

Terms of Reference

CONSULTANCY SERVICE TO DEVELOP THE TERMS OF REFERENCE (TOR) FOR SUPPORTING PWA IN THE DESIGN OF A NATIONAL PROGRAM TO IMPROVE THE OPERATIONAL AND FINANCIAL PERFORMANCE OF SERVICE PROVIDERS ACROSS THE WEST BANK AND GAZA

1. Introduction

The President of State of Palestine issued a decree endorsing the new Water Law on 14 June 2014. The issuance of the new law establishes for a new phase for the development of the water sector, its governance and management. The Water Law includes directives for PWA responsibilities to establish Regional Water Utilities (RWU) in coordination with relevant authorities, for the provision of water and wastewater services in accordance with a regulation to be issued by the Cabinet of Ministers. Regional Water Utilities are responsible for the provision of water and wastewater services to consumers for various uses in line with sustainable economic, social and environmental principles, and meeting the needs of water of suitable quality and wastewater services through implementation of required and appropriate measures and the development of necessary plans and programs to develop these services.

The Palestinian Water Authority (PWA) is seeking support to PWA in the design of a National Program to Improve the Operational and Financial Performance of service providers across the West Bank and Gaza.

2. Contexts

Background

The status of the water sector in Palestine, as it exists today, is a direct outcome of the terms and conditions determined by the Oslo II Interim Agreement of 1995 and the occupation and closures imposed on the Palestinian territory by Israel. Palestinians suffer from restricted access to their entitled share, in accordance with international water law, of the trans-boundary water resources. This manifests itself with low per capita water availability, inadequate water service in terms of access, reliability and water quality, and major seasonal water shortages particularly acute in rural areas. The sewerage sector has fared no better with chronic underinvestment leading to partial coverage, very low rate of wastewater treatment, and widespread environmental damage.

The PWA was created in 1995 through a Presidential decree in order to regulate the water sector, improve and sustain water resources, planning and service delivery provision. It was assessed that the institutions and institutional framework created since 1995 to manage water resources and water uses, including the provision of water and wastewater service are insufficient for their purpose and consequently do not meet the needs of the Palestinian people. The lack of clear institutional mandates had contributed to a situation of ineffective governance and weak capacity in the Palestinian water sector, which combined with occupation-related restricting factors, impaired the development of adequate policies and strategies for water resources management, infrastructure development and service provision. The institutional fragility of the water sector in Palestine was generally acknowledged, as reflected in a number of reports.

Water Sector Reform

On Dec 14th 2009 the Cabinet of Ministers of the Palestinian National Authority endorsed an “Action Plan for Reform” (from here on referred to as “the Action Plan”) towards the definition and implementation of a comprehensive program of institutional and legislative reform in the Palestinian water sector (“the Sector Reform”). As the central body in the sector, the Palestinian Water Authority (PWA) has the mandate to lead the reform process. The overall reform included the reorganization of the water sector and the institutions within, capacity building, and the developing of strategies and policies.

The reform objectives have been defined as follows, with regards to:

1. Institutions; the Sector Reform will establish strong (capable) and sustainable institutions within a legal framework that clearly defines their roles, responsibilities and the interface (relationship) between them.
2. Infrastructure needs; the Sector Reform will improve water supply and sanitation strategies, policies, investment programs, project designs, and the implementation of projects, in an effort to substantially accelerate infrastructure development.
3. Service provision; the Sector Reform aims to accelerate equitable access to a quality service, while providing improved efficiency and cost-recovery of effectively regulated water operators.
4. Water resources management; the Sector Reform will help to build the institutional knowledge, policies, and monitoring and enforcement capacities, as part of an effort to achieve a more sustainable water resources management strategy.
5. Water consumers; the Sector Reform will aim at improving water demand management and public health awareness in line with the development of water conservation, environmental and public health policies.

New Water Law

The President of State of Palestine issued a decree endorsing the new Water Law on 14 June 2014. The issuance of the new law establishes for a new phase for the water and wastewater sector, its governance and management, as the law states that the Water Authority will be under the responsibility of the Cabinet which goes in line with the basic law for having the authorities under the Cabinet umbrella. In addition the law splits policy from regulatory functions, which was previously carried out by PWA since its establishment. The new water law grants the establishment of Water Sector Regulatory Council. The Water Sector Regulatory Council has been established by the Cabinet and has a Board of Directors derived from the public sector, private sector and civil society. Its mandate makes it responsible for water prices and monitoring the performance of Water and Wastewater Service Providers.

