



International
Labour
Organization

▶ SOP for Procurement under EIP and Other Development Cooperation Construction

Procurement Bureau and DEVINVEST

Version 1.0

Contents

I.	Introduction.....	3
1.	Purpose and Background	3
2.	How to use this SOP.....	3
II.	Challenges and Risks in Construction Works Projects.....	4
1.	Security (Fragile and Non-fragile Situations).....	4
2.	Sustainability of Project Objectives.....	5
3.	Donor Conditions	6
4.	Financial Considerations	7
5.	Human Resources Considerations.....	9
III.	Scenarios and Specific Guidance.....	11
1.	ILO Direct Implementation	11
2.	Implementing Partners	13
3.	EIIP Support to National Government (Technical Assistance)	14
4.	Project with EIIP Component Undertaken without DEVINVEST Involvement.....	14
5.	Other (ILO Construction Being Undertaken without using the EIIP Methodology).....	15
IV.	Going Forward.....	15
	Annex List.....	16
	Annex 1: Template Tender Document using e-Tendering with a FIDIC Green Book Short Form of Contract (example for targeting the advanced construction sector)	
	Annex 2: Template Tender Document using Physical Tendering with the ILO Construction Contract (example for targeting the emerging construction sector)	
	Annex 3: Template Community Agreement	
	Annex 4: SOP for Procurement under EIIP and Other Development Cooperation Construction Flowchart	

The templates are provided as guidance and are intended to be adapted to the specifics of particular project.

Annex 1 and 2 provide examples of how tender documents would provide bidder instructions for both physical tendering and electronic tendering (e-Tendering), as well as the use of the FIDIC Green Book Short Form of Contract and the ILO Construction Contract. The different tendering methodologies may be used for either type of contract, however it is important to note that for projects seeking to engage in e-Tendering, extensive training must be planned for and budgeted with the advice and approval of PROCUREMENT.

I. Introduction

ILO Development Cooperation (DC) projects increasingly include construction works for the purposes of infrastructure development and rehabilitation, job creation, and capacity building. The majority of these projects are undertaken using the Employment Intensive Investment Programme (EIIP) methodology with the support of DEVINVEST. By nature, construction projects necessitate extensive planning and preparation in order to achieve the project objectives and foster a sustainable benefit to the host community. This includes substantive considerations related to the legal framework surrounding the construction project, how the construction works are to be procured and delivered, through to contract management and the desired outcome for the ultimate beneficiaries.

1. Purpose and Background

Based on more than 10 years of experience in DC construction procurement, this Standard Operating Procedure (SOP) is a joint effort between PROCUREMENT and DEVINVEST to benefit from lessons learned and provide guidance to colleagues planning or undertaking construction works (and associated maintenance) in the context of a DC project, including when executing projects involving the EIIP methodology.

This SOP addresses construction undertaken in the DC project context and is not intended to be applied to construction or renovation of ILO property, for which FACILITIES must be consulted.

The target audiences of this SOP are (i) colleagues responsible for drafting project proposals or documents for appraisal, and (ii) all project colleagues responsible and involved in construction procurement (including CTAs and project staff).

2. How to use this SOP

This SOP must be reviewed prior to (i) drafting project proposals including construction or EIIP elements, or (ii) engaging in construction procurement as a part of a DC project.

This SOP will assist you in:

1. Identifying the overall challenges and risks in engaging in DC-funded construction projects;
2. Understanding the various DC construction scenarios that currently exist at the ILO; and
3. Determining the appropriate tools and associated guidance for the scenario associated with your specific project.

In case of doubt, PROCUREMENT and DEVINVEST are to be consulted.

II. Challenges and Risks in Construction Works Projects

Construction projects in any context typically: a) require extensive design, and technical and logistical planning, b) involve a high comparative cost, and c) are subject to public scrutiny, and d) take place over a relatively long period of time during which the local situation and project context may evolve. These factors, including the surrounding environment in which the construction takes place, create unique challenges and pose distinct risks for DC projects, which may result in a negative impact on the project delivery.

The following section provides an overview of challenges, risks, and potential mitigation strategies when undertaking procurement for DC construction projects, based on previous and on-going ILO DC projects and their experiences. This includes aspects of security, sustainability, donor conditions, and financial and human resources considerations.

1. Security (Fragile and Non-fragile Situations)

For all DC construction projects, the local UNDSS office where the works are to take place and ILO FIELDSECURITY must be consulted for any mandatory and applicable security requirements.

