



PublicPrivate  
Partnership  
Commission

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**TERMS OF REFERENCE**

**FOR THE**

**PROVISION OF PPP TRANSACTION ADVISORY SERVICES FOR A UNITED  
NATIONS OFFICE COMPLEX “ONE UN HOUSE” FOR THE MINISTRY OF LANDS,  
HOUSING AND URBAN DEVELOPMENT IN THE REPUBLIC OF MALAWI**

## 1. INTRODUCTION

The Government of Malawi, through the Ministry of Lands, Housing and Urban Development (MLHUD), wishes to procure an office complex for the purposes of accommodating all United Nations (UN) Agencies operating in the Capital City, Lilongwe. The transaction will be delivered as a public private partnership (PPP) arrangement under the PPP Act of 2011 in order to optimise efficient delivery of service and to leverage the private sector's expertise, finance, and efficiency, among several advantages. Land for this purpose has been allotted in the prime location of Lilongwe City Centre across from the Headquarters of Government, Capital Hill. The area enjoys convenient proximity to a number of important organizations such as foreign missions, major commercial banks, leading hotels, auditing and legal firms and the Reserve Bank of Malawi. Preliminary sketch concept plans for the complex have been developed by MLHUD.

Under the *Delivering as One Initiative* reforms which were launched in 2006, the UN Secretary General introduced an inter-agency cooperation framework which aims at achieving more efficiency in the way UN Agencies operate. The initiative is made up of five pillars - One Budgetary Framework; One Leader; One Programme; Operating as One; and Communicating as One. In the recent UN Secretary General's report on repositioning the UN System, the Secretary General called for the UN to move towards common UN premises to increase the efficiency and effectiveness of UN programming. The objective entails accommodating multiple Agencies to operate from common premises in an effort to better coordinate and consolidate the work of UN Agencies, Funds and Programmes. In Malawi, the UN entities participating in the project are: FAO, IOM, UNAIDS, UNDP, UNFPA, UNHCR, UNICEF, UN Women, WFP, WHO and the World Bank (collectively known as the "UN System").

## 2. OBJECTIVES

The objectives for this assignment are to recruit transactions advisors, referred to herein as Advisors, who will assist MLHUD and the PPP Commission in the development and implementation of the assignment:

- a. To determine the technical, legal, financial and environmental feasibility of constructing an Office Complex, One UN House, as a PPP arrangement. The study will come up with a PPP Options report which will recommend the best way to structure the PPP;
- b. To support MLHUD in identifying the private partner to design, finance, construct, operate and transfer the required office infrastructure and facilities.

### **3. SCOPE OF WORK**

The scope of work for the Advisors is as follows:

#### **3.1 Phase 1: Feasibility Study**

The Advisor is required to undertake a comprehensive feasibility analysis for MLHUD to establish the viability and affordability of constructing the One UN House in Malawi. The analysis will include an assessment of the viability of developing the project through a PPP arrangement and will include, among others, the following components:

- a. Specific analysis into the feasibility of executing this project as a PPP in consideration of both the lifecycle costs and revenue streams;
- b. Preliminary Sketch Plans (Office Concept) detailing design and layout, and confirming size have already been made by MLHUD. The consultant will review, and if needs be, with the concurrence of MLHUD, propose a maximum of three alternative Sketch Plans or Scenarios;
- c. Design options for a “green building” to create a safe, healthy and natural environment. The Advisors will also provide the associated cost impact analysis;

- d. Financing options for the Project;
- e. An assessment of the affordability limits from the users' perspective in regard to the income likely to be required by the investor. The income will include user fees from occupants, the UN System, and might also include other sources;
- f. A PPP Options Report which will include the full identification and allocation of transaction risks to both the public and private parties. The allocation will be based on who is best placed to manage the risks. In other words, the allocation will be a reflection of the comparative or relative ability of each party to address a specific risk. The allocation will also set out how the risk allocation impacts on the transaction;
- g. Establishing that the One UN House PPP proposal delivers value-for-money for the Contracting Authority, MLHUD; affordable rates for the users, UN Agencies; and at the same time provides an acceptable return on investment to the investor.
- h. Local market sounding and investment promotion meetings for the purposes of gauging investment appetite for the transaction and its proposed structure;
- i. The Advisor shall prepare request for expression of interest (REoI) (or request for prequalification) and request for proposal (RFP) documentation in accordance with international best practice. The documentation shall concisely set out:
  - i. Brief description of the project.
  - ii. The output specifications for the private party to meet;
  - iii. Requirements for compliant bids;
  - iv. A risk profile as established in the feasibility study;
  - v. The payment mechanism;
  - vi. The bid process;
  - vii. Evaluation criteria;

- viii. Bidder communication systems;
- ix. Draft Agreement.
- j. Any other matter that may have a material impact on any element of the Project.

