

# Construction Sector Transparency Initiative (CoST)

## The Assurance Team – Terms of Reference

### 1. Background:

The Construction Sector Transparency Initiative (CoST) is an international multi-stakeholder programme designed to increase transparency and accountability in the construction sector. It is supported by the UK Department for International Development (DFID) and the World Bank and is currently being piloted in seven countries.

The aim of CoST is to enhance the accountability of Procuring Entities (PEs) and construction companies for the cost and quality of public sector construction projects. It will do this by disclosing to the public 'Material Project Information' (MPI) at all stages of the construction project cycle, from the initial identification of the project to the final completion.

Although it is important that information is disclosed at all stages of the project cycle, it is intended that the initial focus of CoST should be the period from the award of the main contract for construction until final build. The CoST design document proposes to disclose initial contract details, individual significant changes to the contract which affect the price or programme and reasons for those changes and details of final delivery. The full list of information that is required to be disclosed is outlined in Annex A.<sup>1</sup>

CoST is principally about increasing transparency through the release of project information into the public domain. But it is recognised that the disclosure of this information may not be sufficient on its own to achieve greater accountability. This is because some of the information is likely to be complex and not easily intelligible to the general public.

To ensure that the information that is released is both accurate and available in a form that can easily be understood by stakeholders it may need to be verified and interpreted by experts (an 'Assurance Team') appointed for this purpose.

The CoST design proposes that an Assurance Team (AT) will be appointed by the National Multi-Stakeholder Group (NMSG) in each pilot country. It is expected that the Assurance Team will comprise a number of individual experts who will be answerable to the NMSG and called upon as and when required. This document describes a range of tasks that the AT may be required to undertake with regard to all or some of the CoST projects.

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<sup>1</sup> Annex A lists the project information to be disclosed, as proposed in the original CoST design plus the additional information that has been added as the project has evolved and that is considered necessary in order to meet the objectives of CoST. Countries may wish to add further disclosures to the list for their own purposes (for example if they decide to pay closer attention to earlier stages of the project cycle)

## 2. Objectives

The Assurance Team will have the following core objectives:

1. To assist the NMSG to liaise with the Procuring Entities (PEs) of CoST projects to ensure the publication of the relevant Material Project Information (MPI) as outlined in Annex A
2. To verify the accuracy and completeness of MPI disclosures on all or a subset of CoST projects, as required by the NMSG
3. To produce reports that are clearly intelligible to the non-specialist, outlining the extent and accuracy of information release on CoST projects

In addition, the Assurance Team may be called upon:

4. To analyse disclosed and verified data on all or a subset of CoST projects in order to make informed judgements about the cost and quality of the built infrastructure
5. To produce reports that are clearly intelligible to the non-specialist, highlighting any cause for concern that analysed information reveals

## 3. Scope of work

### Project selection

It is anticipated that before the Assurance Team is appointed the NMSG will have decided the Procuring Entities (PEs) to be involved in CoST and secured their agreement. The NMSG will also have defined the criteria to be used for the selection of projects, acquired a list of projects meeting the criteria from the selected PE, and selected projects from the list (where possible using a random procedure).

These actions are set out in the document entitled '*CoST policy recommendations: Key principles for project selection*' which can be downloaded from the CoST website. Further explanation can be found in the TOR for the Baseline study.

The tasks of the Assurance Team will then fall under the following headings:

### Data publication

Prior to the appointment of the Assurance Team, the cooperation of the PEs should already have been secured and arrangements made for disclosing the required MPI. If this is not the case, a member of the Assurance Team may be required to help the NMSG to liaise with the client/procuring entity to ensure publication on an on-going basis of the relevant project information (as outlined in Annex A) on the projects designated as CoST projects.

Even when arrangements have been agreed for forwarding information from the PE to the NMSG, it may be that not all the information required will be forwarded in a timely manner. The AT may therefore be required to assist in obtaining the information. This will probably involve visiting the PE in person.

On an ongoing basis, the AT should report in a manner clearly intelligible to the non-specialist the extent of information release on CoST projects, highlighting any lapses in the timely release of MPI.

### Data verification

The MSG will select all or a subset of CoST projects for further analysis to verify that the MPI is complete and correct. Differing degrees of verification may be required:

- Some of the information on the list in Annex A will be reports (e.g. feasibility studies, financing agreements etc.) commissioned by the PE and produced by others. In these cases the AT will be required simply to verify the source of the report, confirm that the information is complete and is the latest version available.
- Tender evaluation reports for the supervision and the works contracts, as well as the initial contract prices, scope and programme, may require more careful scrutiny and may need to be checked and confirmed from other sources.
- The most rigorous verification may be required on the information concerning changes to the contracts (for supervision and for works) during implementation. The information to be released, on an on-going basis, during contract implementation includes (i) individual significant changes to the contract which affect the price and reasons for those changes and (ii) individual changes to the contract which affect the programmes and duration and reasons for those changes. To ensure accuracy and completeness, the information released should include more detailed source documents, such as variation orders, claims and payment records. This information may also need to be checked and confirmed from other sources.

