

Terms of Reference for a Contract Manager for the Construction Component of the Education Support to Malawi (ESM)

1. Background to the programme

Since 2010 primary school construction at approximately 48 sites remains incomplete due to the inability of Government of Malawi (GoM) to pay contractors because of institutional and bureaucratic constraints which undermined the success of the pooled fund. Much of the construction was tendered under DFID's previous Education Sector Support Programme (ESSP) and handed over to Education Infrastructure Management Unit (EIMU) at the start of 2010 when the pool became operational and DFID's Programme Implementation Unit (PIU) closed. The EIMU retained staff from DFID's PIU and therefore had strong technical capacity but was hampered by financial constraints of GoM.

Given the need to complete the school construction and the constraints currently facing GoM operating an austerity budget, DFID has made available £7m capital funds (inclusive of works, fees and related expenses) to support the completion of construction. The expected outputs for the construction component of the ESM will be:

- a. School construction, including WASH facilities, completed at approximately 48 sites.
- b. IT resource rooms constructed at 12 sites.
- c. 31,488 learners p.a. have access to improved learning sites.

2. Requirements

DFID intends to provide support for the completion of the schools through the appointment of a Contract Manager who will provide both technical and financial oversight of the project including making direct payments to existing contractors.

The Contract Manager will manage the 3No. architectural firms and their quantity surveying team (hereafter referred to as 'the consultants') that are responsible for the supervision and delivery of the schools as well as the xx number of contractors responsible for constructing the schools – both the consultants and contractors are appointed by and are contracted to the GoM / EIMU.

3. Scope of Services

This Request for Proposals (RFP) intends to identify a Construction Contract / Project Management Consultancy, Quantity Surveying Firm or similar Service Provider (hereafter referred to as 'the Contract Manager') that will perform the following activities:-

- Undertake an initial assessment of the number of school sites and scale of outstanding construction work required including a review of the existing contracts and procurements underway, a review of the existing bills of quantities (BoQ) from the consultants and the development of a consolidated and detailed cost estimate for the remaining works at each site.)



- Oversee the ongoing supervision and management of the construction works for the completion of the school buildings and WASH facilities and hand over the infrastructure mentioned above to the Government of Malawi within the agreed timeline, quality and budget.
- Support the Ministry of Education, Science and Technology (MoEST) through the EIMU, in the management of the existing consultants and contractors to ensure their obligations under their respective contracts with the GoM / EIMU are being met and adhered to.
- Review, on a monthly basis, consultant-prepared valuations and related contractors' applications for payment and ensure a tight technical and commercial oversight role by verifying validity and accuracy of all applications for payment and valuations (against the provisions of the contract).
- Review, on a monthly basis, consultant-prepared applications for their respective fees and expenses in accordance with their professional services contracts with the GoM / EIMU.
- Undertake site visits as deemed appropriate (minimum frequency of site visits under the contract will be quarterly visits to all the sites) to provide DFID with the assurance that work is progressing according to programme and to the desired quality and that the amounts being claimed by both the contractors and consultants are justified..
- Disburse, on a monthly basis, payments to the consultants and contractors following verification of amounts payable.
- Prepare detailed quarterly technical and financial progress reports, including risks / issues, update on contract issues, progress on site and details of past quarter expenditure and forecast expenditure for upcoming quarter and issue to DFID.
- Prepare summary monthly progress reports and financial updates for the construction programme.
- Prepare a final report, including expected final account, outstanding snags, closeout activities undertaken, confirmation of contract status for the consultants' and contractors' contract and other related and pertinent contract information.

4. Expected Contract Deliverables and Reporting

The contract will be delivered in stages and minimum reporting requirements under the contract as well as the key contract stages (some of which overlap) are summarised below with the proposed time line. The format of the reports will be discussed with DFID, prepared as per discussions and submitted for approval to DFID:-

4.1 STAGE 1: Inception Phase (Projected Time-Line: 1st to 30th September, 2015 – 1 month)

During the Inception Phase and based on the number of school sites identified as above and the standard construction drawings and Bills of Quantities which will be supplied by EIMU, the Contract Manager shall carry out site assessments to verify the number of sites as well as the quantity and cost of the remaining works for each site with inputs from the consultants and submit a report to DFID. The site assessments are meant to assist the Contract Manager in getting familiar with and understanding the full scope of work that needs to be completed (including those construction contracts that haven't commenced as they were abandoned at tender stage), the forms of contract in place, project components and site locations. It should be noted that on 12 or more of the sites (exact number to be determined during the Inception



Phase), new IT resource rooms (not reflected on current drawings) will need to be constructed and as such, changes will need to be made to the drawings and BoQ to reflect these. The Contract Manager will work closely with VSO and the EIMU and consultants to understand the requirements for the resource rooms and ensure that the consultants make the necessary adjustments and provisions to the design of the standard classroom block design.

