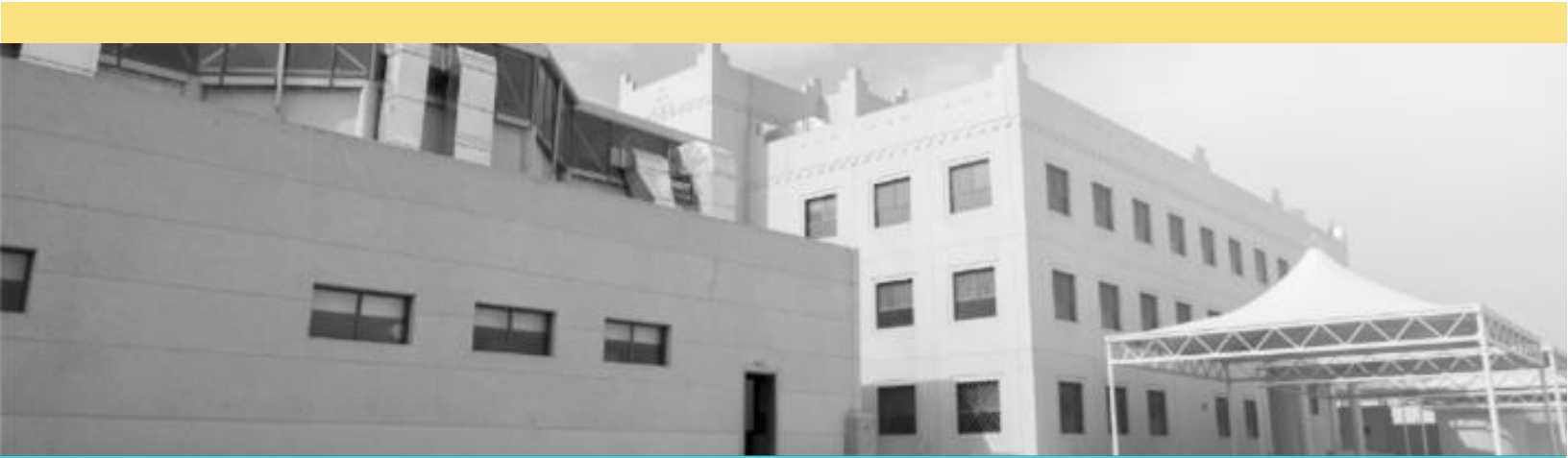


## Project Brief

# TBC Schools Infrastructure PPP Schools Programme, Wave 2

Date: December 2019



## 1. Project Brief:

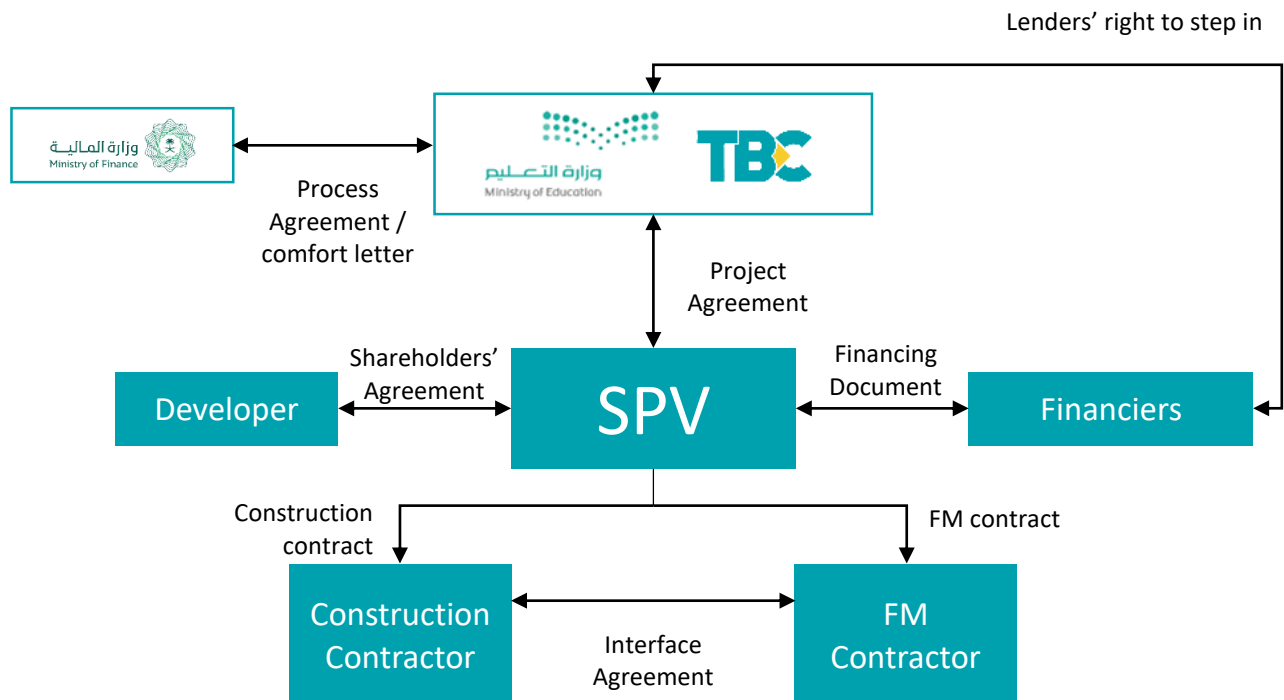
The Project is the second wave of the Build Maintain Transfer (“**BMT**”) Track of the Executive Program for Encouraging Public Private Partnership Initiative to Provide School Buildings, pursuant to which 60 public schools in Madinah City will be designed, financed and built (in a three-year period) and then maintained for a period of 20 years by an SPV in return for monthly unitary charge payments from the Procurer, before being transferred back to the Procurer at the end of the term. It is being procured by MoE and TBC (together “**the Procurer**”) under the Project Agreement with an SPV to be formed by the winning bidder. It is a natural development from the current arrangement under which TBC procures the construction of schools on behalf of MoE, and a follow-up to wave 1 of the Executive program, which is currently in bid evaluation phase. Accordingly, the Procurer will take responsibility for making payments of Unitary Charge, whilst leveraging its expertise to run the Project’s procurement process and monitor the performance of the SPV.

In running the procurement process, the Procurer seeks to secure the most competitive bids combined with a proposal offering optimum risk transfer. The winning bidder will provide a value-added technical and operational solution which will bring innovation to the local market and allow for knowledge transfer to the Procurer. TBC’s procurement role includes assessing market capability and the interest of developers, facilities management companies, construction contractors and banks in the Project. It also includes pre-qualifying suitable bidders to receive a request for proposals, evaluating proposals and, after the award to the winning bidder, monitoring the SPV performance and delivery against Project requirements.