The security situation may have an impact on the identification of a construction company, as well as the physical security of ILO personnel, the worksite, and the workers. Additional risk assessment is advisable if the project is to take place in a fragile situation, meaning a context where there may be a challenging governance/political environment, economic instability, poverty, and/or a conflict/post-conflict state (see [ILO Governing Body Policy document GB.320/POL/9](#)).

Security Requirements for the Works

With regards to the identification of an architectural/engineering/building consulting company or a construction company to undertake the works, any security requirements must be included in the terms of reference to ensure the companies understand their responsibilities to the ILO and to their workers. In fragile situations, there may also be a limited market of entities able to undertake the works, making a procurement process challenging or not possible. For this reason, it is highly advisable for the market conditions to be researched prior to development of a project document involving construction. Alternative options may need to be considered, including a specific capacity building component in the project design, which may be undertaken with an implementing or government partner. A lack of sourcing strategy at the project development stage has resulted in extensive implementation delays in past projects.

Security of the Worksite and Personnel

In addition to the physical security requirements of the worksite, the physical security of ILO personnel, contractors, and workers in undertaking the project must also be considered.

In a fragile situation, local procurement undertaken by ILO staff members may not be feasible or even dangerous. Project teams who are tasked with developing relationships with communities in sensitive or even volatile contexts to implement project goals may not be the best placed to also have the sole responsibility of awarding a business opportunity to one entity over others. Consideration should be given at the stage of project development regarding whether the ILO Procurement Bureau at HQ may need to be involved in the selection process, not only if the amount of the purchase exceeds the local procurement authority but also if security is a concern and the local project requires support. Different methods to address this risk include electronic tendering, the direct involvement of the Procurement Bureau, and capacity building of procurement knowledge within the local project team.

2. Sustainability of Project Objectives

For the purposes of this SOP, three aspects of project objective sustainability will be covered: aligning the project timeline with construction procurement processes, whole life cycle costing, and considering beforehand the ownership of the work site and the final beneficiary.

Aligning Construction Procurement and Implementation with Project Objectives/Time

When establishing the timeline and milestone reporting for a project, it is important to consider the amount of time required for procurement planning and strategy formulation to avoid the risk of over promising or under delivering.

For example, prior to the launch of a construction tender process, expertise is required to draft the technical specifications and an appropriate evaluation panel of technical experts identified and engaged. This panel is usually in large part composed of members of the project team, and ILO staff should always constitute the majority in line with sub-section 8.4.1.1. of the [Procurement Manual](#). The time necessary to establish a clear scope of construction project requirements and to obtain the appropriate expertise to review the quality of the offers is paramount in the success of the construction procurement process. If the technical expertise is to be outsourced to an architectural/engineering company, this is a separate procurement process, which must also be factored into the timeline and reporting of the project. Even in the case of outsourcing, there should still be sufficient technical expertise to draft the Terms of Reference and supervise the work undertaken.

Project timelines that did not take into account the time and prior steps required before launching a construction procurement process were at risk of seeming to be delivering “late” or missing reporting milestones based on an unrealistic timeline and budget. Colleagues should remain mindful that the conceptual phase, and the preparation for and approval of a complex procurement process may take time, particularly if multiple stakeholders are involved (e.g. local government, technical departments, the donor, etc.). This is in addition to the time that is necessary to execute the complete procurement exercise, which may also take several months.

If this risk is taken into account at the stage of project drafting, the risk of overpromising and under delivering on construction projects may be avoided.

Whole Life-Cycle Costing

As with all purchases, the whole life-cycle costing of the construction works and resulting outcome (e.g. road or building) should be considered at the stage of project design. For construction works, this includes a determination of the maintenance requirements of the road or building after construction is completed.

Aspects of maintenance are sometimes included as a project responsibility of the ILO, however this can only be a transitional measure as ILO DC projects are finite in nature. Consideration must be given to the final beneficiary to avoid situations where an outcome is delivered but the maintenance costs are unmanageable or too expensive. For example, the beneficiary may be consulted on the approach, a low-maintenance solutions may be envisaged, etc.

Ensuring whole life-cycle costing of the construction works at the project design stage will result in a smoother project closure phase, and clearer expectations for the beneficiary and stakeholders. For example, maintenance of a rural road may be transferred to a local surrounding community at the end of the project and funded by the local municipality. This should be agreed to by the local community at the outset, and training for this maintenance could be undertaken towards the end of the project. Another example is the construction of a public building, where the ownership and maintenance could be the responsibility of the government, but the use and purpose would be for SMEs.