### **3.2 Phase 2: PPP Procurement**

If, on the basis of a feasibility study, a PPP solution is considered an optimal solution, and if the Client opts to proceed to the procurement stage, the Advisors will be required to provide the necessary technical, legal and financial advisory support for the procurement of the private partner to design, finance and develop the complex. All activities shall comply with the provisions of the PPP Guidelines and Procedures Manual and other applicable procurement and PPP principles and regulations.

The Advisors shall provide the PPPC with all the bidding administrative support necessary including advertising, bidder communication, drafting and other administrative support for the entire procurement process to the highest standards of efficiency, quality and integrity.

#### **3.2.1 Administration of the Bidding Process**

The Advisors will provide all necessary administrative support to the PPPC for the efficient and professional management of the bidding process. This includes managing a data room and/or information memorandum, facilitating structured engagement between the PPPC and bidders, helping the PPPC to communicate effectively with bidders, and receiving bids.

#### **3.2.2 Evaluation of Bids**

An Evaluation Team comprising various stakeholders, assisted by the Advisors, will evaluate the bids following guidance given in the Bid Procedures. A best and final offer (BAFO) process should be assumed. When costing this phase, the transaction advisor must allow for the possibility of

administering BAFO processes. If there is no BAFO process, the Advisors' remuneration will be adjusted accordingly.

### 3.2.3 PPP Agreement Negotiations

The Advisors will assist the PPPC in the final negotiations with the preferred bidder. This will involve categorizing issues appropriately, developing timelines for completion, and planning negotiation strategies and processes for reaching an effective agreement. The Advisor must ensure that all agreements reached are incorporated into appropriate financial, commercial and legal documentation, and must assist with drafting the necessary and related correspondence.

The final terms of the agreements, each as negotiated with the preferred bidder, must be submitted to the PPPC and MLHUD, along with the PPP agreement management plan for the construction/procurement of the office complex for approval. The Advisors are responsible for compiling the necessary submissions for the PPPC and MLHUD to obtain this approval.

The Advisors will submit a close-out report for the procurement of the private investor which will be a confidential document of the PPPC and MLHUD.

## 4. TIMELINES FOR DELIVERABLES

The timelines for deliverables covering the scope presented above is presented below:

Part	Item	Deliverable	Timeline
Phase 1 Feasibility Study	1	Inception Report	2 weeks after Commencement of services
	2	Needs Analysis Report culminating in to proposed 3-D Sketch Plans for One UN House	8 weeks after Commencement of services

	3	Draft Final Report covering all aspects of PPP; legal and regulatory; technical and financial findings and proposals	10 weeks after Commencement of services
	4	Final Report as a revised version of the draft Final Report based on stakeholders' comments	13 weeks after Commencement of services
	5	Draft Bidding Documents	15 weeks after Commencement of services

Approval of the Detailed Feasibility Study by the Ministry of Finance and Authorization to proceed to Procurement Stage. Issuance of Notification to the Advisors engaging them to proceed to the next stage.

Phase 2 Administering the Procurement of the private party	6	Floating Adverts requesting Expressions of Interest or Prequalification	5 weeks after Notification
	7	<b>Managing the Procurement Process.</b> The Advisors participate in the shortlisting or prequalification of applicants and draft the required evaluation reports. Thereafter the consultant shall revise and finalize the RFP. The Advisors shall also draft bid communications such as responses to request for clarifications. The Advisors shall also, to mention but a few, facilitate bid conferences, carry out multi-stage technical evaluations (including bidder interviews) and conduct contract negotiations.	20 weeks after Notification
	8	Contract signed and Procurement Close-out Report	20 weeks after Notification

Notes:

- a. Further details of the components of the detailed feasibility study reports are presented in Annex 1;
- b. All reports, market sounding and investment promotion meetings under Part 1 will be delivered in Malawi;
- c. Similarly for Part 2, the Advisors have to make adequate provisions to be present in Malawi for submitting deliverables, holding or attending evaluation meetings, bid conferences and contract negotiations, among several;
- d. The Procurement Phase is provisional and will only be implemented subject to conditions paragraph 3.2. However, bidders are requested to make detailed, separate provisions for each of the two phases in their submissions.

