Specifically this will include providing technical assistance to the National Reconstruction Agency and central level project implementation units to oversee and coordinate initiatives related to community infrastructure reconstruction. Furthermore, following identification of capacity gaps in planning and delivery of reconstruction programmes, the supplier will deliver a capacity building programme to assist government planning and any other identified areas, as agreed with DFID.

3.6 The key indicators for this output are:

- Government supported to deliver one year district reconstruction plans
- Coordinated efforts lead to more effective and efficient operations at the district level;
- Capacity support provided to Government (central and local-government) as and when requested.

Following the inception phase, which will include a capacity needs assessment in relevant government agencies including the NRA, a detailed capacity building plan will be developed by the supplier, which once approved by DFID, will form the detailed deliverables under this programme. This component is expected to be directly delivered by the Supplier.

Output area 2 – direct delivery of physical reconstruction

3.7 This output forms the major part of this contract. Through detailed planning and effective coordination the supplier will be able to establish a list of prioritised infrastructure investments for DFID and Government of Nepal² approval. Under this output area the Supplier is expected to work in close collaboration with local government and sector authorities; identify reconstruction sub projects; undertake detailed engineering design³; develop the contacts; procure, contract

¹ DFID will engage a technical assistance provider to support district governments' reconstruction planning in Rasuwa, Nuwakot and Dhading (JICA is supporting reconstruction planning in Gorkha). The output of that discrete TA package of support will be 5-year strategic local-government reconstruction plans and a one-year workplan.

² Any facility that requires land acquisition in order to construct must have the necessary agreements in place. The Supplier must lead the process of securing necessary agreements.

³ In many cases, including rural roads, trail bridges, standard designs and design norms exist in Nepal which facilitates the detailed design process. Suppliers must follow appropriate

and manage physical reconstruction; supervise and monitor progress during construction; and commission and oversee handover to communities and local authorities. The Supplier is required to ensure that handover is managed to ensure sustainability, and a proposed handover plan will be required at the commencement of the final year of the contract. Specifically this will include ensuring that the party to whom the reconstructed infrastructure is transferred (local government or community) takes responsibility for maintenance financing. This contract output area is subject to payment by (output-level) results. DFID will pay for reconstructed infrastructure once the individual sub-projects/schemes are complete and verified. The supplier must follow Nepal's infrastructure norms, specification and standards (for e.g. Nepal Building Code; Nepal Rural Roads Standard; Standard Specification for Road and Bridge Works) and material standards contained therein;; the Supplier will ensure the reconstructed infrastructure will have at least a ten year service life.

3.8 An indicative list of reconstruction activities is given here for the purposes of procurement comparison, and should follow design standards of the Government of Nepal:

- 50km rural roads
- Ten 30m single lane motorable river crossings
- 350km of foot trails upgraded
- 10 trail bridges
- Water supply rehabilitation sufficient for 250,000 people
- Ten two-room public buildings.

3.9 The final list will be subject to needs confirmed in the inception phase, approval by DFID and annual reviews of prioritised work plans. Delivery of this will involve, close collaboration with local government authorities, detailed engineering design, sub-contracting/or direct implementation and supervision where necessary, commissioning and handover. Under this output the Suppliers is free to propose the approach that assures best VFM for DFID.

3.10 The Supplier is required to propose an environment management approach, including the application of environmental impact assessment approached for physical reconstruction investments.

3.11 The key (logframe) output measures for this component will be:

- the number of km of roads and trails reconstructed (target 400km)
- the number of people reached with improved water supply (target 250,000 people).

Output area 2 (physical reconstruction) is expected to be efficiently and economically managed by the Supplier, with an indicative budget of £25m for sub-contracts for physical reconstruction works under this component.

Output area 3 – Support to Private Sector Development

3.12 This output involves identifying the constraints to the private sector in post-earthquake reconstruction. It is expected that key markets including skilled labour, materials, and transport services, will overheat following demand for reconstruction. Furthermore if markets are not effective in local value-addition then there will be less livelihood impact in the affected areas as more capacity would need to be externally sought. The supplier should complete, by the end of the inception phase, a rapid analytical piece using a making markets work for the poor framework to identify the constraints faced by the private sector. And then within the resources

available (approximately £4m over 4 years) intervene where possible to address these constraints.

