

CALLDOWN CONTRACT

Framework Agreement with: Coffey International Development

Framework Agreement for: Wealth Creation Framework

Framework Agreement Purchase Order Number: 5929

Call-down Contract For: Nigeria Power Sector Support (NPSS) programme

Contract Purchase Order Number: 8293

I refer to the following:

1. The above mentioned Framework Agreement dated **17th January 2013**;
2. Your proposal of **12th July 2018**

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

1. Commencement and Duration of the Services

- 1.1 The Supplier shall start the Services no later than **15th October 2018** ("the Start Date") and the Services shall be completed by **14th June 2019** ("the End Date") unless the Call-down Contract is terminated earlier in accordance with the Terms and Conditions of the Framework Agreement.

2. Recipient

- 2.1 DFID requires the Supplier to provide the Services to the The Ministry of Power Works and Housing (MPWH), The Rural Electrification Agency (REA), TCN, NERC and NBET ("the Recipients").

3. Financial Limit

- 3.1 Payments under this Call-down Contract shall not, exceed **£3,714,736** ("the Financial Limit") and is exclusive of any government tax, if applicable as detailed in Annex B.

When Payments shall be made on a 'Milestone Payment Basis' the following Clause 28.1 shall be substituted for Clause 28.1 of the Framework Agreement.

4. Milestone Payment Basis

Where the applicable payment mechanism is "Milestone Payment", invoice(s) shall be submitted for the amount(s) indicated in Annex B and payments will be made on satisfactory performance of the services, at the payment points defined as per schedule of payments. At

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

5. DFID Officials

5.1 The Project Officer is:

██████████ DFID Nigeria

5.2 The Contract Officer is:

Ross McGarry, DFID Procurement and Commercial Department

6. Key Personnel

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

██████████ ██████████

7. Additional Documents to be included in this contract

Coffey Commercial response – Nigeria Power Sector Support (NPSS) Programme
Coffey General and Technical response – Nigeria Power Sector Support (NPSS) Programme
Nigeria Power Sector Support Programme Budget proforma
Appendix A B Data Processing Schedule

8. Reports

8.1 The Supplier shall submit project reports in accordance with the Terms of Reference/Scope of Work at Annex A.

9. Duty of Care

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

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

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

10. Protection of Personal Data

- 10.1 The Parties acknowledge that the factual activity carried out by each of them in relation to their obligations under this Framework Agreement and/or any Call Down contract will determine the status of each Party under the Data Protection Legislation. A Party may act as "Joint Controller" or a "Controller" or a "Processor" of certain Personal Data under this Contract. The Parties shall detail the envisaged status in Appendix AB of the Terms of Reference (at Section 4 Appendix A Annex A of the contract) and update it where appropriate.

10.2 Where a Party is Processing on behalf of the other Party who is the Controller

- 10.2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, DFID is the Controller and the Supplier is the Processor unless otherwise specified in Appendix AB of the Terms of Reference (at Section 4 Appendix A Annex A of the contract). The only processing that the Processor is authorised to do is listed in Appendix AB of the Terms of Reference by the Controller and may not be determined by the Processor.
- 10.2.2 The Processor shall notify the Controller immediately if it considers that any of Controller's instructions infringe the Data Protection Legislation.
- 10.2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the services.
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and

- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 10.2.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with the Appendix AB referred to in Clause 10.2.1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- a. nature of the data to be protected;
 - b. harm that might result from a Data Loss Event;
 - c. state of technological development; and
 - d. cost of implementing any measures;
- (c) ensure that:
- I. the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Appendix AB referred to in Clause 10.2.1);
 - II. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - a. are aware of and comply with the Processor's duties under this clause;
 - b. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - c. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - d. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- a. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - b. the Data Subject has enforceable rights and effective legal remedies;
 - c. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist

the Controller in meeting its obligations); and

- d. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) At the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

10.2.5 Subject to clause 10.2.6, the Processor shall notify the Controller without due delay and in any event within 48 hours if it:

- a. receives a Data Subject Access Request (or purported Data Subject Access Request);
- b. receives a request to rectify, block or erase any Personal Data;
- c. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- e. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- f. becomes aware of a Data Loss Event.