Considering the Ownership of the Site and Obtaining Donor Approval of the Final Beneficiary

At the stage of project development and before launching a procurement process, it is essential for a project to (i) determine the legal ownership of the site where the construction is to take place, (ii) consider the timing and coordination required to obtain necessary permits and licensing for construction, and (iii) obtain donor approval in writing for the transfer of ownership of the resulting real property from the ILO to the final beneficiary (as applicable).

These elements are often not sufficiently delineated in a project document and can result in substantial implementation delays. For example, after completion of a procurement process for road works there was a dispute that arose regarding the ownership of the land where construction was to take place. This dispute did not come to light until after the ILO had signed the contract with the selected supplier and the contractor was initiating the work site. This situation resulted in the need to identify and agree with the local government on a new site for the construction to take place, and an amendment for the delay and associated cost increase of the contract with the selected supplier.

Donor agreements typically include conditions or instructions, which outline how the ILO is to deal with property or equipment acquired during the implementation of the project. This may include the ILO keeping the property or equipment, or a procedure to, for example, give the property or equipment to another project funded by the same donor. In the case of construction of real property (e.g. a building or road), aspects such as the access to the construction site and the transfer of ownership to the final beneficiary must be clearly identified and outlined in the project document and/or the donor's written approval obtained prior to the launch of the related tender process.

In situations where the ILO is to purchase equipment to be given to a beneficiary or government as a part of construction or renovation works, it should also be noted that liability concerns should be taken into account when identifying the time at which the property will be transferred from the ILO to the final beneficiary. Particularly if a beneficiary is already using the equipment before the end of a project, it may not be advisable for the ILO to maintain ownership and liability until the end of the project. For issues of property transfer, JUR and FACILITIES may be consulted for DC-funded projects and it should be noted that these departments must be consulted for property transfer under regular budget funds (please refer to [IGDS No. 281 on Furniture and Equipment](#)).

While it is understood that for most projects the specific construction sites and works are not defined until the inception phase, it is important to take into account and plan for ownership issues and related procedures during the project design. These risks can be mitigated by having clarity in the project document of the site ownership and permission for the ILO to construct, as well as the donor approved final property transfer arrangement. In the least, these considerations should be undertaken at the initiation stage of the project and must be concluded prior to launching a tender for the construction

3. Donor Conditions

Over the past several years, donors have been increasing their requirements regarding ILO implementation of projects. This includes additional contractual conditions, which must be included in contracts with suppliers and their subcontractors, as well as undertaking donor-specific debarment searches for companies, implementing partners, and individuals.

As donors are increasingly interested in decent job creation projects with a construction element and infrastructure development, it is important to have an understanding of how these additional donor conditions impact construction projects. The following section includes an overview of the additional donor conditions for contracts, donor-required debarment searches, aligning construction procurement with donor reporting, and considering ownership issues and donor pre-approved property transfer to beneficiaries.

Additional Donor Conditions for Contracts

Examples of additional contractual conditions used in DC construction projects include the EU Annex for projects funded by the European Union and the KfW Annex for projects funded by the German development bank.

Donor condition annexes are available on the Procurement Bureau ILO intranet site here: <https://intranet.ilo.org/en-us/procurement/Pages/donor-conditions.aspx>.

Donor-required Debarment Searches

Regarding the debarment searches, several donors require that the project have the ability to report on the debarment searches undertaken prior to contracting with an entity or individual. These searches may include both UN and country/region-specific lists. As a donor may reject or suspend payment (i) of the particular contract, (ii) of the next tranche of the project, or even (iii) to other ILO projects funded by the same donor if funds are spent to a debarred entity, it is important to consider the administrative and procedural impacts of this requirement on project implementation. For most donors that require this type of debarment check and associated records, this obligation follows the funds, which means that any ILO contractor or implementing partner would be obliged to undertake the same checks for the ILO to verify.

To address this risk, it would be essential for project drafters to take into consideration the donor conditions when formulating the project document, and for the project staff to familiarize themselves with the donor agreement. Project staff should be particularly aware of how the donor requirements impact contract management (including instructing companies on how to undertake the required searches and keeping records for the ILO to check). Any requisite support from HQ departments on interpretation or implementation of donor requirements should also be factored into the project plan.

As an example, one donor for a project with extensive construction works has required the individual workers on the construction sites be checked against a debarment list and for this check to be verifiable by the donor. There are some contexts where alternative mechanisms can be put in place: for example, if the workers are refugees, UNHCR may be undertaking checks and issuing ID cards in that country and this screening could be acceptable to the donor. However, each context is different, and how this donor requirement can be met should be investigated prior to project implementation.

4. Financial Considerations

There are construction procurement costs that should be taken into account at the stage of project design, which have a distinct impact on implementation. Once a budget has been agreed with the donor, the discovery of additional costs during project implementation may be too late.

The following sections discuss avoiding risk by ensuring payments to contractors are aligned with available funds, and the inclusion of additional costs specific to construction procurement at the time of budget formulation.

Ensuring Payments to Contractors are Aligned with Available Funds

A substantial risk exists in not aligning construction procurement with financial considerations particularly for projects that are funded in tranches with specific conditions upon which the donor is to release subsequent funds. Where a construction project may be substantial or even multiphase, it is essential that the project has received the entirety of the funds for the construction works being procured. In other words, the ILO cannot launch a tender process if the total amount required for the complete works has not yet been transferred to the ILO and reserved in IRIS. An alternative would be to separate the construction project into phases with works that remain within the budget of the funds already received. Keep in mind that it is still the entire estimated spend for the whole of the works which dictates the appropriate procurement procedure to be followed, and spend amounts may not be purposefully split in order to avoid the financial thresholds.

Aligning spend with the payment schedule of the donor agreement will decrease the ILO's risks in the event the donor decides at a later stage to restructure project implementation, if the funds are rerouted to another project or task, or inadvertently making unrealistic project commitments.

Inclusion of Costs Specific to Construction Procurement

For projects involving works, specific technical expertise on construction/architectural/engineering, construction procurement, and knowledge of the legal issues and framework of construction contracts is crucial to the successful execution of the project.

As further discussed in the next section on Human Resource Considerations, ensuring the budget established for staff positions and/or subcontracting includes the required skillsets for construction works. The inclusion of the necessary knowledge and expertise in construction works impacts the project structure and has significant cost implications on the project budget. As such, these aspects should be considered at the project drafting stage, as once these costs are established with the donor, they are difficult or impossible to change during project implementation. For example, if the profile of the CTA does not include engineering and/or architectural expertise or previous experience in the particular context (i.e. fragile situation), then there should be project budget allotted for the recruitment of a senior engineer or hiring of an ExColl or a contractor to address this area of expertise for the project. If the procurement of the construction works is to be undertaken by HQ, whether due to the amount of spend or for assistance and expertise, the work months to the ILO Procurement Bureau (or any other assistance needed from an HQ department) should be included in the budget. Discovering the need for these types of additional costs during project implementation results in delays and misses an opportunity to develop a strategic approach at the project formulation outset in the proposal to the donor.

An additional cost specific to construction procurement that is often overlooked is the extensive support required for the preparation of an appropriate contract, which addresses the particular risks present in construction works. The standard Terms and Conditions applicable to ILO Contracts are not necessarily appropriate for a construction works project and in many cases do not sufficiently address situations that arise during construction nor adequately protect the ILO. For this reason, projects must reach out for the Procurement Bureau's assistance in undertaking one of the following two approaches: (1) the purchase of licenses to tailor a FIDIC contract (see Annex 1), which is an internationally recognized standard template contract produced by the International Federation of Consulting Engineers; or (2) the use of the ILO Construction Contract Template (see Annex 2). In both cases, the assistance of the ILO Procurement Bureau will be required in adapting these templates for the local context, donor requirements, applicable language, etc.

Furthermore, for the FIDIC contract option, it should be noted that the license must be obtained for each construction contract and the ILO Procurement Bureau must be contacted to negotiate the licensing agreement with FIDIC. Depending on how many contracts are required, the cost may become significant for some projects. Furthermore, the FIDIC licensing conditions (e.g. regarding the publication of the contractual conditions) vary from country to country and if a contract must be drafted in non-ILO working languages, this would require additional support from the Procurement Bureau and JUR. In either case, the investment in time is extensive, both for the project and for the ILO Procurement Bureau, and this aspect should be taken into account for the project timeline and budget.

If a FIDIC contract is not to be used, the second option is the ILO Construction Contract Template. While the local government contract may already be familiar to local suppliers, and the capacity building element remains of high importance, the use of a local contract form puts the ILO at risk of not having the ILO privileges and immunities included. In addition, this would result in a time-consuming and extensive legal review of the government contract to bring the content into compliance with the ILO's requirements. Please refer to Section III below for further details on the different types of construction contracts available.

Building in the above-mentioned costs into the initial project budget will result in smoother project inception and overall implementation.

5. Human Resources Considerations

Having the requisite technical expertise to undertake a construction works project is essential for timely and effective project implementation. This includes expertise in construction/engineering/architecture, construction procurement, and construction contracts. If this technical expertise is not to be outsourced to an external provider (ExColl or contractor) then this knowledge should be found within the ILO project team on the ground. If the ILO project team does not cover this knowledge base, then consideration should be given to requesting the assistance of relevant ILO departments and offices.