3.13 The key output measure for this component will be:

- The number of small/medium enterprises (SMEs) supported by the programme (with a target of 200 SMEs supported by the project end).

Suppliers are requested to proposed outcome measures for this making markets work for the poor component. This component is expected to be directly delivered by the supplier.

Output area 4 – Leave no-one behind component and transformation for women and girls

3.14 This will target 1. the most vulnerable and excluded members of earthquake affected communities (e.g. female headed households, elderly, disabled, people displaced by the earthquake who remain vulnerable) to ensure that no one in these target communities is left behind in the reconstruction effort, and 2. Women and Girls. The supplier will innovatively design and manage a challenge fund, indicatively with a total maximum value of £8m of funded projects over five years, with two windows, firstly to target people most at risk of failing to benefit from reconstruction effort, the poor and vulnerable. There are various dimensions of vulnerability and exclusion in Nepal. The supplier will design the challenge fund to be open to targeting groups most affected, and then run a competition to identify partners with the strongest proposals for how to reach these groups. The second window will be designed to support transformational change women and girls. The supplier will propose the detailed design of this challenge fund window. The supplier will then manage the contracts with the successful applicants to these programmes. It is expected that the Supplier will efficiently manage these two challenge funds and incur minimal overhead.

3.15 The key indicators for this output are:

- Number of vulnerable and excluded people directly reached challenge fund initiatives to leave no-one behind (data disaggregated by Gender), target 200,000
- Number of women/girls benefiting from the transformation for women and girls challenge, target 5,000

Output Area 5 – Evaluation and Learning

3.16 The supplier will commission one formal evaluation of the programme, this will have the evaluation question “what is the evidence of the effectiveness of UK funded reconstruction effort in Nepal” or similar, as agreed with DFID. This evaluation is to be completed, and will be quality assured by DFID, before the end of the programme. The supplier will also commission one significant learning exercise on the reconstruction response per year. Themes for that should be proposed before the end of the inception phase. The contracted evaluation, of approximate value of £200,000 is expected to be commissioned and managed economically. The annual learning exercises are expected to be directly delivered by the Supplier.

4. Requirements on format and content of tender submissions

4.1 The proposal should include:

- a. An approach on local capacity building and transfer of knowledge to strengthen the overall sustainability of the programme and it is expected that suppliers seek to strengthen local market capability. There is existing capability in-country and it is essential for future development efforts in Nepal that these are built upon and deepened.
- b. Approaches to conflict, gender, and climate and environment

- c. A detailed work-plan for year one following contract award, including a set of initial activities that can be deployed shortly after contract award.
- d. Draft modality and milestones for performance-based payment for the implementation phase, with suggested key performance indicators where appropriate closely linked to the outputs required by the programme. The proposal will include a hybrid approach to performance-based payment with clear rationale on the performance-based payment approach proposed for each part of the scope. This should be linked to the financial plan.
- e. A draft monitoring and evaluation strategy, including how the Supplier will report to DFID. This will include an outline logical framework based on the impact and outcome statements in the Reconstruction Business Case – setting out the objectively and quantitatively verifiable indicators the Supplier would propose for measuring progress against impact, outcome and output, including means of verification and risks and assumptions, and proposing what sorts of quantified milestones and targets could be used at the Output, Outcome and Impact level.
- f. Specify overall budget ceiling for the full contract, and a financial plan. The financial must be closely linked to the approach described above – a detailed budget/financial plan for the inception period and first year. Following inception, a structured approach for years 2 and 3, and some more flexibility for the remaining time. Budgets must be broken down by programme output and proposed milestone activity and include timelines of key activities. Specify fee, overhead and profit rates for the whole project which will be fixed for the life of the contract.
- g. A plan for ensuring value for money for DFID Nepal over the course of the project. This will include the Supplier's approach for keeping inputs and fee rates at a level that demonstrably provides DFID with value for money. It will also include the Supplier's approach for ensuring that the benefits of the activities undertaken both outweigh costs (including management fees) and are the most effective activities to deliver the intended outcome. Suppliers need to demonstrate a robust value for money framework for the programme including key value for money indicators and an approach for the VfM measurement and analysis that is evidence based.
- h. Risk assessment and risk mitigation strategy
- i. Evidence of capability for managing Duty of Care.
- j. Team composition drawing on information in these TORs, including CVs of senior staff with a short narrative confirming why they are the best match for the position proposed, and the envisaged timing of deployment.
- k. Supplier's assurance of internal best practices on systems and policies, e.g. fraud, fiduciary risk management, HR, financial management, monitoring and evaluation. A financial assessment. If the proposal is from a consortium, an explanation of the proposed governance and legal structure, and due diligence assessments of consortium partners.