The SPV will receive a concession of plots of land pre-selected by the Procurer for development of the schools. The term of the concession is 23 years: this covers an estimated three-year construction period and therefore allows for a 20-year operations period. At the end of the concession the schools will be handed back to MoE. The right to build and maintain the schools (together with the means to do so i.e. necessary land rights) will be granted to the SPV pursuant to the Project Agreement. There are notable advantages to both MoE and TBC being party to the Project Agreement, most significantly that the SPV will be able to rely directly on the covenant strength of the KSA Government (in the form of MoE) in respect of payments due under the Project Agreement. This will be substantially more attractive to prospective bidders and lenders, in particular when combined with the Comfort Letter from MoF.

## 2. Contractual Structure:

The figure below sets out a schematic representations of the Project from a contractual perspective.



Party	Role/Responsibility
<b>TBC/ MoE (the Procurer)</b>	Joint procurers under the Wave 2 Project Agreement TBC will set the design requirements and service standards and develop the RFQ and RFP and manage the bidding process to award of the Wave 2 Project.
<b>Developer</b>	As shareholder(s) of the SPV, the developer(s) will fund the Wave 2 Project through equity contributed to the SPV and procure debt funding for the SPV. The developer may possibly act as the Construction Contractor and/or FM Contractor
<b>MoF</b>	Government provider of finance to MoE and issuer of the Process Agreement (Comfort Letter) and to deposit funds in an escrow account from which Wave 2 Project-related payments are to be made
<b>SPV</b>	Finance, design, construct and perform Hard FM and Soft FM under the Wave 2 Project Agreement
<b>Construction Contractor</b>	Responsible for construction of schools as a subcontractor to the SPV
<b>FM Contractor</b>	Facilities management contractor of schools
<b>Lenders</b>	Lenders to the SPV
<b>Procurer Related Parties</b>	The contractors of the MoE in relation to the security, ICT and catering works and/or services
<b>Independent Certifier</b>	The independent certifier is appointed by the Procurer, the SPV, and the Lenders to monitor the implementation of the Project and its compliance with the Procurer's Requirements (including the Technical Output Specifications) throughout the construction period and upon completion of the construction certify Availability