10.2.6 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 10.2.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- a. the Controller with full details and copies of the complaint, communication or request;
- b. such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- c. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- d. assistance as requested by the Controller following any Data Loss Event;
- e. assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

10.2.7 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

- a. the Controller determines that the processing is not occasional;
- b. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- c. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

10.2.8 Where the Supplier is the Processor it shall allow for audits of its Data Processing activity by the DFID or its DFID's designated auditor.

10.2.9 Each party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

10.2.10 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

- a. notify the Controller in writing of the intended Sub-processor and processing;
- b. obtain the written consent of the Controller;
- c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 10.2 such that they apply to the Sub-processor; and
- d. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

10.2.11 The Processor shall remain fully liable for all acts or omissions of any Sub-processor

10.2.12 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement

10.2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. DFID may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

10.3 Where the Parties both Control Personal Data Independently

10.3.1 With respect to Personal Data which a Party acts as Controller but which is not under the Joint Control (because the Parties determine the means and purposes of processing Personal Data independently of each other) each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller and with this Clause 10.3.

10.3.2 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its processing of

Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 33(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

10.3.3 Each Party shall promptly (and without undue delay) notify the other Party if in relation to any Personal Data processed by it as independent Controller in the performance of its obligations or the exercise of its rights under this Legal Services Contract if:

- (a) it receives a complaint, notice or communication which relates to either Party's actual or alleged non-compliance with the Data Protection Legislation; or
- (b) it becomes aware of a Personal Data Breach; and shall provide the other Party with such assistance and cooperation as is reasonably requested by the other Party in order to address and resolve the complaint, notice, communication or Personal Data Breach.

10.3.4 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"): the Party responsible for the relevant breach shall be responsible for the Claim Losses.

10.3.5 The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be appropriate for them to retain such Personal Data under applicable Data Protection Law Legislation and their privacy policy (save to the extent and for the limited period) that such information needs to be retained by the a Party for statutory compliance the purposes of complying with Law or as otherwise required by this Contract), and taking all further actions as may be necessary or desirable to ensure its compliance with Data Protection Law Legislation and its privacy policy

10.4 Where the Parties both Controllers of Personal Data Jointly

10.4.1 Where the Parties jointly determine the purposes of means of processing Personal Data in accordance with GDPR Article 26, the Parties shall identify the applicable Personal Data under Joint Control in Appendix AB and the Parties shall enter into a Joint Controller Agreement based on the terms outlined in Appendix B in replacement of Clause 10.2-10.3 which shall not apply for any such the Personal Data under Joint Control.

SAFEGUARDING

11.1 For the purposes of this Clause , "Reasonable Measures" shall mean:

all reasonable endeavours expected to be taken by a professional and prudent supplier in the Supplier's industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together "Serious Misconduct") as is reasonable and proportionate under the circumstances. Such endeavours may include

(but shall not be limited to):

- (a) clear and detailed policies and guidance for Supplier Personnel, Supplier Providers and where appropriate, beneficiaries;
- (b) developing, implementing and maintaining a safeguarding plan throughout the term

(including monitoring);

(c) provision of regular training to Supplier Personnel, Supplier Providers and where appropriate, beneficiaries

(d) clear reporting lines and whistleblowing policies in place for Supplier Personnel, Supplier Providers and beneficiaries,

(e) maintaining detailed records of any allegations of Serious Misconduct and regular reporting to DFID and the Appropriate Authorities (where relevant) of any such

incidents;

(f) any other Good Industry Practice measures (including any innovative solutions),

- 11.2 The Supplier shall take all Reasonable Measures to prevent Serious Misconduct by the Supplier Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement ("Supplier Providers") and shall have in place at all times robust procedures which enable the reporting by Supplier Personnel, Supplier Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Supplier or Supplier Personnel to investigate such reports.
- 11.3 The Supplier shall take all Reasonable Measures to ensure that the Supplier Personnel and Supplier Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Supplier Personnel or Supplier Provider as to the age of the person. Furthermore, the Supplier shall ensure that the Supplier Personnel and Supplier Providers do not engage in 'transactional sex' which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Supplier Personnel and the Supplier Providers. For the avoidance of doubt, such 'transactional sex' shall be deemed to be Serious Misconduct in accordance with Clause 11.1.
- 11.4 The Supplier shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Supplier Personnel and Supplier Providers to DFID, including DFID's Counter Fraud Section at reportingconcerns@dfid.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.
- 11.5 The Supplier shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the Supplier Personnel and Supplier Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to DFID as soon as is reasonably practicable
- 11.6 The Supplier shall not engage as Supplier Personnel or Supplier Provider for the purposes of the Services any person whose previous record or conduct known to the Supplier (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.
- 11.7 The Supplier shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Supplier

acknowledges may include vetting of the Supplier Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Supplier Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where DFID reasonably believes that there is an increased risk to safeguarding in the performance of the Services, the Supplier shall comply with any reasonable request by DFID for additional vetting to be undertaken.