5. Competition criteria

5.1 Proposals will be assessed against the criteria set out in this document and all other tender documentation. Particular emphasis will be placed on the following:

- a. Capability to deliver in Nepal
- b. Capacity for sound programme and financial management, both for delivery of work implemented directly and for oversight of sub-contractors
- c. Capacity to deliver technical expertise appropriately to deliver in the six output areas, plus the ability to hit the ground running.
- d. Approach to addressing key principles of programme design as set out above.
- e. Expertise on issues of gender, youth, conflict, poverty analysis and economic inclusion
- f. Capacity to support reform and deliver results in an evolving political environment
- g. Value for money framework and approach (see above)

- h. Commercial proposal that include transparent breakdown of fee rates for a core in-country team and short/long-term personnel, cost of delivery chain or the make up of the partnerships and clear administrative, management and overhead costs of the lead supplier and the entire delivery chain.
- i. A bid that demonstrates clear approach to use of resources to deliver the programme and maximise our impact.

6. Operational requirements

- 6.1 The Supplier will suggest the complement of full-time technical and support personnel and accompanying technical experts able to deliver programme outputs and outcomes. The Supplier should propose an appropriate mix and balance of full-time personnel and short-term technical assistance, national and international to implement the programme effectively. Project management is to be based in Nepal.
- 6.2 Provide a proactive approach to delivery and adapting as needed to context
- 6.3 Coherence with other DFID Nepal programmes- e.g health, water and sanitation, governance, PFM, humanitarian and climate change (as appropriate), in particular coherence at the community level avoiding multiple of community committees.
- 6.4 If a Consortium, it must work together as an effective team with clear governance structures.

Inception requirements

- 6.5 An inception period will take place from contract start for a period not longer than six months.
- 6.6 In the Inception Period we expect the Supplier to deliver:
 - 6.6.1 Within 6 weeks of contract signature, a fully operational programme office, including the mobilisation of requisite core staff and establishment of the programme in suitable premises
 - 6.6.2 Within 2 weeks of the opening of a central office the Supplier will be in a position to implement the set of initial activities that can immediately be deployed to support the reconstruction effort.
 - 6.6.3 The development and adoption of clear policies and procedures to ensure smooth functioning of the programme. This will include plans, timetables, policies and procedures to support:
 - a. Programme management and reporting processes;
 - b. Procurement, due diligence, financial management and reporting following international best practice;
 - c. Design and establishment of a results monitoring and evaluation system;
 - d. Staffing plans and timetable, including duty of care, management and contractual arrangements for all staff, and;
 - e. Risk management strategy.
 - 6.6.4 Full scoping of year one activities to follow inception. These should be ready to begin immediately after inception, though some activities will commence during inception.
 - 6.6.5 Full set of updated programme documents (as per the documents required as part of the proposal in section 4).

Duty of care requirements

- 6.7 The Supplier is responsible for the safety and well-being of their personnel and third parties affected by their activities detailed in this TOR. They will also be responsible for the provision of suitable security arrangements for their domestic and business property.
- 6.8 The Supplier is responsible for ensuring appropriate safety and security briefings for all of their short-term personnel delivering work as defined in these ToR and ensuring, where appropriate that their long-term personnel register and receive briefing as outlined above. Travel advice is also available on the FCO website and the service provider must ensure they (and their personnel) are up to date with the latest position.
- 6.9 If the Supplier is 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.
- 6.10 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, the Supplier should consider the following questions in no more than 2 sides of A4 as an annex to the Technical Proposal:
- a) 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)?
 - b) 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?
 - c) 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?
 - d) 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)?
 - e) 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?
 - f) Have you appropriate systems in place to manage an emergency / incident if one arises?