## **5. FORMAT FOR SUBMISSION OF REPORTS**

All reports must be submitted in a MSWord format (with relevant annexures), and delivered as both electronic and hard copy documents. The hard copy documents for the Detailed Feasibility Study Report, the Bid Documentation, the PPP Agreement and the Closeout Reports shall comprise six copies. The feasibility study must be presented with a thorough executive summary and must be accompanied by a PowerPoint presentation containing all the key features of the study. The executive summary and PowerPoint presentation must be compiled in such a manner that they can be used for decision-making purposes. All financial models must be in Excel format, and clearly set out all assumptions made, sensitivity analyses carried out, and model outputs. The financial models must be sufficiently adaptable for use by others at later stages.

## **6. DURATION**

The duration of the advisory services is expected to be approximately nine months.

## **7. TRANSACTION ADVISOR QUALIFICATIONS AND EXPERIENCE**

The Advisors, a firm or an association of firms, shall comprise a team managed by an individual Lead Advisor. The firm shall have a demonstrable experience of at least seven years of providing similar



services, that is PPP detailed feasibility studies and PPP Procurement support, to either the public or private sectors or both. Knowledge of the African operating environment as it affects the implementing of PPPs in office accommodation transaction will be an added advantage. The team shall provide evidence of a proven track record in successfully transacting PPPs in the ranges of US \$5-30 million in the past five years in various sectors. The members of the team will have both the skills and experience necessary to undertake the range of tasks set out in these terms of reference. The Lead Advisor will be held accountable, in terms of the Advisors contract, for ensuring that all project deliverables are submitted in time, in good quality and within cost. He will also ensure the professional conduct and integrity of his or her team.

The skills and experience required within the team are as follows:

- a. Financial analysis, with relevant PPP and project finance experience;
- b. PPP procurement and structuring;
- c. Legal and regulatory expertise;
- d. Planning management;
- e. Facilities management;
- f. Relevant expertise in the construction and the maintenance of built environment facilities and systems. These shall include civil engineering, architecture and quantity surveying;
- g. Contract negotiations;
- h. Contract management and;
- i. Project management.

### **7.1 Team Composition**

It is the responsibility of the Advisors to propose and use a team which is appropriate for this engagement.

The team should comprise, at a minimum, of the following. The Advisor will propose at least one candidate for each position or role listed:

- PPP expert with a minimum of 10 years of developing, analysing and structuring PPP transactions;

- Financial and Risk Analysis expert with minimum of 10 years in analyzing PPP financial viability and developing financial models for projects;

- Legal expert, knowledgeable in Malawi Law, with 10 years' experience in project finance, legal and regulatory analyses and reviews and PPP contracting;
- Architects, familiar with the Malawi operational environment, with at least 10 years' experience;
- Structural and Services Engineers with a minimum of 10 years' experience;
- Quantity Surveyors with a minimum of 10 years' experience.

## **8. STAKEHOLDERS IMPLEMENTATION ARRANGEMENTS**

The following are the stakeholders and proposed implementation arrangements for the Project.

### **8.1 GOVERNMENT OF MALAWI**

The Government of Malawi, specifically through MLHUD, is the owner of the Project and will be the contracting authority for the PPP. The private sector party or investor will enter into contract and report to the Ministry throughout the project lifecycle. The Ministry will also take a prominent role in technical supervision of the transaction as it pertains to the built environment. Their responsibilities include securing the land, finalizing or approving building drawings, supervising the provision of utilities, et cetera.

### **8.2 UN SYSTEM**

The UN Agencies are co-implementers of the Project and tenants of the office complex. The United Nations Development Program (UNDP) are the lead agency for the UN System in Malawi and will therefore represent the System. It is anticipated that the UN system will be the ultimate financiers of the system through rentals or unitary payment to the private party investor.

## **8.3 THE PUBLIC PRIVATE PARTNERSHIP COMMISSION (PPPC)**

The Mandate of the PPPC is to facilitate private sector participation by administering the PPP Act. The Commission achieves this by supporting Contracting Authorities (CAs) during the PPP cycle covering concept development, feasibility analysis, procurement, contracting and monitoring. The PPPC will be the contract holder for the transaction advisory services but not for the PPP contract. For the Advisors' contract, the PPPC will be responsible for nominating a contact or desk officer and convening stakeholders' meeting for deliverable reviews and other project activities.

### **8.3.1 Management of the Advisors by the PPPC**

Overall responsibility for the Project will reside amongst the stakeholders' principals namely, the Secretary for Lands, Housing and Urban Development; the United Nations Development Program Resident Representative and the PPPC Chief Executive Officer. The PPPC will appoint a desk officer for day-to-day management of the services. Other measures will be as follows:

- a) There will be a loose working committee appointed by the principals above which will review the progress made by the Advisors, coordinate the allocation of resources for the project and discuss preliminary findings and provide initial approval of and feedback on the deliverables.
- b) The PPPC will also assist the consultants in sourcing reports and other literature from public sector stakeholders. The PPPC will also make the initial introductions and arrange for stakeholder meetings.
- c) To facilitate the execution of the assignment, the PPPC will provide assistance to the Advisors in arranging meetings and access to the relevant information.

- d) Feedback to reports shall be submitted within two weeks and the Advisor shall be allowed one week to submit revised reports. Payment for deliverables will be subject to the submission of acceptable reports.

## **9. SELECTION METHOD**

The consultant shall be selected in accordance with the **Quality and Cost Based Selection (QCBS)** under the Public Procurement and Disposal of Public Assets Act of 2017.

## **10. CONSULTANT'S RESPONSIBILITY**

All information, data and information obtained from the client shall be properly reviewed and analyzed by the consultant. All such information, data and reports shall be treated as confidential. The consultant shall make their own arrangements for document reproduction, printing and reproduction of all reports during the assignment. The consultant shall be self-sufficient in office accommodation, internet and communications.

**ANNEXES**

*Annex 1: Suggested Components of the Feasibility Study Report*

*Annex 2: One UN House MLHUD Sketch Plan*

## **ANNEX 1: Proposed Checklist (Components) of the Feasibility Study Report**

### **Contents of the Report**

#### **1. Introduction**

- a. Executive summary
- b. Introduction
- c. Project background
- d. Approach and methodology in terms of the feasibility study.

#### **2. Needs analysis**

- a. Institution's strategic objectives
- b. Proposed Budget for the project
- c. Institutional analysis
- d. Output specifications
- e. Scope of the project
- f. Review of the existing UN Agencies facilities.

#### **3. Solution options analysis**

- a. List of options considered
- b. Evaluation and assessment of each option
- c. Summary of findings
- d. Recommendation of a preferred option.

#### **4. Project due diligence**

- a. Legal aspects
- b. User rights
- c. Regulatory matters
- a. Site enablement

#### **5. Value assessment**

- a. Public Sector Comparator model
- b. Technical definition of project
- c. Discussion on costs (direct and indirect) and assumptions
- d. Discussion on revenue (if relevant) and assumptions made
- e. Discussion on all model assumptions made in the construction of the model, including inflation rate, discount rate, depreciation, and budgets
- f. Summary of results from the base PSC model: NPV

- g. PPP reference Model
- h. Discussion on proposed PPP type
- i. Proposed PPP project structure and sources of funding
- j. Payment mechanisms
- k. Risk assessment
- l. Comprehensive risk matrix for all project risks
- m. Summary of the institution's retained and transferable risks
- n. The NPV of all risks (retained and transferable) to be added onto the base PSC model
- o. The NPV of all retained risks to be added onto the PPP reference model
- p. Risk-adjusted PSC model
- q. Summary of results: NPV
- r. Risk-adjusted PPP-reference
- s. Summary of results: NPV, key indicators
- t. Sensitivity analyses
- u. Statement of affordability
- v. Statement of value for money
- w. Recommended procurement choice
- x. Information verification



ANNEX 2: ONE UN HOUSE SKETCH PLAN