The ILO Project Team

The profiles of the ILO Project Team are finalized in agreement with the donor during the project drafting stage. It is at this point where consideration should be given to the type of technical expertise and the roles required to successfully undertake a construction project.

If the technical expertise on construction/architecture/engineering is to be part of the team, project drafters may consult DEVINVEST on whether this role may be filled by the CTA profile or by another staff member, and regarding the suggested previous experience required. For the description of this profile, it is highly recommended to consult with the EIIP Unit of DEVINVEST.

If the construction procurement is to be run locally, this required expertise would need to be present within the project team. In any event, in light of the likely high amount of spend for a construction project, review of the procedures and approval would be required at the regional or HQ levels. Which offices will be responsible for advice and oversight of the construction procurement should be established during project drafting, as this would also impact the appropriate profile of the local procurement support on the ground. In previous projects, professional staff, national staff, or administrative/finance staff have fulfilled the procurement function for a project team.

The following is an overview of characteristics of each function type:

An international professional staff position for the project procurement function may be appropriate for a project with a significant amount of construction works. This may especially be the case for a project located in a context that may benefit from a procurement officer that is detached from the local community. The procurement function is required to be objective and fair in approaching the market with ILO business opportunities. The avoidance of a perception of impropriety or favouritism is paramount, as this would damage the image of the ILO. With an international professional staff, this may reduce the risk of collusion. This should particularly be taken into account in regions where there are tribal or religious groupings, which could pose further challenges to a procurement process.

A national officer position for the project procurement function may be optimal if there are particular language and/or cultural considerations, and if the planned procurement activities are minor and of a low value. In environments where there are cultural or tribal groupings, there may be a higher risk of collusion. Additional training and support from the HQ Procurement Bureau may be helpful particularly if a candidate is not familiar with the ILO specific procurement rules and regulations.

While some projects have merged the project procurement function with a finance/administrative role, this is not appropriate particularly for projects with a significant level of procurement tenders. In addition, the separation of roles and responsibility between the financial/budget and procurement aspects (segregation of duties) may place the role in a potentially compromising position.

For the development of an appropriate job description for the procurement function in a project involving construction, it is highly recommended to consult with the HQ Procurement Bureau.

Support from HQ Departments

As mentioned above, different ILO departments have expertise in the execution of projects involving construction works and can provide support. Depending on the level of involvement required, some departments would need to devote specific staff resources in the form of budgetary work months to assist a DC-funded project including construction works.

For technical construction aspects, this expertise can be found within the EIIP Unit of the DEVINVEST department, which has extensive experience in backstopping projects involving DC construction works and particularly in the EIIP methodology.

For construction procurement aspects, this expertise can be found within the Procurement Bureau at HQ, which has conducted numerous construction procurement tenders worldwide and in a variety of contexts and markets. It should be noted that support for ILO construction contracts is centralized within the Bureau, in consultation with JUR as and when necessary. This support includes, in the case of use of a FIDIC contract, the negotiation of the license agreement with FIDIC and the legal review of the adaptation of the FIDIC Green Book Short Form of Contract to the local context. If the contract is not in one of the FIDIC languages, additional support for review and translation as well as the related impact on the timeline would need to be considered.

In the case of the use of a different construction contract other than the FIDIC Green Book Short Form of Contract, substantial adaptations would need to be made not only to (i) tailor the contract to the project context (including any particular donor conditions), but also to (ii) ensure that the contract is aligned with the ILO rules and regulations, including the ILO privileges and immunities.

Support from the Regional Offices

For contracts related to construction or associated services (engineering/architecture consulting) remaining below USD 200,000, the relevant Regional Office should be involved prior to commencing any construction procurement activities. In particular, the Chief, Regional Administrative Services (CRAS), should be made aware and consulted as the outcome of the procurement process would be reviewed by the region's Local Procurement Review Committee (LPRC).

Previous projects that did not ensure up front support for the technical and procurement knowledge required for undertaking construction projects, experienced substantial delays in implementation: the necessity to re-do and re-launch entire bidding processes due to poorly drafted technical specifications, improperly followed procurement processes (non-transparent or biased selection process), and use of inappropriate contractual documents. Undertaking the Annual Procurement Plan exercise will assist projects in strategizing their procurement needs at an earlier stage.

III. Scenarios and Specific Guidance

The following is a breakdown of the different scenarios of ILO construction under DC projects, and the guidance and templates associated with each scenario.

For a visualization of the contractual instruments that result from the different scenarios, please refer to the related flowchart in [Annex 4](#).