7. Governance

- 7.1 Overall coordination of the programme within DFID will rest with the SRO for the programme along with the Nepal Reconstruction Authority and the project Steering Committee.
- 7.2 This programme will be a flexible and adaptive programme based on emerging needs during the reconstruction phase. In particular because during the course of this programme, if the 2015 Constitution of Nepal is implemented, significant change to the structure of decentralised government is expected. For this programme “Flexible and adaptive” will involve a full inception phase which will map the detailed needs and set the short term work plan. Subsequent revisions to the structure of UK support to reconstruction in Nepal will be based on recommendations under annual reviews.
- 7.3 The Supplier will organise annual Consultative Group meetings covering all the activities in the Reconstruction Business Case with business, civil society and other stakeholders - and

present jointly with DFID (and other development partners or other implementing partners of the programme as appropriate) at these meetings.

- 7.4 The Supplier would also seek external views on DFID's reconstruction activities, plans and options (from civil society, business and government) on an ad hoc basis, especially areas which might be sensitive. Ideas for doing this in an effective manner should be included as part of bids.
- 7.5 The Supplier will proactively coordinate with government, development partners and others involved in similar areas of intervention and will report on this to the Executive and Steering Committees. Bids should include how the Supplier intends to do this.
- 7.6 DFID will have a Field Office in earthquake affected districts, at least for the early part of this contract. The DFID Field Office is a small team contractually overseen by the UN Office for Project Services (UNOPS) but directly reporting to DFID. The main role for the DFID Field Office is to provide district level monitoring and liaison services for all DFID programmes active in the programme area. The DFID Field Office will provide a monitoring role related to assessing delivery performance of the reconstruction programme. As the Field Office will be able to support the Supplier in a number of areas (eg. advisory inputs related to risk and local politics, and around maintaining the operating space) while at the same time monitoring progress, it is envisaged that the Field Office will conclude with an operational MoU to ensure that each party's role is clear.

8. Timing

- 8.1 DFID expects the Supplier to be operational at the latest by the 1st of September 2017 and the contract will last up to 31 August 2022. DFID may, in agreement with the Supplier, extend the Reconstruction contract beyond the 2022 end date, for up to 2 additional years. This would be subject to agreement through a contract amendment between DFID and the Supplier, and subject to good performance by the Supplier over the course of managing the Reconstruction Programme. Any extension would be based on a needs assessment by DFID and based on satisfactory performance by the Supplier.
- 8.2 Due to the long duration of the programme, the contract will have adequate provision for variation to adapt to changes that occur during the life of the programme. To support this, there will be two break points in the programme, one at the end of the inception period, and one at the point of the third Annual Review (expected May 2019). Suppliers should note the first Annual Review deadline is May 2017 which is one year from approval of the Reconstruction Business Case, not from contract award. The third Annual Review will be supported by a prior independent mid-term evaluation of the Reconstruction Business Case, which will cover this contract as well as the other delivery mechanisms of the Reconstruction Business Case. It will assess whether or not the programme has delivered the desired results and continues to offer a good value for money for DFID. At this point, based on the review, DFID (and any partners) may decide to strengthen programme implementation, for example to address gaps. The delivery requirements for the break points will be:
- Break point 1 (end of inception, 28 February 2018) – effective mobilisation and delivery of inception report approved by DFID.
 - Break point 2 summary statement (by end April 2019) of output deliverables to that date, to be reviewed by an independent team at the third annual review (May 2019).
- 8.3 DFID will have the right to request changes to the contract, including services, the ToRs and the contract cost to reflect lessons learned, or change in circumstances, policies or objectives relating to or affecting the programme. DFID may scale up or down the programme and the budget allocations depending on the need and context. DFID will also have the right to terminate

the contract at any point where it has strong justification that the programme is not delivering the intended results and/ or does not offer value for money to DFID.