4.1.1 STAGE 1 DELIVERABLES:

Deliverable 1: Inception Phase Report (including a site assessment, identification of contractors and project implementation schedule)

The Inception Phase report should include:

- A review of the proposed contract packaging considering the scale/value of construction work, location/geographical condition as well as capacity of contractor working on the project.
- A review of the performance of the list of contractors awarded contracts to complete the works.
- A review of the proposed time frame for the activities with special attention to the accessibility of some of the remote sites.
- A review of the progress of all outstanding (if any) procurement of contractors by the EIMU.
- An updated schedule of all the contracts (including recently tendered projects), the contractor and consultant team involved, progress on site / percentage complete (or procurement progress / update), geographical location, value and status of contract with the GoM / EIMU (this can be developed in conjunction with the consultants and the EIMU, however, the Contract Manager will be required to satisfy himself that the information provided provides a true reflection of the actual position.
- An overview of the payment mechanism / system that will be set up by the Contract Manager to ensure payments are made in a timely manner to the consultants and contractors and that they have been verified accordingly.
- Recommendation to improve the cost efficiency and progress based on the factors and risks identified which may affect the smooth implementation of construction work.

Deliverable 2: Review of Contracts

As part of the Inception Phase, the Contract Manger will be required to review the existing contracts between (1) the GoM and the contractors and (2) the GoM and the consultants to ensure that the contracts are valid and will deliver Value for Money. The Contract Manager will be required to submit a report following the contract review, highlighting the key findings.

4.2 STAGE 2: Implementation Phase (Projected Time-Line: 1st of October 2015 to 31st of August 2016 – 10 months)

Upon acceptance and sign off of the Inception Phase Report, the Contract Manager will commence the Implementation Phase, during which the core activities and bulk of the scope of works will be undertaken, including but not limited to reviewing and approving valuations and applications for payment, site monitoring visits, progress and financial reporting, disbursement of funds, attending project meetings and general supervision & monitoring.

4.2.1 STAGE 2 DELIVERABLES:

Deliverable Number 1: Detailed quarterly progress reports

The Contract Manager is expected to carry out the following tasks and summarise the progress of these, the construction programme on a quarterly basis in the quarterly progress report:

- Review and approve the consultants' schedule of activities
- Review and approve the contractors' schedule of activities
- Manage and disburse payments to the consultants and contractors following verification of expenditure
- Undertake regular (at least quarterly) site visits to monitor progress of works
- Ensure that the Clerk of Works (CoW) or similar as appointed by the EIMU, undertakes regular construction site spot checks. The CoW will monitor the quality of the works and complete a quality control checklist which should be reviewed by the Contract Manager. The copy of check list will be submitted to DFID/EIMU as part of the quarterly progress report.
- Organise quarterly construction site management meetings, including taking the minutes of the meeting and sending these to DFID/EIMU within 5 working days following the meeting.
- Advise DFID on any potential risks with respect to the performance of the project team, project timeline, project budget and quality of the works.
- Ensure that appropriate safety measures are taken on site to minimise the risk of accident to the workers and the public.

Deliverable Number 2: Detailed quarterly financial reports, payment certificates and cash flow projections

It should be noted that the Contract Manager will pay the contractors and consultants directly and as part of the Inception Phase, will have set up a system for facilitating this. DFID will transfer funds to the Contract Manager quarterly on the basis of the cash flow projections. The Contract Manager will disburse to the contractors and consultants once they are satisfied that the works and services have been completed to an agreed standard and in accordance with the respective contracts. The amount disbursed by DFID to the Contract Manager will be accounted for and it is the Contract Manager's responsibility to ensure that any disbursement requests sent to DFID are fully justified. The Contract Manager shall undertake the following:

- Receive from the EIMU, a recommendation for payment supported by, and including interim payment certificates and contractors' application for payment and related invoices for the construction works. The payment certificates will have been prepared by the consultants and approved by the EIMU.
- Receive a recommendation for payment prepared by the EIMU, for the consultants' fees - this will be supported by the original consultant-prepared application for payment and related invoices.
- Prepare and submit to DFID, payment certificates / requests for payment for the construction work and consultants' services.
- Utilising the consultants' information where deemed appropriate and realistic, the Contract Manager will prepare and submit to DFID, quarterly cash flow projections for the entire programme (works and fees) in a format agreed with DFID. .