1. ILO Direct Implementation

In this scenario, the donor provides capital funds for the ILO to engage in the procurement and management of the construction works of the EIIP.

For this kind of project, the target markets for the construction procurement exercises are typically either (a) an advanced construction sector of the market where there is a developed technical capacity; or (b) an emerging construction sector of the market where the capacity of eligible companies is progressing or needs to be strengthened and part of the project may be focused on building the technical capacity of this sector.

Contracting Modalities

In the cases where projects falling under this scenario involve large or complex works, there are two contract forms that may be used: a FIDIC Green Book Short Form of Contract (as mentioned above in Section II.4, usage modeled in [Annex 1](#)) or the ILO Construction Contract template (usage modeled in [Annex 2](#)). In deciding which of the two contract forms to use, the risks identified in Section II.4 should be carefully considered with the selection of the FIDIC contract being based on the following factors:

- If the beneficiary government uses FIDIC contracts in its tendering exercises;
- The goal of the project, i.e. to capacitate companies in using FIDIC;
- In consideration of the capability of the market; or
- Other particular circumstances, such as a donor requirement.

PROCUREMENT is to be consulted regarding the most appropriate contractual tool, and this assessment is to be based on the risk profile of the construction works (and surrounding context) as opposed to a financial threshold.

Financial Security Instruments

Due to the high-risk nature of construction projects, financial security instruments are used to protect the ILO from costs resulting from a failure of a contractor to perform its obligations. In the construction context, bank guarantees for advance payment, performance, and/or warranty are used to secure contractor performance of the works (please refer to [Tool 6-6 on the Instructions for Preparation and Use of Security Instruments of the Procurement Manual](#)).

A common method to mitigate the risk of non-performance or violation of a warranty period is retention of a percentage of tranche payments. The conditions of release of the retained funds should be aligned with, for example, the completion of the performance period or the warranty term, as applicable.

Deciding when to use bank guarantees and/or retention will depend on the practice and financial solidity of the target market, as well as the local banking and financial practices. Further considerations for determining the appropriateness of using bank guarantees in the construction works context can be found in the [DEVINVEST Developing the Construction Industry for Employment-Intensive Infrastructure Investments Guide](#), particularly Section 1.6 on Doing Business.

The following includes specific project advice based on the type of construction sector being targeted during the procurement exercise.

a. Advanced Construction Sector

Some EIIP projects are geared towards decent job creation in the advanced construction sector of the market, which is competitive and adaptable to international public procurement and contracts. The construction sector in this scenario can readily compete in ILO procurement actions. It is recommended however that bidder training is provided by projects on the labour-intensive methodology, decent work, and project specific tender procedures.

A relevant example of this scenario is the [Employment Intensive Infrastructure Programme \(EIIP\) in Lebanon \(LBN/18/01/DEU\)](#) funded by KfW. In this case, typically the contract is to be awarded to an established construction company to undertake medium to large works on an individual site.

In addition to determining at an early stage the type of construction contract that is the most appropriate, projects undertaking activities in this context should pay attention to the timing required for training either before the tender is launched or as a part of the tender short-listing/evaluation process. This is particularly important as the training on the labour intensive methodology is usually considered mandatory to qualify to participate in the ILO tendering process for this scenario.

[Annex 1](#) provides a Template Tender Document with a FIDIC Green Book Short Form of Contract (for targeting the advanced construction sector) showing a standard Invitation to Bid (ITB) tender document for electronic tendering that can be adapted to the specifics of the unique project. It should be noted that the ILO Construction Contract (see [Annex 2](#)) can also be included in this tender template instead of the FIDIC contract. The different tendering methodologies may be used for either type of contract, however it is important to note that for projects seeking to engage in e-Tendering, extensive training must be planned for and budgeted with the advice and agreement of PROCUREMENT.

With an advanced construction sector, there is the potential to conduct the procurement exercise via electronic tendering (i.e. online submission through the UN Global Marketplace). The factors to keep in mind include:

- Market's technical capacity, including internet access;
- Capacity of project staff to manage electronic tendering; and
- Available project resources to obtain the requisite training on how to use and train supplier regarding the ILO e-Tendering System.

b. Emerging Construction Sector

Other EIIP projects are focused on capacity building of an emerging construction sector of the market as well as decent job creation. Here, the construction sector requires training in public procurement prior to participating in ILO procurement actions.