9. Payment Modality and Reporting

9.1 The partnership between DFID and the supplier under these TORs will involve payment based on the following modality:

1. For the inception phase DFID will make payment based on milestones (final inception report).
2. For management costs and output 1 (technical assistance) DFID will pay costs but will retain 15% against the key performance indicators to be proposed by the supplier and reviewed and agreed by DFID and the supplier before the end of the inception period.
3. For output 2 - physical reconstruction - DFID will make payments based on the achievement of successfully reconstructed infrastructure verified by the DFID Field Office.
4. Output areas 3, 4, and 5 will involve setting output and outcome targets for sub-contracts that will be sourced following detailed design work in inception. Delivery of these milestones will become the payment schedule for these outputs.

9.2 We are willing to consider proposals for other innovative financing methods, in particular linking payments to results achieved under other outputs (following agreement of these in the inception phase).

9.3 For all activities of the Programme, the Supplier, in its financial reporting to DFID, should distinguish between the Supplier's fees and the amount that is passed through to the implementer of the activity. The Supplier should clearly outline the proposed financial approach as part the Supplier's bid. This should include how it manages and passes on funds to other implementing partners and it should clearly show the fee rates to the Supplier for funds that are passed through to other implementers.

9.4 The programme will be subject to DFID's Annual Reviews and a Project Completion Report. The Supplier will be expected to cooperate and provide input into both. The Supplier will also be expected to input into briefings for UK Government senior officials and ministers as well as answers to parliamentary questions that relate to Reconstruction in Nepal.

9.5 DFID will institute regular structured key supplier/partner contract performance management system to monitor contract progress linked to delivery of results and client relations and when possible link this with DFID Nepal's annual review process. Partners will be expected to comply with this process. Usually such reviews are done along with the Annual Reviews if possible.

9.6 The key formal reporting outputs are:

9.6.1 Annual work-plans and budgets to be delivered two months before the start of the next financial year to allow adequate time for consultation with and feedback from DFID and key stakeholders

9.6.2 Quarterly Progress Reports and financial reports: Progress reports will be brief and light-touch (no more than 5 pages excluding annexes) at the end of quarters 1 and 3. The progress report at the end of quarter 2 (the mid-year report) will be more substantive (up to ten pages excluding annexes). The quarter 4 report would be an annual report (up to twenty pages excluding annexes)

- 9.6.3 Inception report summarising outputs achieved in the inception phase (Break Point 1).
- 9.6.4 Summary of outputs delivered to the point of the third Annual Review (due May 2019) to be verified by the independent team who will carry out the third Annual Review (Break Point 2)
- 9.7 The Supplier should develop appropriate arrangements to monitor programme implementation with clear demonstrable evidence of value for money principles. Amongst other things, the Supplier would be expected to maintain an up-to-date register, including a fund-stream map, that enables DFID Nepal to track quickly, transparently and accountably where DFID funds are flowing. Supplemental to the Access and Audit provisions of DFID Terms and Conditions, and in recognition of risks the construction sector may be exposed to in this operating context, DFID will reserve the right to adopt an Open Book approach in respect of Output Area 2 at any point in the programme. This is not designed to constrain the Suppliers right to fair and reasonable profit, but would instead be invoked were it deemed necessary to isolate profit from all other costs being incurred to ensure downstream costs are being effectively monitored, and to determine in collaboration with the Supplier if there are cost or time efficiencies that could be tested or implemented within the physical reconstruction requirements.
- 9.8 The Supplier proposed indicators from the draft monitoring and evaluation strategy in the Proposal will be used alongside programme reviews to monitor performance. Additional formal indicators may be determined, as part of the post tender discussion between the successful bidder and DFID, to monitor and track performance. Any revisions will then form the basis upon which performance will be monitored and tracked.

10. Financing Mechanism

- 10.1 The Reconstruction Programme in these TORs is one of the delivery mechanisms to be funded through the Reconstruction Business Case, and suppliers should note the funding available for this requirement, for the full contract, is up to £40m. The physical reconstruction component is expected to form the largest share of this. Suppliers should, as part of their bids, indicate the suggested size of each of the output shares. Bids will be evaluated based on value for money in pursuit of achieving the ToRs, competitiveness of costs proposed, and demonstration of maximising the effective utilisation of the proposed budget linked to results to be achieved. Suppliers will be asked to provide details of the construction of their financial proposals when full tenders are requested.
- 10.2 The Supplier should be prepared to amend the strategy, work-plans and budgets should any circumstances arise in which DFID decide to scale up or down on the programme, and the Supplier should be aware of the need for a contract amendment this being the case. Should DFID decide to scale up or down, contract performance to date will be taken into consideration. Should DFID decide to increase the size of the Reconstruction programme, the management fee rate is not envisaged to increase as opportunities to deliver greater economy of scale will arise. During implementation the Supplier's ability to provide accurate forecasts and spending risks analysis will be a key performance criterion.
- 10.3 The Supplier will be responsible for financial administration of allocated funds. The Supplier will provide advance resources to finance the activities of the Reconstruction Programme which will be reimbursed by DFID on a monthly basis, including payment by results components for physical reconstruction. The Supplier will be responsible for monitoring and forecasting of all

spending and be fully accountable to DFID for all expenditure. The Supplier should set out how it will manage and pass on funds to other implementing partners, ensuring clear and robust due diligence processes are adopted.

10.4 Neither the Supplier nor any of its consortium members will be eligible to receive grants, technical assistance or any form of financial assistance or support of any kind as part of the implementation of the programme.

10.5 In the case of a consortium bid, lead bidders should ensure that they include copies of up to date Memoranda of Understanding (MOUs) between all consortium members and that the selection of such partners including sub partners should follow DFID's due diligence approach. The MOUs should refer specifically to the Reconstruction programme and due diligence assessment of consortium partners should be included as an annex to the technical proposal. The Supplier will remain responsible for the routine update of all due diligence checks on partners.

11. Transparency Requirement

10.1 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.

10.2 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/>

10.3 The Supplier will undertake due diligence assessments for all downstream partners (consortium members, sub-contractors and grantees) and make these Due Diligence assessments available to DFID.

CB118 (April 2002)

Section 4

SPECIAL CONDITIONS

1. DFID Officials

1.1 The Contract Officer is:

[REDACTED]
[REDACTED]

Telephone: [REDACTED]

1.2 The Project Officer is:

[REDACTED]
[REDACTED]

2. Additional Documents to be included in this Contract

The following documents are included in and form part of the Contract in addition to Sections 1-5 inclusive:

- Mott MacDonald Final Tender (Commercial and Technical) dated 7 April 2017

3. Key Personnel

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

- [REDACTED] Team Leader
- [REDACTED] Project Manager
- [REDACTED] Component 1 Lead
- [REDACTED] PSD Team Leader
- [REDACTED] Challenge Fund Manager
- [REDACTED] Project Director

4. Sub-Contractors

The Supplier has DFID's consent to appoint the following sub-contractors:

Oxfam GB
World Food Programme
GEOCE
CNI

5. DFID Statement of Priorities and Expectations for Suppliers

In line with the Statement of Priorities and Expectations attached at Appendix A, throughout the life of the Contract the supplier must be able to demonstrate how they are meeting these expectations.

6. Limitation of Liability

The Supplier's limit of liability shall be as provided for in Clause 36 of Section 2 unless a different amount is provided for below in which event that different amount shall apply.

7. Reports

The Supplier is required to submit project reports to the Recipient through the Project Officer at the address shown in Clause 1.2 of Section 4 in accordance with the Terms of Reference at Section 3.

8. Medical Insurance

The Supplier is responsible for ensuring adequate and appropriate medical insurance cover before beginning work overseas under a DFID contract for services. The Supplier's fee is deemed to include an element to cover the cost of medical insurance.

It is not the responsibility of the local DFID office, British Embassy or High Commission to meet the cost of the Supplier's medical care nor to make arrangements for evacuation in a medical emergency, although they will provide assistance if they can. On arrival, the Supplier should report to the DFID local office, British Embassy or High Commission with details of medical insurance arrangements in case of a medical emergency.