11.8 Failure by the Supplier to:

11.8.1 put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or

11.8.2 fully investigate allegations of Serious Misconduct; or

11.8.3 report any complaints to DFID and where appropriate, the relevant authorities (including law enforcement)

shall be a material Default of this Contract and shall entitle DFID to terminate this Contract with immediate effect.

Additional definitions.

“Appropriate Authorities” means any and/or all of (as may be relevant under the circumstances) the UK government bodies and/or government bodies/agencies in the territory where Serious Misconduct may have or is suspected of having taken place, which have responsibility for safeguarding, recording, investigating, enforcing and/or determining allegations of Serious Misconduct and which may include (but shall not be limited to), the DFID, the National Crime Agency, UK Police force, local territory police forces, and social services

“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer” take the meaning given in the GDPR.

“Data Protection Legislation” (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

“Data Protection Impact Assessment”: an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.

“Data Loss Event”: any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

“Data Subject Access Request”: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

“DPA 2018” : Data Protection Act 2018

“**GDPR**” the General Data Protection Regulation (Regulation (EU) 2016/679).

“**Joint Control**” means Personal Data which under the Control of Joint Controllers in accordance with GDPR Article 26;

“**Processor Personnel**” means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement and/or call down contract

“**Sexual Abuse**” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions, and all sexual activity with someone under the age of 18, regardless of local age of majority or consent under the laws of the territory in which it takes place and regardless of any mistaken belief (by the relevant individual) as to the age of a child;

“**Sexual Exploitation**” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes. Includes profiting monetarily, socially, or politically from sexual exploitation of another;

“**Sexual Harassment**” means unwelcome sexual advances (also but not exclusively without touching). It includes requests for sexual favours, or other verbal or physical behaviour of a sexual nature, which may create a hostile or offensive environment.

“**Sub-processor**”: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.

“**Supplier Provider**” means persons engaged and/or controlled by or on behalf of the Supplier pursuant to any activities undertaken by the Supplier under this Agreement.

12. **For the purposes of the Nigeria Power Sector Support Programme contract the standard terms and conditions will be interpreted as follows.**

12.1 **Clause 15 (Open Book Accounting and Audit)**



12.2 **Clause 15.3.2 (Open Book Accounting and Audit)** right of access to records and accounts for audit purposes



13 **GDPR requirements**

The Supplier will work to make data available to beneficiary organisations where possible without breaking its data protection obligations, however where this is not possible without breaking these obligations, DFID will in no way apply pressure or coerce the Supplier to do so.

14. **IPR**

DFID will own all reports and other deliverables prepared for and furnished to DFID by the Supplier in connection with the Services (the "Deliverables"), save that the Supplier retains ownership of all concepts, know-how, tools, frameworks, software, algorithms, models, and industry perspectives developed or enhanced outside of or in connection with the Services (the "Supplier's Tools"), it being understood that none of the Supplier's Tools will contain DFID's Confidential Information. To the extent the Deliverables include any Supplier's Tools, the Supplier hereby grants DFID a non-exclusive, non-transferable, non-sublicenseable, worldwide, royalty-free license to use and copy the Supplier's Tools solely as part of the Deliverables and subject to the limitations herein on disclosure of the Supplier's materials and publicity.

15. **Call-down Contract Signature**

15.1 If the original Form of Call-down Contract is not returned to the Contract Officer (as identified at clause 5 above) duly completed, signed and dated on behalf of the Supplier within 15 working days of the date of signature on behalf of DFID, DFID will be entitled, at its sole discretion, to declare this Call-down Contract void.

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

Name: 
Position: Procurement and Commercial
Manager

Signature:

Date:

For and on behalf of
Coffey International Development Ltd

Name:
Position:
Signature:
Date:

PO 8293 - Technical Support to Nigeria's Power Sector

Section 4 Appendix A Annex A Call-down Contract

TERMS OF REFERENCE

Nigeria Power Sector Support (NPSS) programme

1. Introduction

Despite being a middle income country with significant natural resources, Nigeria has amongst the worst infrastructure in Africa, and the country's poor power supply regularly tops surveys on constraints to investment and economic development.

Successive governments concluded that the best way forward was to move away from a state power utility and towards a power market largely owned and managed by the private sector. This led first to enabling legislation in 2005 and then in 2013 to privatisation of generation and distribution companies that had formed part of the state power utility.

DFID's Nigerian Infrastructure Advisory Facility (NIAF) programme started its first phase in 2007 and ended phase 2 in March 2017, and was a major provider of technical assistance to Nigeria's power sector reforms. The programme model involves the provision of high quality and responsive technical assistance, with a theory of change that utilises an iterative problem solving model.

A third phase of the programme – UKNIAF – was approved by Ministers in 2016 and expected to commence soon after Phase 2 finished. Procurement of this programme was delayed and it is not expected to start until late 2018.

This gap in programming has come at a key moment for the power sector reforms, with extensive work having been done on a Power Sector Recovery Programme (PSRP) that is expected to draw on loans from both the World Bank and African Development Bank.

In view of the delay to the main UKNIAF contract and continuing high need, DFID Nigeria has decided to undertake a number of discrete interventions using UKNIAF funds. While this work will help maintain a continuity of support by DFID to the sector in holistic terms, this is not an interim or bridging programming. The work to be undertaken has been selected to be only in areas where stand-alone tasks can be fully completed within a 6 month period. This is not flexible support of the kind provided under the main NIAF contracts, with all expected outputs being specified within these ToR.

Nigeria's Power Sector

The Nigerian Electricity Supply Industry (NESI) has three main components; generating companies (GenCos) which supply the national transmission grid known as the Transmission Company of Nigeria (TCN) that in turn provides energy to regional distribution companies (DisCos) to supply electricity to customers. Underinvestment in the industry over many years

resulted in it being completely unable to meet the demand for electricity. For example, electricity supply to the UK's 60m population is approximately 60,000 Megawatts. In Nigeria, approximately 4,000 Megawatts is available for a population of about 180m. Reform of the industry was deemed essential to address the situation.

The NESI was partially privatised in 2013 under the aegis of the Electric Power Supply Reform Act of 2005 with government retaining ownership of the Transmission Company of Nigeria (TCN). Only around half of the Nigerian population has access to the grid, so the Rural Electrification Agency (REA) is charged with finding alternate means of providing electricity not connected to the main grid.

The industry is regulated through the Nigerian Electricity Regulatory Commission (NERC) and the financial transactions of the market, at this stage of its development, are largely conducted through the Nigerian Bulk Electricity Trader (NBET).

Widely recognised as an extremely ambitious privatisation exercise, it is not surprising that the development of the NESI has faced challenges since its partial privatisation in 2013. Technical and commercial/financial problems resulted in an illiquid NESI. The liquidity issues arose as a result of diminishing bill payment levels by customers and tariffs being set at levels deemed not to reflect the true economic cost of operating the NESI. Despite interventions by the Central Bank of Nigeria and the Federal Government to revive the market and encourage investment, the state of the industry continued to decline. Many of the reasons for this trend are complex and would not be appropriate to attempt to resolve within the remit of this proposal.

In early 2017 the government launched a comprehensive plan to "Reset" the industry. The Power Sector Recovery Programme (PSRP) addresses regulatory and governance, technical and financial viability matters.

A number of counterparts were consulted to develop an optimal set of short-term interventions that DFID can fund that will support implementation of the SRP and other elements of the ongoing reform agenda. These included:

- Rural Electrification Agency
- African Development Bank
- Nigerian Bulk Electricity Trader
- Transmission Company of Nigeria
- World Bank Group
- US AID
- Nigerian Electricity Regulatory Commission

These discussions led to a decision to proceed with funding of the tasks outlined below.

2. Available funds

The maximum budget for the intervention is £4.5 million, inclusive of any applicable taxes.

3. The Objective

3.1. The purpose of this intervention is to help the Government of Nigeria to implement effectively its reform of the power sector through its Power Sector Recovery Programme and to help the REA to strengthen internal processes and thus deliver more effectively on its mandate to increase access to modern energy.

4. The Recipient and Beneficiaries

4.1. Recipients of the work are The Ministry of Power Works and Housing (MPWH), The Rural Electrification Agency (REA), TCN, NERC and NBET.

5. The Scope

These terms of reference describes 5 distinct tasks below that the service provider will be required to deliver within a 6 month period. DFID reserves the right to extend the delivery period by a maximum of 2 months for any task, but is not obliged to do so.

Task 1 – Support to NERC

Task 1.1 – Undertake a customer enumeration survey to provide improved estimates of the number of customers receiving power from each Disco, disaggregated by tariff class, and the energy usage of these customers.

The intended outcome of the enumeration programme would be a broad-brush assessment of a range of energy consumption categories, with the goal of achieving statistical relevance in each category and importantly to inform future tariff setting and Disco business modelling.

Deliverables under activity 1.1:

- Development of an appropriate sampling strategy for customers and assets across 11 DisCos, to be approved by NERC and the UKNIAF SRO.
- Following consultation with DisCos, agreement of an implementation plan for the survey, again to be approved by the UKNIAF SRO.
- Implementation of the survey using the agreed methodology, in coordination with DisCos.
- Utilising survey results, production of an estimated customer enumeration for each DisCo, including estimates of energy consumption disaggregated by tariff group.

Task 1.2: Support to assess possibilities for greater disaggregation of the electricity tariff.

Tariffs are set in bands that reflect customers energy requirements and consumption, with quite stark differences between bands and this has an impact on revenue collection by DisCos. This has an adverse effect on the revenue flows going to the remainder of the NESI.

Two bands (Residential 2 (R2) and Commercial 2 (C2)) are the bands most greatly affected by this phenomenon.

DFID seeks a paper to be provided to NERC regarding further segmentation of customer classes (especially within R2 and C2), based on the concept of progressive consumption.

Deliverables for task 1.2:

- Produce a report recommending options for further segmentation of customer classes (especially within R2 and C2 classes), including implementation options.
- Report of the revenue flow implications of proposed segmentations at different levels of ATC&C losses and energy availability.

Task 1.3 – Production of a report outlining possible DisCo Aggregate Technical Commercial & Collection (ATC&C) losses reduction strategies.

A key challenge within NESI are persistently high Aggregate Technical Commercial & Collection (ATC&C) losses within the DisCo operations. A USAid support package implemented by Tetrattec has been working within three DisCos (Abuja, Eko and Benin) to understand better the drivers of ATC&C losses and help the companies reduce them. NERC has requested a report that summarises key lessons from this work and also looks at lessons from other relevant markets including India.

Deliverables for Task 1.3:

- A note that summarises lessons from other countries and the Tetrattec work and identifies possible approaches to reducing ATC&C.
- A second note assessing the merits and likely costs of extending similar support to that from Tetrattec to the remaining 8 DisCos, and possible funding sources to support such an intervention.
- A project final report, including lessons learned and recommendations

Task 2 – Support to TCN

TCN has a Transmission Rehabilitation and Expansion Programme (TREP) with aggregate support of \$1.55 Billion from several donors. Programme elements include;

Nigeria Electricity Transmission Access Project,
Abuja Transmission Wheeling Scheme,
Northern Corridor Transmission Project,
Nigeria Transmission Expansion Project,
Ogun/Lagos Transmission Infrastructure Project,
North East Transmission Infrastructure Project.

Partners include the World Bank, AFD, IsDB, JICA, AfDB and EU.

The programme was designed to be implemented through the Nine Regional Offices of TCN located at Enugu, Port Harcourt, Benin, Oshogbo, Lagos, Bauchi, Kaduna, Shiroro and Abuja in order to ensure effective programme delivery, TCN has commissioned a decentralization process which has led to transfer of several staff from the HQ to the regions.

Initial capability assessments have shown that regional offices have good engineering capability but are lacking in project management and monitoring & evaluation expertise. The task is therefore to support capacity building in the 9 regional offices, with a particular focus on strengthening their ability to manage projects.

This requires engagement with TCN to identify in more detail priority capacity building needs, designing a training programme to help address these needs and then delivering a three month training programme in each of the offices. It is expected that three months of training will be provided to all 9 offices within a total period of six months, so multiple teams will be required. It is not envisaged that the training will lead to external assessment, but there should be a process for certifying that staff have successfully completed the training courses developed.

Deliverables for task 2:

- A training needs assessment for each regional office.
- A training plan for each regional office, to be approved by the TCN MD and the DFID SRO.
- Delivery of the training contained in the training plan over a three month period, with a final report assessing the impact of the training delivered and outlining lessons for future capacity building.

Task 3 – Support to the REA

Task 3.1: Promoting investment in rural electrification solutions would have a higher chance of success if there was better data about energy demand profiles.

This task is to gather information on a number of rural communities, and has two components. The first is to complete an energy audit for 500 rural communities. The second is to follow up with more detailed analysis on 5 of these communities, to understand potential demand and willingness to pay for energy in order to inform planning by potential investors interested in providing access through a mini-grid or the supply of stand-alone systems or devices.

Deliverables for task 3.1:

- A document outlining the extent and design of audits and follow up analysis to be approved by the REA MD and the UKNIAF SRO.
- An implementation plan, including proposed communities to be audited and timelines, to be approved by the REA MD and the UKNIAF SRO.
- An audit report outlining energy usage in the 500 selected communities.
- A report outlining findings from the deeper analysis in 5 communities.

Task 3.2: Developing a Monitoring and Evaluation (M&E) framework for REA interventions.

It is essential for REA to improve its overall understanding of what is working vs. not working in different programmes. This requires it to develop a robust and consistent M&E framework across all its interventions as well as raising M&E capacity within the organisation.

The task is to produce a report recommending an M&E framework and assessing any capacity gaps that could prevent its effective implementation.

Deliverable for task 3.2:

- A report outlining current M&E processes and available data and assessing options and recommending an approach or creating a comprehensive M&E process for REA

interventions, considering both in-house and contracted out options. The report should include an assessment of any capability gaps that could prevent effective implementation.

Task 3.3: A report assessing REA procurement and project management systems and capability, and making recommendations for the improvement of these.

REA is managing literally thousands of projects, with a small staff. There is a significant need to build procurement and project management capabilities to help REA staff manage large numbers of relatively small projects.

Deliverables:

- A report describing existing capacities and highlighting gaps and areas in need on strengthening, based on assessment by the supplier.
- Report recommending improvements to procurement and project management capacity, including a training needs analysis, implementation plan and projected costs. Recommendations on procurement should be informed by an understanding of federal and state procurement laws and regulations, and recommendations should include possibilities for deploying appropriate project tracking software.

Task 4 – Support to NBET

NBET is developing an evidence-based set of modular courses that its staff can undertake to provide generic skills that they need for doing the work of NBET. These courses would be taught in small groups of between 5 to 10 people.

NBET's plan is to have a set of courses that will be open to all staff in the organisation. Since the courses will be designed to reflect current issues, the NBET CEO expects that staff will be sufficiently skilled upon completion that they can move around easily within the organisation. This task is to help in the design of a programme.

Deliverables:

- A report describing the training requirements of NBET staff, based on an assessment by the supplier
- In conjunction with NBET's training partners, make recommendations regarding optimal training delivery methodologies and outcome assessment design
- A Report outlining how the effectiveness of the training could be measured.

Task 5: support to the MPWH

The Power Consumers Assistance Fund (PCAF) was a measure embedded within the 2005 Act. Its purpose was to mitigate the effects of tariffs and improve access to electricity for the poorest in society.

TA support is required to assess options for the establishment of the PCAF – this will include but not be limited to support in the areas of sustainable funding, operational and governance issues.

Deliverables for Task 5:

- Develop a work plan for operationalisation of the PCAF, to be approved by the MPWH and UKNIAF SRO, following discussion with the World Bank power team.
- Produce a report outlining how PCAF like structures have operated in other relevant countries, and drawing out lessons for possible operation of the PCAF in Nigeria.
- Produce a comprehensive implementation plan for a PCAF, including sustainable funding, operational and governance recommendations

Overall project Deliverable: A report should be compiled and submitted to DFID outlining all conclusions and recommendations across all tasks undertaken, which makes recommendations on lesson learning from each individual work area and more generally for the provision of similar types of support in the future. All reports must be provided in Microsoft Word in soft copy and as a hard copy to each beneficiary and to DFID.

6. Requirements

The supplier will need to demonstrate the following expertise

- project management relating to power transmission projects;
- delivering capacity building support on project management and procurement.
- customer enumeration and tariffs in the power sector.

7. Timing considerations:

Mobilisation is required to take place within 21 days of contract award which is expected to be in October 2018. The contract will be awarded for a duration of 8 months with a break point after 6 months. All tasks are expected to be delivered within a 6 month period. DFID will have discretion to extend the delivery period by a maximum of 2 months for any task, but is not obliged to do so and payment is triggered only by delivery within 6 months unless an extension has been approved by DFID.