A relevant example of this scenario is the [Enhancing Rural Access Agro- Forestry \(ERA Agro-Forestry\) project \(TLS/16/04/EUR\)](#) in Timor-Leste funded by the EU. For this type of project, typically there is a section of work agreed with the government (i.e. a stretch of road) with lot-based sections or works that are to be awarded to different construction companies. Depending on the local context and the purpose of the project, each company may be awarded one or multiple lots, as part of their training/capacity building exercise.

As extensive training in both public procurement and the labour intensive methodology is normally required as a pre-requisite to participating in the ILO project tender, it is highly advisable to consult with the Procurement Bureau at HQ before undertaking the short-listing of supplier eligible for the training. While the purpose of the projects is focused on capacity building, the award of a contract through a procurement process still requires fair access to the ILO business opportunity. Experience has shown that limited advertisement of the business opportunity to the market without justification can create challenges in implementation with the local communities.

[Annex 2](#) provides a Template Tender Document with the ILO Construction Contract (for targeting the emerging construction sector) showing a standard Invitation to Bid (ITB) tender document with physical tendering that can be adapted to the specifics of the unique project. Particularly the shortlisting and evaluation methodology should be

tailored to the particular context and target market. While the ILO Construction Contract is shown in the template, it should be noted that the contract annex may be replaced by a FIDIC Green Book Short Form of Contract (see [Annex 1](#)).

For the emerging construction sector, it is usually in the interest of overall project goals to undertake physical tendering and public bid openings to maintain transparency and positive relations with the local market, government, and communities.

2. Implementing Partners

In this scenario, the donor provides capital funds for the ILO to partner with another entity to execute the project. There may be projects which are to engage a combination of implementing partners and contractors.

Implementing partners may include a government entity (e.g. Ministry of Labour or Public Works), another UN entity, or in some cases a local community group. These implementing partners should ideally be defined in the project document, and often in the donor agreement itself. Determining these project partners after the fact can cause substantial delays in project implementation, particularly if the donor's approval is required before signing an agreement.

Relevant examples of this scenario are the governmental entities as implementing partners for the KfW-funded [EIIP project \(JOR/19/03/DEU\)](#) in Jordan, the UNDP as a partner UN agency for the KfW-funded [EIIP project \(LBN/18/01/DEU\)](#) in Lebanon, as well as the communities contracted under the [Nias Island Rural Access Capacity Building Project \(Nias-RACBP, INS/09/02/IDA\)](#) in Indonesia.

Categorization of Implementing Partner

For projects that include implementing partners, the legal status of the proposed entity should be determined (e.g. government, non-governmental organization, academic institute, local community actor, UN sister agency, international organization, etc.). This first step is essential as the type of agreement and ILO approval process will vary depending on the entity selected.

Types of Agreements

If the selected entity is a governmental agency or a non-profit organization to undertake capacity building activities (usually training of SMEs on procurement rules and the EIIP methodology), then an implementation agreement would be the most appropriate (please refer to [IGDS No. 270 on Implementing Partnerships](#)).

If the identified project partner is a UN sister agency, then a UN Agency to UN Agency Contribution Agreement would be the most appropriate (please refer to section 4.14. on Inter-Agency Transfers of the [FINANCE Manual](#)). Note that if the project is being conducted with other UN agencies as a result of joint programming, this type of Inter-Agency Transfer is not needed.

It should be noted that the implementation agreements and UN Agency to UN Agency Contribution Agreements are intended to have established reporting and payment terms, which makes them distinctly different from an ILO grant (please refer to section 4.13. on Grants of the [FINANCE Manual](#)).

If a community group is directly selected as an implementing partner, it should be noted that the Template Community Contracting Agreement ([Annex 3](#)) may be more appropriate instead of the standard implementation agreement. Community Contracting Agreements are intended for simple works, for example road maintenance.

Considerations When Engaging Implementing Partners

When engaging implementing partners, it is critical to clarify the roles and responsibilities between the ILO and the implementing partner during project execution. This also includes responsibilities vis-à-vis the donor, including reporting. In past projects, a lack of defined roles has resulted in miscommunication and delays in establishing a

contractual agreement significantly after the donor approval of the partnership had been obtained. The roles and responsibilities of the ILO and its implementing partners, as well as the donor expectations, should be outlined in the project document and agreed to by all parties.

In addition, prior to proposing or selecting an implementing partner, the technical and financial capacities, human resources, as well as the legal/administrative framework of the implementing partner should be assessed and documented. This is necessary to ensure the implementing partner will be capable of undertaking the ILO-funded activities, and in a way that would not pose a financial risk to the ILO. For example, some past implementing partners with weak internal financial and procurement rules were included in a donor agreement, however the fiscal responsibility remained with the ILO project. This resulted in an additional layer of monitoring and management of the implementing partners as a risk mitigation strategy that was not foreseen in the project plan and was an unexpected additional administrative and financial burden.