9. Branding

- 9.1 The Supplier will collaborate with DFID and proactively look for ways to build support for development and raise awareness of DFID's funding. The Partner will explicitly acknowledge DFID's funding, in written and verbal communications about activities related to the funding, to the public or third parties, including in announcements, and through use, where appropriate, of DFID's "UK aid – from the British people" logo ('UK aid logo') in accordance with DFID standards for use of the UK aid logo, unless otherwise agreed in advance by DFID and in all cases subject to security and safety considerations of the Partner.
- 9.2 The Supplier will provide a visibility statement of how and when they will acknowledge funding from DFID and where they will use the UK aid logo, which should be approved by DFID. The Supplier will include reference to this in its progress reports and annual reviews.
- 9.3 Suppliers may use the UK aid logo in conjunction with other donor logos, and where the number of donors to a programme or project is such as to make co-branding impractical, acknowledgement of funding from DFID should be equal to that of other co-donors making contributions of equivalent amounts to the programme or project.

10. Duty of Care

Clause 7.5 in Section 2 is replaced with:

7.5 The Supplier shall indemnify and keep indemnified DFID in respect of:

(a) any loss, damage or claim, howsoever arising out of, or relating to any negligent act or omission by the Supplier, the Supplier's Personnel in connection with the performance of the Contract;

(b) any claim, howsoever arising, by the Supplier's Personnel or any person employed or otherwise engaged by the Supplier, in connection with the performance of the Contract provided that such claim does not arise wholly or partly as a result of the negligence of DFID or DFID's Personnel.

11. Intellectual Property Rights

Clause 21 of Section 2 is replaced with:

21. INTELLECTUAL PROPERTY RIGHTS

21.1 All intellectual property rights in all material (including but not limited to reports, data, designs whether or not electronically stored) produced by the Supplier or the Supplier's Personnel pursuant to the performance of the Services ("the Material") shall be the property of the Supplier or the Supplier's Personnel.

21.2 The Supplier hereby grants to DFID a perpetual, world-wide, non-exclusive, irrevocable, royalty-free licence to use all the Material produced by the Supplier and the Supplier's Personnel.

21.3 For the purpose of Clause 21.2, "use" shall mean, without limitation, the reproduction, publication and sub-licence of all the Material and the intellectual property rights therein, including the reproduction and sale of the Material and products incorporating the same for use by any person or for sale or other dealing anywhere in the world.

12. Access and Audit

Clause 31 of Section 2 is replaced with:

31. ACCESS AND AUDIT

31.1 The Supplier and any Sub-contractor shall keep secure and maintain until six years after the final payment of all sums due to the Supplier under the Contract, or such other period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by DFID and all payments made by DFID.

31.2 The Supplier and/or Sub-contractor shall grant to DFID, or its authorised agents, such access to those records in the Supplier's possession as they may reasonably require in order to check the Supplier's compliance with the Contract and monies utilised, throughout the whole supply chain.

31.3 For the purposes of the examination and certification of DFID's accounts, or any examination under section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which DFID has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral or written explanations as he may reasonably require for those purposes. The Supplier shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.

31.4 Clause 31.3 applies only in respect of documents relating to the Contract and only for the purpose of the auditing of DFID. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Supplier the subject of auditing under that Act.

31.5 In addition to where an audit is imposed on DFID by a Regulatory Body (in which case DFID may require an audit without prejudice to its other rights) DFID may require WFP to undertake an audit in accordance with the Framework Arrangement between the United Kingdom and WFP dated 5 May 2015

a) to review the integrity, confidentiality and security of DFID Data;

b) to review the Supplier's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with generally and in accordance with the Contract and any other legislation applicable to the Services.

31.6 Subject to DFID's obligations of confidentiality under this Contract, the Supplier shall on demand provide DFID (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit in accordance with the Framework Arrangement between the United Kingdom and WFP dated 5 May 2015.

a) all information requested by DFID within the permitted scope of the audit;

b) reasonable access to any Sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

c) reasonable access to Sub-Contractors throughout the supply chain;

d) access to the Supplier's system;

e) access to the Supplier's Personnel.

31.7 Where it is found by DFID that any overpayment has been made to the Supplier the Supplier shall reimburse DFID such amount within 28 days of the date of DFID's written demand.