8. Payment Mechanism

Payment will be made wholly on achievement of deliverables. Payment for each task will be made once DFID has signed off on the deliverables for the task. Where the task involves several deliverables, partial payment will be considered for completion of initial tasks. The service provider should propose an output based payment schedule for the duration of the programme.

9. Co-Ordination and Management

All deliverables should be signed-off first by the head of the Nigerian government agency receiving the work and then by the UKNIAF SRO. If the supplier feels that approval is being unreasonably withheld they can submit to the SRO who will decide whether the ToR have been satisfied fully and decide on that basis whether to authorise payment for that task. The supplier is required to provide the UKNIAF SRO with a monthly progress update. DFID will be happy to host a monthly meeting in its Abuja office if useful, but ability to attend this is not a contractual requirement upon the supplier.

10. UK Aid Branding

Partners that receive funding from DFID must use the UK aid logo on their development and humanitarian programmes to be transparent and acknowledge that they are funded by UK taxpayers. Partners should also acknowledge funding from the UK government in broader communications but no publicity is to be given to this Contract without the prior written consent of DFID.

11. Transparency

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. 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 to DFID – further IATI information is available from; <https://www.aidtransparency.net/>

13. Duty of Care

The Supplier is responsible for the safety and well-being of their Personnel 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. DFID will share available information with the Supplier on security status and developments in-country where appropriate.

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 is up to date, and receives 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.

This Procurement will require the Supplier to operate in conflict-affected areas and parts of it are highly insecure. Travel to many zones within the region will be subject to travel clearance from the UK government in advance. The security situation is volatile and subject to change at short notice. The Supplier should be comfortable working in such an environment and should be capable of deploying to any areas required within the region in order to deliver the Contract (subject to travel clearance being granted).

The Supplier is responsible for ensuring that appropriate arrangements, processes and procedures are in place for their Personnel, taking into account the environment they will be working in and the level of risk involved in delivery of the Contract (such as working in dangerous, fragile and hostile environments etc.). The Supplier must ensure their Personnel receive the required level of training.

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 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

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:

- 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)?
- 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?
- 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?
- 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)?
- 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?
- Have you appropriate systems in place to manage an emergency / incident if one arises?

The Supplier should confirm a named person to be responsible for being in contact with DFID Nigeria to ensure information updates are obtained and shared promptly.

Annex 1

SUMMARY RISK ASSESSMENT MATRIX

DFID Overall Project/Intervention Summary Risk Assessment Matrix

Project/intervention title: Nigeria Road and Power Sector Support programme

Location: Nigeria

Date of assessment: 18/05/18

| Theme | DFID Risk score | DFID Risk score | DFID Risk score |
|--------------|--|--|--|
| | Sokoto/ Kebbi/ Niger/Kwara/ Oyo/Ekiti/ Osun/ Ogun/ Lagos/ Ondo/ | Zamfara/ Katsina/ Kaduna/ Kano/ Jigawa/ | Yobe/ Borno/ Gombe/ Adamawa |

| | Edo/ Anambra/ Enugu/ Ebonyi/ Cross River/ Akwa Ibom/ Imo/ Plateau/ Nassarrawa/ FCT/ Benue/ Taraba | Bauchi/ Kogi/ Delta/ Rivers/ Abia | |
|--|--|--|----------|
| OVERALL RATING¹ | 2 | 3 | 5 |
| FCO travel advice | 2 | 3 | 5 |
| Host nation travel advice | NA | NA | NA |
| Transportation | 2 | 2 | 5 |
| Security | 2 | 3 | 5 |
| Civil unrest | 2 | 2 | 4 |
| Violence/crime | 2 | 2 | 3 |
| Terrorism | 1 | 3 | 5 |
| War | - | - | - |
| Hurricane | - | - | - |
| Earthquake | - | - | - |
| Flood | - | - | - |
| Medical Services | 2 | 3 | 4 |
| Nature of Project/ Intervention | 2 | 3 | 5 |

| | | | | |
|---------------------------|----------------------|----------------------|-----------------------|----------------------------|
| 1 Very Low risk | 2 Low risk | 3 Med risk | 4 High risk | 5 Very High risk |
| Low | | Medium | High Risk | |

¹ The Overall Risk rating is calculated using the MODE function which determines the most frequently occurring value.