The principal alternative sources against which MPI can be checked are the records of the consultant and the contractor. CoST is unlikely to work well unless there is full cooperation from these key stakeholders. For this reason, the document '*CoST policy recommendations: Key principle for project selection*' (downloadable from the website) recommends that agreement to comply with CoST requirements relating to the release of information should be a condition of tender and written into contracts for both consultants and contractors. Where on-going projects have been identified for CoST all parties should be made aware and written agreement sought from the client, contractor and consultant. However, securing this agreement is not the task of the AT.

In cases where the AT has undertaken a verification exercise, the AT should produce a report clearly intelligible to the non-specialist outlining the completeness and accuracy of information release on CoST projects.

### Data analysis and report writing

For all or a subset of CoST projects, the AT may be called upon to make elements of the MPI more easily understood by the general public. What the public is particularly concerned about (and the focus of CoST) is getting 'value for money' in publicly funded construction projects. This means that the AT will be expected to make informed judgements, from the MPI that is being released, on the cost and quality of the infrastructure under construction.

In order to do this they will need to undertake a more detailed analysis of the released information, paying particular attention to variations and claims, application of price fluctuation clauses etc. This is necessary in order to assess whether the extensions of time and increases in cost are justified in the documentation.

The AT may also be requested by the NMSG to check on the quality of the construction, for example by site visits at critical stages of the project. Some form of quality check may be necessary in order to assess whether or not the structure is being built to specification.

On the basis of the above analysis, the AT may wish to highlight for the public any 'cause for concern'. Some standard text for likely causes for concern are being developed and will be circulated to pilot countries as a supplement to these TOR. The AT may wish to select from these standard causes. Alternatively, the AT may simply report the facts that give cause for concern and leave it to the NMSG and/or the wider public to ask questions and raise challenges, which may include calls for further investigation.

The AT will be expected to produce short reports on the above for dissemination to the NMSG and through them, as appropriate, to the public at large.

#### **4. Skills/Expertise required**

- Construction professionals (engineer, architect, quantity surveyor)
- At least 10 years of project management experience
- Experience in undertaking contract reviews, project evaluation reports, financial and technical audits would also be highly desirable

Members of the Assurance Team will be required to declare any interest they may have in companies or individuals involved in projects included in CoST

## Annex A: Core list of disclosures

Stage in Project Cycle		Initial List of Disclosures	Additional disclosures
Prior disclosures in support of CoST	<b>Project identification</b>	<ul style="list-style-type: none"> <li>• Project specification</li> <li>• Purpose</li> <li>• Location</li> <li>• Intended beneficiaries</li> <li>• Feasibility study</li> </ul>	
	<b>Project funding</b>	<ul style="list-style-type: none"> <li>• Financing agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Budget</li> <li>• Engineer's estimate</li> </ul>
	<b>Tender process (contract for project supervision)</b>		<ul style="list-style-type: none"> <li>• Tender procedure</li> <li>• Number expressing interest</li> <li>• Number shortlisted</li> <li>• Number submitting tender</li> </ul>
	<b>Tender process (main contract for works)</b>	<ul style="list-style-type: none"> <li>• List of tenderers</li> <li>• Tender evaluation report</li> </ul>	<ul style="list-style-type: none"> <li>• Tender procedure</li> <li>• Number of companies expressing interest</li> <li>• Number shortlisted</li> <li>• Number submitting tender</li> </ul>
	<b>Contract award (contract for project supervision)</b>		<ul style="list-style-type: none"> <li>• Name of main consultant</li> <li>• Contract price</li> <li>• Contract scope of work</li> <li>• Contract programme</li> </ul>
Core disclosures in support of CoST	<b>Contract award (main contract for works)</b>	<ul style="list-style-type: none"> <li>• Contractor name</li> <li>• Contract price</li> <li>• Contract scope of work</li> <li>• Contract programme</li> </ul>	
	<b>Contract Execution (contract for project supervision)</b>		<ul style="list-style-type: none"> <li>• Significant changes to contract price, programme, scope with reasons</li> </ul>
	<b>Contract Execution (main contract for works)</b>	<ul style="list-style-type: none"> <li>• Individual significant changes to the contract which affect the price (the threshold to be determined by the MSG) and reasons for those changes</li> </ul>	<ul style="list-style-type: none"> <li>• Variation orders</li> <li>• Claims</li> <li>• Payment certificates</li> </ul>

		<ul style="list-style-type: none"> <li>• Individual significant changes to the contract which affect the programme (the threshold to be determined by the MSG) and reasons for those changes</li> <li>• Details of any re-award of main contract</li> </ul>	
	<p><b><i>Post contract completion details (main contract for works)</i></b></p>	<ul style="list-style-type: none"> <li>• Actual contract price</li> <li>• Total payments made</li> <li>• Actual contract scope of work</li> <li>• Actual contract programme</li> <li>• Project evaluation reports (on completion and on-going)</li> </ul>	