The Water Law includes directives to transform the West Bank Water Department (WBWD) into a National Water Company (NWC) which will be owned by the State of Palestine. For this reason the Law states PWA need to develop a temporary Bylaw to facilitate this transitional period (transfer the West Bank Water Department into a company) and provide a mechanism to transfer the assets to the National Company. The Law also states that the company legal status will not change except by a Law. The National Water Company is responsible for supplying Bulk Water and any tasks as assigned by the Water Authority. The National Water Company will have Board of Directors formed by the Cabinet based on recommendations from the Head of the Palestinian Water Authority. The BoD is the supreme authority for the adoption of decisions in the company, and it is entrusted with the implementation of the Company's policies and overseeing the management of its operations for the advancement of the policy approved by PWA .

The new law gives PWA the mandate, supported by a bylaw endorsed by the Cabinet, for establishment of Regional Water Utilities and Water User Associations.

The Law includes articles protecting water resources and defined protection zones. In addition, to monitoring water resources and provides the head of PWA the mandate to provide judicial policy. It also contains articles which allows for sanctions for the infringement of Water resources.

Current and future organization of Water Sector

The current organization and relationships between the main administrative bodies involved in the sector are briefly presented in Figure 1. The "National Water Company" has not been fully established yet. It is supposed to integrate the current West Bank Water Department (WBWD) in charge of managing and operating the bulk water supply system in the West Bank.

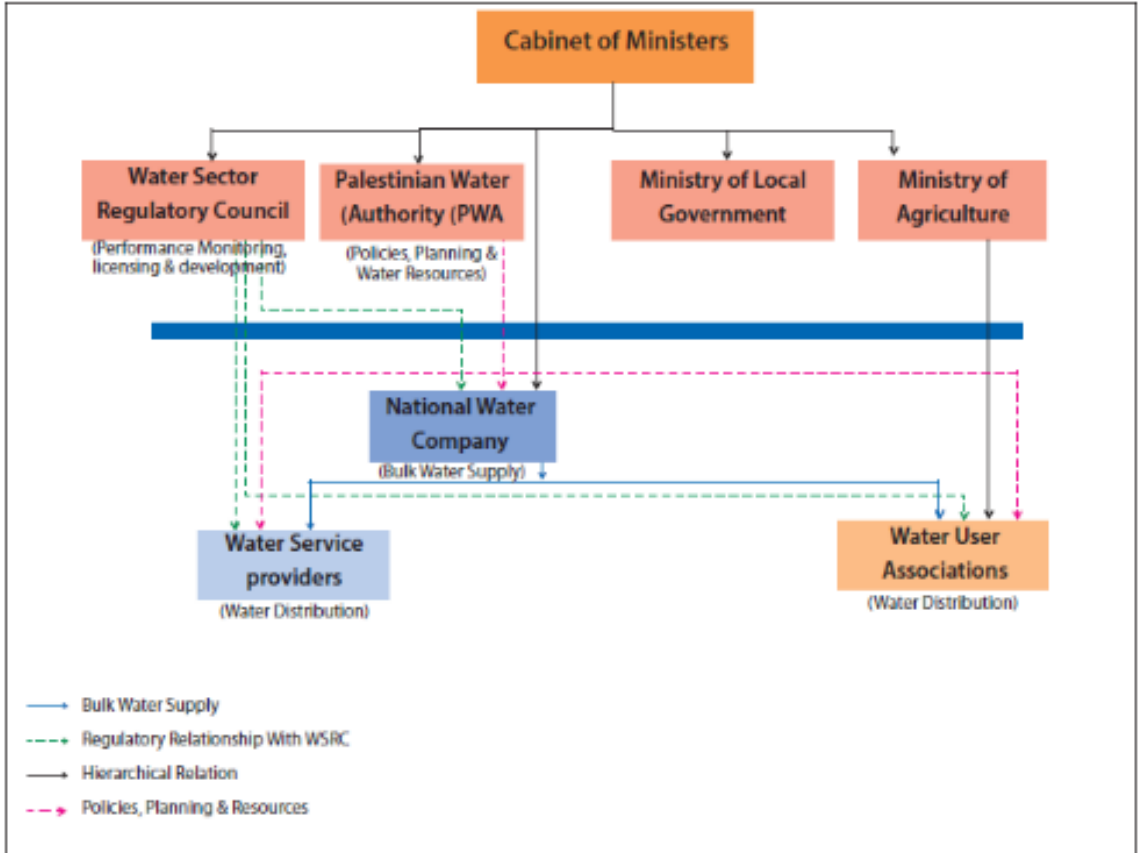


Figure 1 Water sector framework (source: PWA, cited in [WSRC, 2017])

The reorganization of the water service providers is also part of the Water Sector Reform. It was especially addressed in a study aiming at proposing a roadmap for the creation of Regional Water Utilities (RWU). The latest report of this study [FCG, 2018] recommended a stepwise approach to reduce the number of service providers from almost 300 in 2018 down to 3 RWUs in the West Bank and 1 in Gaza in 2032 (Figure 2).