A number of donors have been encouraging UN agencies and non-profit organizations to submit project proposals as a group with one entity as the lead. In this context, different international entities formulate project proposals and bid to the donor jointly with one entity as the lead. If that donor has particular conditions, these should be discussed and agreed with partner entities prior to signing a donor agreement. Several projects in the past have had to reformulate project plans due to the rejection of the additional donor conditions imposed on the ILO's agreements with partners. This is particularly the case when the partner is another UN agency. Not taking this into consideration beforehand can result in a failed partnership or an extensive agreement negotiation, which may cause significant delays in implementation.

Finally, as with all contracts, agreements with implementing partners should have reporting and payment terms as appropriate (e.g. aligned with donor reporting requirements) to assist with proper contract management.

3. EIIP Support to National Government (Technical Assistance)

In this scenario, DEVINVEST provides technical assistance to national governmental entities by contributing to mainstream development policy by placing key concerns of job creation, poverty reduction, enterprise promotion and improvement of working conditions in the broader framework of nationally defined macro-economic employment and investment policy.

This scenario does not involve ILO procurement activities. A relevant example of this scenario is the [Strengthening the National Rural Transport Programme \(SNRTP\) project \(NEP/15/03/IDA\)](#) in Nepal (funded by the World Bank).

4. Project with EIIP Component Undertaken without DEVINVEST Involvement

IN this scenario, the ILO Project includes an EIIP component in the project design as one element of the overall outputs, but is not implemented under the umbrella of DEVINVEST.

These projects should ensure sufficient technical and procurement expertise and resources during the project design and must consult with DEVINVEST or an EIIP specialist from a DWT (Decent Work Team) for advice and guidance at an early stage of project development.

Attention should be given to the fact that DEVINVEST and the EIIP specialists of DWTs are experts in construction using the EIIP methodology as a way to mainstream the ILO Decent Work Agenda in construction activities. EIIP practices must be aligned to ensure uniformity in the quality of execution and the application of lessons learned.

Projects intending to incorporate an EIIP component in their outputs must consult with DEVINVEST or a DWT EIIP specialist.

The guidance provided in section III.1. may be consulted to assist in determining an appropriate construction procurement strategy and contract template.

5. Other (ILO Construction Being Undertaken without using the EIIP Methodology)

An increasing number of ILO development cooperation projects include construction works components for either government, civil society, or individual workers, without using the EIIP methodology. Within this scenario, it may be advisable for project drafters to consider including an EIIP component and reaching out to DEVINVEST for advice.

In this scenario, special attention should be paid to (i) the technical expertise required (i.e. engineering and architectural), and (ii) property ownership and transfer, market considerations, and time constraints.

A relevant example of this scenario is the construction being undertaken by the [YWEP Project \(ZWE/16/01M/BAD\)](#) in Zimbabwe.

Construction being undertaken by an ILO project is an opportunity to promote job creation through the EIIP methodology. While not always appropriate, projects may consider the incorporation of EIIP when engaging in construction and should contact DEVINVEST or a DWT EIIP specialist for assistance in including this aspect in their project.

The guidance provided in section III.1. may be consulted to assist in determining an appropriate construction procurement strategy and contract template.

IV. Going Forward

This SOP is intended to be a living document benefitting from the shared knowledge on past and present experiences of colleagues from different departments and projects engaging in development cooperation funded construction works worldwide.

Comments and questions are welcome.

**For any questions or requests for guidance,
please contact pcrt@ilo.org for procurement related queries
and devinvest@ilo.org for technical queries.**

Annex List

[Annex 1: Template Tender Document using e-Tendering with a FIDIC Green Book Short Form of Contract \(example for targeting the advanced construction sector\)](#)

[Annex 2: Template Tender Document using Physical Tendering with the ILO Construction Contract \(example for targeting the emerging construction sector\)](#)

[Annex 3: Template Community Agreement](#)

[Annex 4: SOP for Procurement under EIIP and Other Development Cooperation Construction Flowchart](#)

The templates are provided as guidance and are intended to be adapted to the specifics of particular project.

Annex 1 and 2 provide examples of how tender documents would provide bidder instructions for both physical tendering and electronic tendering (e-Tendering), as well as the use of the FIDIC Green Book Short Form of Contract and the ILO Construction Contract. The different tendering methodologies may be used for either type of contract, however it is important to note that for projects seeking to engage in e-Tendering, extensive training must be planned for and budgeted with the advice and approval of PROCUREMENT.