Appendix A

DFID Statement of Priorities and Expectations for Suppliers

This Statement sets out the expectations that DFID has of external organisations with which it works, alongside standard elements of good practice. It outlines the activities and behaviours we expect organisations we work with which include policies and practices relevant to DFID and wider HMG priorities. DFID is committed to acting responsibly and with integrity, being transparent and accountable, focusing on poverty and development impact and continually improving value for money.

Partner organisations should demonstrate commitment to poverty reduction and to DFID's priorities including work undertaken in fragile or conflict affected states, for girls and women, youth engagement, climate change and wealth creation.

DFID expects partner organisations to:

1. Act responsibly and with integrity by:
 - a. making available a statement of compliance with key legislation and international principles on labour, social and environmental matters;
 - b. demonstrating commitment through actively seeking and making a positive contribution to development, social and environmental sustainability through its business activities;
 - c. pursuing and adhering to anti-discrimination policies, with particular attention to girls and women;
 - d. applying risk management processes that assure a zero tolerance approach to tax avoidance, corruption, bribery and fraud throughout the supply chain;
 - e. engaging supply chain partners in a way that is consistent with DFID's treatment of its suppliers or partners (when pricing, in subsequent service delivery, or in partnership agreements), and demonstrating this to DFID where required;
 - f. building local capacity by proactively seeking ways to develop local markets and institutions;
 - g. safeguarding the integrity and security of their systems, for example, as per the HM Government Cyber Essentials Scheme¹;
 - h. ensuring that UK Government funding provided is not used in any way that contravenes the provisions of applicable terrorism legislation.
2. Be transparent – in relation to organisational practices and the use of government funding by:
 - a. publishing a statement of how delivery on social and environmental values are articulated;
 - b. making available a list of relevant policies together with a description of measures of how these are put into practice (e.g. supplier codes on fraud & corruption, due diligence);
 - c. demonstrating commitment to ethical codes of conduct, for example through membership/signatory of codes, both directly and within the supply chain, e.g. conventions, standards or certification bodies (such as ETI, UNGC, Global Reporting Initiative, Extractive Industries Transparency Initiative), as appropriate;
 - d. publishing reports as a minimum on an annual basis, on environmental, social and governance performance (including but not limited to improving the lives of girls and women, Environmental, or Sustainability Reports).
 - e. Publishing DFID funding data in accordance with the International Aid Transparency Initiative (IATI) standard

¹ as per the HM Government Cyber Essentials Scheme
<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>

3. Be Accountable - whether in every day and exceptional situations by:
 - a. developing and implementing policies that address the need for remedy and redress if things go wrong, in line with the UN Guiding Principles on Business and Human Rights² ;
 - b. actively seeking to promote the involvement of people in the business decisions that affect their lives.
4. Support DFID priorities and objectives by:
 - a. sharing innovation and knowledge to maximise overall development impact in ways that do not adversely impact competitive advantage;
 - b. supporting wider HM Government Policy initiatives including the support of SMEs, prompt payment, Human Rights and modern slavery issues and the support of economic growth in developing countries.
5. Improve Value for Money – demonstrate and continually strive to improve value for money in all that they do by:
 - a. actively seeking to maximise international Aid or Development results whilst maintaining or reducing costs throughout the life of the programme;
 - b. budgeting and pricing realistically and appropriately to reflect programme requirements and risk levels over the life of the programme;
 - c. being honest and realistic about capacity and capability;
 - d. accepting that DFID works in challenging environments, acting to manage uncertainty and change in ways that protects value with government funding;
 - e. proactively pursuing continuous improvement to reduce waste and improve efficiency in internal operations and within the supply/delivery chain;
 - f. incorporating fair but not excessive rewards;
 - g. implementing a transparent, open book approach which enables scrutiny on value for money choices;
 - h. avoiding the use of restrictive exclusivity agreements;
 - i. providing assurance that the policies and practices of supply/delivery chain partners and affiliates are aligned to the expectations outlined in this statement;
 - j. applying pricing structures that align payments to results and reflect an appropriate balance of performance risk;
 - k. Accepting accountability and responsibility for performance, with timely identification and resolution of issues ensuring lessons learned are shared.

² https://www.unglobalcompact.org/issues/human_rights/The_UN_SRSG_and_the_UN_Global_Compact