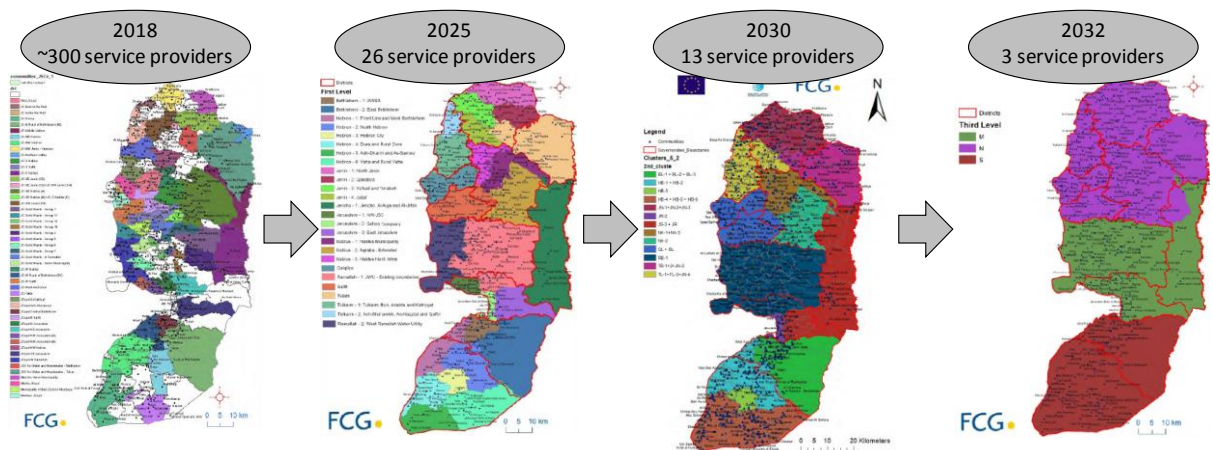


Figure 2 Proposed reorganization of the water service providers in the West Bank as per [FCG, 2018]

3. PROJECT DESCRIPTION AND COMPONENTS

Background

Gaza Central Desalination Program: Associated Works Phase I Project is a part of a coordinated international effort to address chronic poor water quality in Gaza and the significant increase in domestic demand expected in the medium term, which is projected to reach around 145 MCM a year by 2030. PWA, in partnership with the European Commission (EC), the European Investment Bank (EIB), the Union for the Mediterranean (UfM), the Islamic Development Bank (ISDB) and the World Bank, formulated the Gaza Central Desalination Program (GCDP). The GCDP covers all Gaza and comprises two main components: (i) construction of a desalination plant with initial capacity to produce 55 MCM a year of desalinated water that can be doubled in the future; and (ii) construction of a north-south water carrier, including storage reservoirs to convey and properly blend the desalinated water with groundwater sources to achieve water supply meeting WHO standards for potable water. Finally, as part of the “Associated Works” component, the European Union (EU) is also financing a non-revenue water (NRW) reduction program in major municipalities of the Gaza strip to maximize use of the blended water.

Securing the required funding for implementing the GCDP will take several years, leaving the water situation in Gaza, and particularly in the southern and middle governorates, in urgent need of improvement. In this context, the international community supported the construction of two Short-Term Low-Volume (STLV) desalination plants which produce 4.7 MCM per year as interim measures to alleviate the needs for fresh water. In addition, PWA has negotiated the purchase of an additional 5 MCM per year of fresh water for the middle and southern governorates of Gaza from (Mekorot) for a total of 10 MCM per year. The proposed project, through blending these new high-quality water sources with 15.3 MCM per year from existing saline groundwater, will supply bulk water to all 16 municipalities in the project area (with an estimated 870,000 people) with at least 90 liters per capita per day (lcd) meeting WHO standards for potable water.

The project will also contribute towards enhancing soundness of the sector institutional set up. The proposed operation includes institutional strengthening activities aimed at the establishment of a small unit to manage bulk water supply operations in Gaza laying a sound foundation for the future establishment of the NWC, which is mandated by the Water Law to manage and operate bulk water throughout the West Bank and Gaza.

Project Components

Component 1: Improved Supply of Bulk Water to the southern and middle governorates of Gaza

Component 1 comprises four packages to implement an integrated system of water carriers and reservoirs to convey and blend water from three different sources to achieve the desired salinity. Packages 1.1 and 1.2 are financed by a parallel grant from the Kuwait Fund for Arab Economic Development (KFAED).

- a. Package 1.1: Southern Main Carrier System will enhance the capacity for blending, storage and bulk supply of drinking water to Rafah and Khan Younis Governorates. This package is being tendered; implementation is expected to be completed by mid-2023.
- b. Package 1.2: Additional Water Supply Network Improvement Works for Middle Gaza and Khan Younis Governorates will increase the capacity to effectively utilize the 10 MCM/year of fresh water purchased from Israel at Bani Said and Bani Suhaila connection points. Implementation started in June 2019 and is expected to be completed by December 2020.
- c. Package 1.3: Reconfiguration of the water distribution system in the Southern Gaza Governorates and Package 1.4: Reconfiguration of the water distribution system in Middle Gaza Governorate will reconfigure the municipal primary distribution networks where they connect with the new bulk water system to enable them to receive and effectively distribute the blended bulk water. These two packages will be funded jointly from the Trust Fund for Gaza and the West Bank (TFGWB) and Partnership for Infrastructure Development Multi-Donor Trust Fund (PID MDTF). The detailed design and tender documents for both packages were prepared in late 2017 and need to be revised. Tendering is planned in the first quarter of 2020 with activity implementation period of 30 months and 18 months, respectively.

Component 2: Capacity Building and Performance Improvement of Selected Institutions

This component is designed primarily to create adequate capacity to ensure operations and maintenance of the STLVs during project implementation and subsequently during the O&M of the integrated bulk water supply system supported by the project. This component will also support the design of a National Service Provider Improvement Program (NSPIP) to improve service delivery in the West Bank and Gaza, and reduce the need for sector subsidies, as well as to prepare priority bulk water investments in the West Bank. This component will be jointly funded from TFGWB and PID MDTF.

- a. Sub-component 2.1: Establishment of a unit to operate bulk water supply in Gaza will fund the design and implementation of an action plan establishing a unit that would over the implementation period of this project take on gradual responsibility for: (i) operation and maintenance of the STLVs; (ii) monitoring and management of bulk water purchases from Israel; (iii) management and operation of groundwater wells in the middle and southern Gaza governorates to be utilized for blending; (iv) blending of these bulk water sources for distribution and onward sale to municipalities (the SPs); and (v) billing and collection (on behalf of PWA) for bulk water sales to municipalities. In line with PWA's long-term plan to create the NWC, this unit will eventually scale up its role and responsibilities to be the Gaza nucleus of the NWC envisaged in the 2014 Water Law. As part of the establishment of the Bulk Water Supply Unit opportunities for female employment will be explored and enhanced to utilize the untapped resource that highly educated and skilled women represent.¹ This sub-component will also fund a study of private water vendors' livelihoods and potential mitigation measures.
- b. Sub-component 2.2: Design of a National Service Provider Improvement Program will fund the design of a national program to improve the operational and financial performance of service providers across the WB&G.
- c. Sub-component 2.3: Priority investment planning for bulk water supply in the West Bank will finance: (i) updating the water sector policy and strategy; (ii) preparing an integrated bulk water master plan for the West Bank, which will identify and prioritize investments to set up a bulk water supply and conveyance system for the West Bank; and (iii) preparing detailed designs and ESAs for the identified priority investments related to distribution of water.

Component 3: Project Management and Implementation Support

This component is designed to support effective implementation of the project and provide funds to ensure continued operations of vital water assets in Gaza

4. The consultancy

A. OBJECTIVE:

The consultant is to support PWA with institutional aspects, with the objective of developing a comprehensive "Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G", to primarily improve service delivery and reduce the need for sector subsidies; with overall objective of improving the quality of service delivery of water and waste water services in the West Bank and Gaza. The proposed Technical Assistance Consultancy will develop the detailed proposal for the implementation of improvement programs at the service provider level, with methodologies for selection of beneficiary providers, incentives to merge with each other and create larger utilities – as per the road map of the sector. This detailed proposal will serve as the platform for sector support by donor communities to achieve the reforms in the 2014 Law intended for the creation of 4 large regional utilities.

¹ This will include support to the PWA Gender Unit.