- Prepare and submit to DFID detailed financial reporting, highlighting expenditure to date, expenditure forecast, contract variations and related price movements, anticipated final account, contingency spent and remaining, and any other key financial information.

Deliverable Number 3: Monthly highlight reports

The Contract Manager should, in addition to the quarterly reports provide a monthly summary report of progress, financial highlights and key risks and issues.

4.3 STAGE 3: Project Completion (by 30th of September 2016 – 1 month)

As part of the project completion activities, the Contract Manager is expected to:

- Issue certificates of practical completion as evidence completion of construction works
- Inform DFID of the tentative date for Substantial Completion of the works at least a month in advance
- Provide, in collaboration with EIMU and the consultants, to the contractor (s), a list of defects upon substantial completion of the works
- Ensure that all defects are fixed by the contractor (s) within one month from the date of issue of the Substantial Completion Certificate
- In conjunction with the supervising architect (s), facilitate the handover of the completed facilities to the local authorities and beneficiaries

4.3.1 STAGE 3 DELIVERABLES:

Deliverable Number 1: Practical Completion & Substantial Completion Certificates

The Contract Manager will submit to DFID, Practical Completion Certificates and Substantial Completion Certificates. However, prior to submission to DFID, the certificates shall be submitted to EIMU for review and endorsement.

Deliverable Number 2: Project Completion Report

The Contract Manager will submit a project completion report including:

- Final cost of the project
- Key lessons learnt
- Outstanding snags and defects
- Handover process and key issues identified and managed

4.4 STAGE 4: Maintenance and Defect Liability Period (by 30th September 2017)

There will be a Maintenance and Defects Liability Period within the contracts and during this period, the supervising architect (s) shall submit to the Contract Manager for review and approval, a final report on the status of the infrastructure facilities constructed and issue certificates of release of retention upon completion of remedies to all defective work by the contractor(s). The certificates shall be submitted to EIMU for review and endorsement before being forwarded to Contract Manager for disbursement of payment.

4.4.1 STAGE 4 DELIVERABLES:

Deliverable Number 1: Certificates of Release of Retention



The Contract Manager shall issue to DFID, Certificates of Release of Retention and a short report confirming completion of all the obligations under the contract and release of retention monies.

5. The Recipient and Beneficiaries

The recipient of the services will be DFID Malawi who will manage the performance of the Contract Manager. The GoM is a key stakeholder on the project and will be responsible for managing their consultant teams and contractors. The main beneficiaries for the programme are the students and staff of the respective schools in Malawi.

6. Timescales / Duration

The project is expected to commence at the beginning of September 2015 for a period of 12 months, ending in September 2016 (excluding the Defects Liability period).

7. Payment Schedule

The Contract Manager will be paid on a Quarterly basis, based on anticipated spend for the upcoming quarter, with a reconciliation taking place at each quarter based on expenditure incurred in the past quarter. As part of their proposal, bidders are requested to propose an indicative payment schedule which will be agreed and finalised during the Inception Phase as follows:

Stage	Deliverable	Amount in £
1	Inception Phase Report	
1	Contract Review	
2	Implementation Phase Activities & Deliverables – Quarter 1	
2	Implementation Phase Activities & Deliverables – Quarter 2	
2	Implementation Phase Activities & Deliverables – Quarter 3	
2	Implementation Phase Activities & Deliverables – Quarter 4	
3	Project Completion Activities & Deliverables	
4	Release of Retention Certificate and Final Report	
	Total	

Payment will be made upon satisfactory completion and quality of deliverables from the Contract Manager. DFID retain the right to withhold any payments for unsatisfactory performance of the Contract Manager and/or poor quality of deliverables.

8. Qualification requirements

Minimum qualification requirements of the Contract Manager are summarised be



- a) The Contract Manager should have relevant professional experience in quantity surveying and project / contract management and should ideally be registered with a relevant professional body.
- b) Key personnel proposed to deliver the contract should have relevant professional qualifications and experience.
- c) The Contract Manager must demonstrate experience and proficiency in carrying out assignments of similar nature and complexity. A minimum record of 3 similar assignments must be provided in form of a list with contact details of previous clients.

9. Evaluation criteria

This shall be a Two (2) Envelope Request for Proposal (RFP) and the evaluation of the proposals will be based on a weighted score that aggregates the score of the technical and financial proposals in a 70-30% ratio respectively. The evaluation criteria to be used is included within the "Instructions to Tenderers".