MoE and TBC, as joint procurer, will enter into a coordination agreement to define their respective roles. As on the Wave 1 Project, MoE will be responsible for all payments due under the Wave 2 Project Agreement, as well as for ensuring access to land is sufficiently provided. TBC will take primary responsibility for the administration of the Project Agreement and interfacing with the SPV. As joint procurer, both MoE and TBC (together with the SPV and Lenders) will be party to the Lenders' Step-In Agreement.

The SPV must construct the schools to the approved designs and quality requirements. The SPV may delegate its construction and management responsibilities to separate contractors, with a construction contractor (the Construction Contractor) taking responsibility for construction and a facilities contractor (the FM Contractor) providing facilities management. However, the SPV remains responsible for completion and performance, despite that delegation. The relationship between the Construction Contractor and the FM Contractor will be governed by an interface agreement. This aims to ensure that each contractor takes responsibility for the tasks delegated to it and does not attempt to blame the SPV for any failure by the contractor to perform those tasks.

Procurement, installation and servicing related to ICT is not the responsibility of the SPV, and will be carried out by a third party separately appointed by the Procurer. In addition, the Procurer will retain responsibility for the provision of certain catering and security services (although note that the SPV will be responsible for the maintenance and life cycle of catering equipment as well as security services

outside of school hours). If third parties engaged by MoE / TBC cause the SPV to be unable to carry out the works or perform the services in accordance with the Project Agreement, the SPV will be entitled to time and cost relief.

Before the SPV can receive any payment from the Procurer, the schools must be tested to see if they are available for use. Availability is assessed by an independent certifier according to criteria set out in the Project Agreement. Once the schools are declared to be available, MoE makes monthly payments (the Unitary Charge) to the SPV. The Unitary Charge provides the SPV with cash flow to service its debt to the Senior Lenders (the Senior Debt Liabilities). It also constitutes a gradual return of, and a return on, the SPV's investment. The Unitary Charge is payable by MoE under the Project Agreement. The MoF will devise a mechanism to ensure a timely flow of funds to MoE, so that MoE can make payments as required under the Project Agreement. It is expected that MoF will issue a confirmation of that mechanism (the Process Agreement) in the form of a comfort letter to enhance the attractiveness and 'bankability' of the Project.

The Project essentially places primary delivery and maintenance responsibilities on the SPV. However, the Procurer retains certain responsibilities. This is partly for regulatory reasons (for example, it is natural for the Procurer to retain demand risk, as it is the responsibility of MoE to ensure that children are educated).

### 3. Credit Support:

- ◆ MoE will be a party to the Wave 2 Project Agreement and will therefore be primary obligor for payments due to the Contractor under the Project Agreement TBC will still be 'fronting' the structure as joint procurer and will manage the Project Contract for itself and MoE.
- ◆ No MoF guarantee is required, on the basis that MoE and MoF are both part of the Saudi government and are not separate legal entities.
- ◆ TBC will still be 'fronting' the structure as joint procurer and will manage the Wave 2 Project Agreement for itself and MoE, in accordance with the terms of the coordination agreement entered into between TBC and MoE.
- ◆ It is intended that the Process Agreement (comfort letter) from MoF will be addressed to MoE and copied to the SPV (as on the Wave 1 Project). However, if TBC / MoE / MoF ultimately agrees a different approach with the successful bidder on the Wave 1 Project, then that approach should be followed for the Wave 2 Project.
- ◆ The land rights required by the SPV in connection with the Wave 2 Project will be provided in the Wave 2 Project Agreement.
- ◆ If MoE is party to any agreement that is governed by foreign law, drafted in English and/or subject to dispute resolution by arbitration, waiver(s) would be required from applicable Saudi Arabian law.

#### 4. Implementation timeline:

