

Terms of Reference

The Gambia River Transport Project

Advisory Support for the Gambia Ports Authority

1. Introduction and Background

1.1 The Gambia

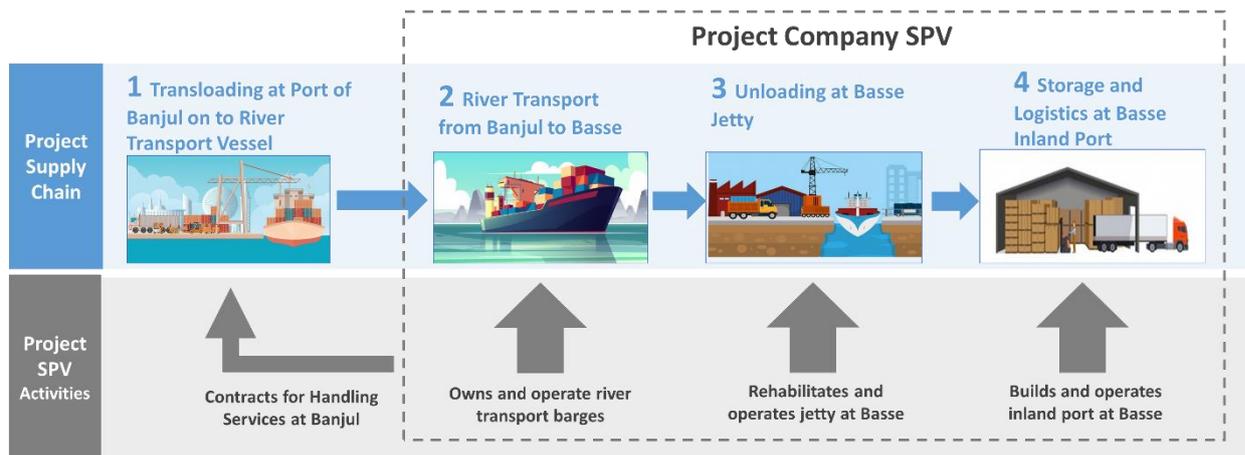
The Government of The Gambia (GoG) is seeking to position the Port of Banjul as a major gateway to the West African region. The country is a popular transshipment point for goods destined for neighbouring countries, namely Senegal, Mali, and Guinea. Approximately 70% of the cargo arriving at the Banjul port is destined for the neighbouring countries, through the transit, trans shipment and cross border trade.

The development of river transport services will increase the competitiveness of the Port of Banjul by providing efficient and cost-effective transport options to the hinterland while improving road safety and maintenance in the Gambia. River transport will also reduce congestion at the Port of Banjul. The project will lower the cost of transportation of goods to the hinterland and in the sub-region while positioning Basse and other settlements along the River Gambia as a local economic hub.

To this end, the GoG, through the Gambia Ports Authority (GPA), has proposed as part of its National Development Plan 2018-2021, the revitalization of inland river transport service and the establishment of an inland a port in Basse and other coastal settlements.

1.2 The Gambia River Transport Project

The Gambia River Transport Project (“**the project**”) comprises of a river transport service and an in-land terminal upstream the Gambia River. The first phase of the project is envisaged as a cargo service, which would transport freight and bulk goods up and down the river, to and from the hinterlands. The anchor asset of the project would be an in-land terminal at Basse, strategically located close to an under-construction bridge linking the North and South Banks of the River Gambia, and direct access to the South Bank, connecting to the hinterlands. The project will operate up to four self-propelled barges, with a capacity of moving 70,000 metric tons per year per barge. Key components of the project, at this stage, are described below:



1.3 Project Sponsor

InfraCo Africa, supported by CPCS Transcom Limited, originated the project and is the project sponsor / developer. The sponsor has carried out prefeasibility for the project and established a local SPV. The prefeasibility consists of a market study, technical study, environmental and social red-flags study, and legal & regulatory due diligence. A project SPV has been registered in the Gambia, under the ownership of InfraCo Africa. The prefeasibility stage has demonstrated that the project services have a captive demand and the project is viable from a commercial, technical and regulatory perspective. With the confirmation of pre-feasibility, the project is gearing for development and entering into partnership and commercial agreements. The project development phase will include the comprehensive technical feasibility study, demand study, Environmental and Social Impact Assessment (ESIA), and the procurement of consultants and contractors for the construction and operations of the project.

InfraCo Africa and the Gambia Ports Authority (GPA) – the state-owned enterprise mandated with the ownership and operations of marine assets in the country – signed an MoU on July 29, 2019 to agree on a baseline for collaboration. Stakeholder consultations with various government agencies and potential commercial partners have confirmed government support and latent demand for the project, further cementing the viability of the project. The GPA has shown interest in partnering with InfraCo to co-develop the project.

1.4 InfraCo Africa

InfraCo Africa is part of the Private Infrastructure Development Group (PIDG): it is managed as a private company although funded by governments in the UK (DFID), the Netherlands (DGIS) and Switzerland (SECO). InfraCo Africa seeks to alleviate poverty by mobilising investment into infrastructure projects in Sub-Saharan Africa. It does this by funding teams of experienced project developers or by investing directly into projects which need the financial commitment and leverage that InfraCo Africa can bring. Since its establishment in 2004, InfraCo Africa has developed nine infrastructure projects through to financial close. Of these, it has successfully exited four projects and is overseeing the construction and operation of the remainder. More information on InfraCo Africa can be found at www.infracoafrica.com.

1.5 CPCS Transcom Limited

In November 2017 CPCS signed a Developer Services Agreement (DSA) with InfraCo Africa, which mandated CPCS to source and develop early stage project opportunities focusing on key infrastructure sectors within sub-Saharan Africa. The Gambia Marine Transport project is one

such opportunity, in which InfraCo Africa and CPCS have invested in its early stage (prefeasibility) development. Going forward the CPCS/InfraCo will be known as **“Project Sponsor”**

CPCS is a global management consulting firm specializing in transportation, power and public-private partnership infrastructure projects. CPCS has a specific division, named the Infrastructure Development Unit, focused on servicing the development of key infrastructure projects across the continent of Africa. The CPCS group has been involved on over \$10B worth of transactions advising both government and private sector clients on infrastructure-related projects across the continent. More information on CPCS can be found at www.cpcs.ca.

1.6 The Client

The primary client for this engagement is the GPA **“the client”**. The GPA is mandated with the construction, maintenance, administration and operation of port infrastructure and facilities in The Gambia and also responsible for the river ports, ferries and associated infrastructure for the inland waterways transport on the Gambia River. For the execution of the Gambia River Transport Project and the Basse Dry Port project, the GPA is seeking to catalyse private sector investment for a modern river transport service.

In line with the MoU, the GPA is considering investment in the development and construction of the Gambia River Transport Project. The GPA has received a Technical Assistance Funding grant from PIDG to obtain advisory support for the entering into a Shareholders Agreement (SHA) in the project SPV for the purpose of investment in the project.

1.7 Objective

The objective of this engagement is to recruit and retain a consultant to provide advisory support the client to advise on the potential to enter into a shareholder’s agreement (SHA) with the project sponsor for the development of the project. The SHA will be executed under the English Law, which will be localized to comply with Gambian standards.

The Project Sponsor will draft the SHA term-sheet and the SHA based on the standard template used by InfraCo Africa. The Project Sponsor and the GPA, in support with the adviser, will provide input to the documents. The documents will be prepared under the English Law. The GPA and the Project Sponsors may obtain input from legal counsel during the finalization, negotiation, and execution of the term-sheet and the SHA.

The GPA requires advisory support to determine their financial and investment strategy for the project, review the financial and legal documentation including the financial model, support the execution of commercial agreements with anchor customers, provide input to the development budget, determine the roles and responsibilities during project development. The adviser will support the GPA to negotiate and enter into a SHA and to properly safeguard their interest, and manage legal, commercial and financial exposure arising from the SHA.

The expected outcomes of engagement include:

- **Due diligence Report:** The first milestone of the advisory support will be due diligence report on the project. The report will highlight the key attributes of the project, its technical, financial, commercial, and regulatory viability. The report will set the baseline for the client’s participation, and co-investment, in the development of the project.
- **SHA Term-sheet:** The second milestone for the advisory support will be the successful execution of the SHA term-sheet. The terms-sheet will be binding on all signatories and will provide the material terms for the SHA.
- **Contribution to SHA:** The advisors will support the GPA on the possibilities to add value to the SHA. This could be assessed by their contributions to the development budget, roles and responsibilities of each party, review of project documents, and identification of key risks.
- **Capacity Enhancement:** By working closely with GPA, the advisers will enhance their capacity to contribute to SHA and manage their contractual obligations during the course of project development. Overall, the GPA should be comfortable with their position in the SHA.
- **SHA execution:** The main results of the TAF grant is the successful of the SHA. The performance of the advisory support will be benchmarked against the time and budget needed to enter into the SHA.

1.8 Current Available Information

The following project information will be made available to the consultant to support with the assignment:

1. Market/Demand Study Report completed by CPCS;
2. Technical Prefeasibility Report completed by Royal Haskoning;
3. Environmental and Social Red-Flags report completed by CPCS/ERM;
4. Project financial model developed by CPCS;
5. Templates of SHA term-sheet and SHA from InfraCo Africa;
6. Project Development / Investment Strategy; and
7. MoU between InfraCo Africa and GPA.

2. Scope of Work

The scope of work covers the representation of the client on term-sheet proposals and entering into the SHA under English Law and in compliance to the Gambian Law. The main deliverables of the assignment shall be a due-diligence report; input and advise the GPA, on the SHA term-sheet; finalization of GPA input to the SHA; and support GPA for the execution of the SHA.

2.1 Desktop review and Due Diligence

Review all available information, including those identified in 1.8 above, and other related information available from the GPA and local sources. Conduct due-diligence on the financial, commercial, governance and regulatory aspects of the project, from the perspective of GPA’s investment into the project.

2.2 Term-sheet and SHA

The consultant shall support the client on the transaction, generally advising on the feasibility of GPA's participation and investment in the development of the project, and facilitating the execution of term-sheet and SHA. This shall be achieved through the following core activities:

- Provide input to the SHA term-sheet;
- Support with queries, negotiation and execution of SHA term-sheet, and generally assisting GPA with management of the transaction;
- Support with negotiation and possible execution of shareholders agreement (SHA);
- Review the roles and responsibilities of the parties during project development;
- Review potential conflicts of interest and reputation risks for the GPA, and ensure that their exposure in the SHA is in line with their official mandate;
- Advice on shareholding structure;
- Provide legal opinion on the transaction comprising of the review of the feasibility and practicality of proposed structure;
- Advice on tax implications to GPA based on the structure of the SHA;
- Provide legal opinion on the security and financial management structures;
- Support the provision of necessary information to the SHA such as financial plans & budgets, shareholder loan agreement, management policies, HSES terms & conditions, and other related matters;
- Review financial and commercial terms of the SHA;
- Provide review and input into development and construction budgets;
- Advice on the legal, regulatory, governance, financial and commercial risks arising from the SHA;
- Advice on licensing, permitting, land acquisition and transfer, and procurement related issues;
- Identify any potential issues arising from Gambian regulatory or Gambian Law perspective;
- Interface with legal, financial, transaction, and development advisers of counter parties to the SHA;
- Facilitating the sharing of financial, commercial, legal, and regulatory information from GPA to satisfy the CPs and other requirements of the SHA;
- Provide legal input on other contractual and commercial relationships;
- Prepare a financial and investment framework for GPA during the course of project development, and at financial close; and
- Provide any other advice in relation to the project that would benefit the transaction.

3. Deliverables

The deliverables of the advisory services are summarized in 3.1 – 3.3:

3.1 Due Diligence Report

The Due Diligence Report will be based on the desk review of existing documents and information from the GPA. The report will highlight the key attributes of the project, its

technical, financial, commercial, and regulatory viability, and guide the investment strategy of the GPA. The report will also identify the roles and responsibilities of GPA during project development. The report will outline the priority points for GPA for investing development equity in the project and identify the inputs to the term-sheet. The structure of the report will be agreed between the client, CPCS and the consultant during the kick-off meeting.

3.2 SHA Term-sheet Execution

After providing input on the standard InfraCo Africa term-sheet, the consultant will support GPA in negotiation of the material terms and conditions of the SHA, which will be covered in the term-sheet, between InfraCo Africa and GPA. The executive authority for approval of final input on the term-sheet and execution of the term-sheet will be with GPA, and the consultant will support the GPA throughout the term-sheet execution process.

3.3 SHA Execution

In line with the parameters set in the term-sheet, the SHA will cover the shareholding structure, rights and responsibilities of shareholders, roles and responsibilities of each party during project development, development budget and allocation, financial planning, management policies, HSES terms and conditions, drawdown provisions, and other material concerns. The consultant will support the GPA in providing the necessary input to the SHA, and facilitate the GPA in finalization and execution of the SHA. The SHA may be executed, after satisfying the applicable CPs, under the English law and in compliance to the local Gambian Law.

3.4 Monitoring and Reporting

After the recruitment of consultant, CPCS and GPA will have a kick off meeting to ensure the consultants are abreast of the project background, have necessary documents, and understand client expectations and project timelines. To avoid conflict of interest, the consultant will report to the focal point appointed by the GPA. The project sponsors and PIDG-TAF will periodically check-in with the consultants to ensure the project timelines and scope are being adhered. The performance will be evaluated on successful term-sheet and the SHA execution timeline.

4. Consultant Qualifications

The services shall be carried out by a Consulting Firm, Joint Venture or Consortium with experience in:

Firm Qualifications

The consultant will be a firm, joint venture or consortium with previous experience in similar scope of work, in advising public sector clients, conducting governance, legal, commercial, and financial due diligence, review of technical studies, and advising clients on negotiation of term-sheet and shareholders agreements. Successful consultant will have similar experience working under the English law, with working knowledge the Gambian Law and regulatory landscape. Experience in West Africa and the Gambia, marine transport sector and representing public sector clients will be considered an asset. Consultants that meet minimum

requirements and demonstrate local experience in Gambia and/or use of local Gambian experts will be preferred.

Key Expert 1: Legal Expert

The legal adviser should have at least 10 years of experience in a similar context, including:

- Representation and advisory support for a public sector client on similar assignments;
- Negotiation and execution of SHA term-sheets and SHA;
- Experience in legal diligence and structuring of project development and project finance transactions;
- Familiarity with in marine transport projects in emerging markets; experience in West Africa and the Gambia, with a working knowledge of Gambian regulatory landscape, are a plus; and
- Experience in the Gambia will be considered an advantage.

Key Expert 2: Commercial and Financial Expert

The commercial and financial expert should have at least 10 years of experience in a similar context, comprising of:

- Experience in due diligence of infrastructure projects;
- Experience in transaction advisory services, including commercial and financial review, financial structuring, term-sheet and SHA negotiations;
- Experience in conducting financial and commercial risk analysis of similar projects;
- Experience in financial model review, budgeting, tax implications, project and transaction management of infrastructure project development;
- Familiarity with in marine transport projects in emerging markets; experience in West Africa and the Gambia, with a working knowledge of Gambian regulatory landscape, are a plus; and
- Experience in the Gambia will be considered an advantage.

Backstopping/Home Office Support

The Consultant should have additional resources available as needed in both legal, commercial and financial advisory, for execution of SHA term-sheet and SHA to support the key experts on the above scope of work as required throughout the assignment.

5. Evaluation Criteria

The Consultant will be evaluated based on the following criteria:

Technical Proposal (70% of total score):

- The Consultant has demonstrated experience of at least 3 assignments of similar size and scope in execution of term-sheet and SHA for infrastructure projects, preferably working with public sector clients and in marine transport sector.
- Legal Expert has at least 10 years of experience carrying out similar assignments, conducted legal and regulatory due diligence, execution of SHA's under the English Law

and in compliance to the Gambian law, preferably with experience in West Africa, and has required qualifications as set out in the ToR.

- The commercial and financial expert has at least 10 years of experience carrying out similar projects, preferably with some experience in West Africa, and has required qualifications as set out in the ToR.
- Bidding Consultants will present a Methodology to carry out the proposed scope of work. This section may include comments on the terms of reference.
- Bidding Consultants will also present a Work Plan with associated timelines and deliverables.

Financial Proposal (30% of the total score):

- The Consultant will provide a quote for the proposed services in their Technical Proposal.
- Quotes will be in USD, and will be paid on a lump-sum basis.
- The quote will include all travel and logistics costs necessary to carry out the work.
- The financial bid will be evaluated based on a fee cap of USD 75,000 for the full assignment. Maximum points will be scored for those firms that can satisfy the scope of works within the budget amount.

6. Payment Schedule

Deliverable/Output	Timeline	Payment
Due Diligence Report	Week 2 from contract signature	25%
Execution of SHA term-sheet	Week 6 from contract signature	25%
Execution of SHA	Week 12 from contract signature	50%

7. Proposals Deadline

Proposals are to be submitted by 11:59 PM Eastern Standard Time on Tuesday, April 7, 2020.

Please submit proposals to Asim Jahangir, ajahangir@cpcs.ca with copy to ojobarteh@gambiaports.gm

Please confirm your interest in submitting a proposal by Monday, March 23, 2020, by emailing the above addresses.