10. Duty of Care

The delivery of this contract will require regular site visits and travel within Malawi as appropriate (mostly to visit the construction sites).

The Contract Manager 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. (This is covered in section 2 of contract documentation) They will also be responsible for the provision of suitable security arrangements for their domestic and business property.

The Contract Manager will be offered a security briefing by the British Embassy/DFID on arrival at DFID Malawi offices. Non-Malawian personnel must register with their respective Embassies, where applicable to ensure that they are included in emergency procedures.

The Contract Manager is required to comply with the DFID Duty of Care to Suppliers Policy in delivery of the ESM Programme.

DFID will share available information with the Contract Manager on security status and developments in-country where appropriate. (Risk Matrix also attached for Malawi)

The Contract Manager has a duty of care and is responsible for ensuring appropriate safety and security briefings for all of their Personnel working under this contract and ensuring that their Personnel register and receive briefing as outlined above. Travel advice is also available on the FCO website and the Service Provider must ensure they (and their Personnel) are up to date with the latest position.

The Contract Manager 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.).

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. 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.

If tenderers are unwilling or unable to accept responsibility for Security and Duty of Care as detailed above, that Tender will be viewed as non-compliant and excluded from further evaluation.

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:

- (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?

DUTY OF CARE

Annex 1: Initial Risk Assessment Matrix

Project title:

Location: Malawi

Date of assessment:

Assessing official:

Theme	DFID Risk Score
	Malawi
OVERALL RATING	
FCO travel advice	1
Host nation travel advice	1
Transportation	3
Espionage	1
Security	2
Civil unrest	1
Violence/crime	2
Terrorism	2
War	1
Hurricane	1
Earthquake	2
Flood	2
Medical Services	3
Nature of Project/Intervention	

1 Very Low risk	2 Low risk	3 Med risk	4 High risk	5 Very High risk
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Malawi

Country	Malawi
FCO travel advice	<ul style="list-style-type: none"> No restrictions. Wildlife and livestock on roads make driving



	<p>hazardous. Avoid driving at night.</p> <ul style="list-style-type: none"> You should carry driver's license when driving. This is a legal requirement. Whilst most visits to Malawi are trouble-free, you should be aware of an increasing incidence of violent crime. There is a low threat from terrorism. But you should be aware of the global risk of indiscriminate terrorist attacks which could be in public areas, including those frequented by expatriates and foreign travellers.
Host nation travel advice	Not available
Transportation	<p>Malawi has good tarmac roads over some of the country but you should be careful when driving off-road. Driving; particularly outside the major urban areas, can be dangerous as stray livestock can pose a serious hazard. Main roads/motorways are not fenced and people frequently walk on the road. Some trading towns have markets at the roadside. This is a particular risk at night and caution should be taken if driving outside major towns at night.</p> <p>Heavy duty trucks are a common sight on the roads. Zambian, Mozambican and Tanzanian hauliers drive through Malawi when ferrying goods across the region. Trucks that have broken down are a hazard on the road especially at night.</p> <p>Virtually all large cities and towns offer some form of public transportation including mini buses. There are two main airports: Kamuzu International Airport in Lilongwe and Chileka International Airport in Blantyre.</p>
Security	Country threat is assessed as low.
Civil unrest	<p>You should avoid large demonstrations and gatherings. There were country-wide demonstrations in 2011 against the former regime and president Bingu wa Mutharika. During this period, there was loss of life and looting (police fired live ammunition at protestors). Police Crowd Management is poor. Tear gas is the main tool used to disperse crowds. This causes panic and violence ensues.</p>
Violence/crime	<p>Attacks on tourists are rare, but petty and violent crime is increasing. House burglaries; often by armed gangs, are also increasing. There have been some cases of car-jacking. If you are attacked, do not resist. Theft from parked cars does occur. Safeguard valuables and cash. Deposit them in hotel safes, where practical. Keep copies of important documents, including passports, in a separate place to the documents themselves.</p>

	Violence/crime is assessed as '3'.
Espionage	D
Terrorism	There is a low threat from terrorism. But you should be aware of the global risk of indiscriminate terrorist attacks which could be in public areas, including those frequented by expatriates and foreign travellers. Terrorism risk is assessed as Echo.
War	No identified threat
Hurricane	Low Risk
Earthquake	Low Risk
Flood	Some localised flooding and damage to buildings
Medical Services	Health care in Malawi is poor. For serious medical treatment, medical evacuation to the UK or South Africa may be necessary. Private hospitals will not treat patients unless you can pay and health care may be expensive.
Nature of Project/ Intervention	