B. CONSULTANT'S TASKS.

The consultant will be responsible for carrying out the following activities:

1. Desk review : Prepare for the consultancy by reviewing relevant documentation relating to the assignments, including :
 - a. Road Map for the establishment of Regional Water Utility
 - b. Water Security Mapping for Gaza²
 - c. Recent Government Decrees (Nov 2020) related to the establishment of the Regional Water Utilities³
 - d. World Bank PAD for the Water Security Development - Gaza Central Desalination Program — Associated Works Phase I Project
 - e. Program Implementation Manual (PIM) for the Water Security Development Program (WSDP) developed in 2018 ⁴
2. As needed, gather additional data and validate in full coordination with PWA
3. Analyze existing related studies, reports, and data analysis conducted by the Palestinian Water Authority and others related to the reform.
4. Conduct meeting with all of relevant stakeholders (including CMWU representatives, Services providers key donors,...) to
 - (a) identify and discuss specific problematic issues
 - (b) solicits input
 - (c) develop consensus incorporate lessons learned from previous work.
5. Develop a draft Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G". The Consultant shall use the template in Annex II, as a reference, in order to finalize comprehensive ToR and consider all required and relevant sections

The Term of Reference shall include detailed Conceptual proposal for the National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G". The Consultant shall consider Annex I "National Service Performance Improvement Program: a conceptual proposal" as an important reference.

The Consultant shall consider the following through the development of the Term of Reference:

- The NSPIP will set out a framework of incentives that will:
 - o support SPs to move up the performance ladder;
 - o separate water service provision from other municipal services;
 - o where appropriate, support clustering of SPs to achieve economies of scale and work towards the establishment of regional utilities; and
 - o promote future public-private partnerships (PPPs) to the extent feasible, either through performance-based contracts to reduce NRW, meter reading, billing and collection, or more comprehensive management contracts.
- As part of the development of NSPIP (design phase) , pilot measures for improving cost recovery will be tested in:
 - o the municipalities in Gaza targeted by the infrastructure improvements supported through Component 1; and
 - o selected service providers in the West Bank.
- The design will include support for municipalities to engage consumers in the process, and to ensure that consumers' voices are represented in the policy

² To be submitted by PWA upon signing the Contract

³ To be submitted by PWA upon signing the Contract

⁴ Component 3 Improvement of Water Supply and Wastewater Services Management in West Bank

discussions on how to develop the NSPIP. It will also include training, complemented with technical assistance to municipalities, on engaging with water consumers. Linked to these actions, representatives of women's groups will be consulted on the design of the NSPIP and opportunities for empowering young women across the water supply and sanitation value chain will be explored through innovative partnerships with the private sector.

- The design of the NSPIP shall support PWA to :
 - o carry out institutional assessments across the range of service providers (size, type and geography) to identify reform requirements;
 - o test methods for increasing cost recovery and efficiency in the water sector (e.g., through establishing customer feedback mechanisms for the water companies, as cost recovery is linked, at least in part, to citizen satisfaction, as well as through customer enumeration surveys, upgrading billing systems, efficiency measures, etc.);
 - o identify ways of ring-fencing water revenues within existing service providers;
 - o agree on revenue substitution measures (e.g., through block grants from the PA) to cover non-water services at municipal or village council levels that would be impacted by ring-fencing water revenues; and
 - o identify potential transition pathways for extricating water service providers from the municipal government sector.
 - o This process will ensure that the needs and views of civil society, women, children, and poorer households are taken into account, along with the active participation of existing Water Youth Committees, and are underpinned by household surveys, opinion surveys, etc. It will also support strengthening the capacity of the water companies in citizen engagement and customer satisfaction.
- 6. Prepare and make presentation to the draft in a Workshop to all relevant Stakeholders, including donor's community. The workshop shall focus on the main considerations in the draft produced, and on any outstanding issues, with main objective to improve the document and make consultation, and consensus; It shall take place at PWA premises in Ramallah with VC to PWA Gaza. The consultant shall consider comments and suggestions made during the workshop.
- 7. Finalizing the Terms of Reference for a "Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G" considering comments and feedback received.

C. REPORTING AND OUTPUTS TO BE ACHIEVED:

The Expert will prepare, produce and submit the following outputs:

- Inception report with consultant work plan for the assignment(not to exceed 2 pages)
- Draft Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G (output #2)
- One Workshops to (PWA relevant staff , and relevant stakeholders including donor Community (output # 3)
- Final Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G acceptable by PWA and cleared by the World Bank (output #4)

Submission of Reports

- Deliverables shall be presented in both hard and soft copy. All documents shall be in English. 2 hard, color copies of each deliverable are required which shall be bound and of good quality.
- Soft copies of reports and documents and other information required shall be in Word, Excel and PDF.

D. SERVICES, AND FACILITIES TO BE MADE AVAILABLE TO THE EXPERT

Services, and facilities to be made available to the expert by PWA:

- PWA will provide at its facilities in Ramallah meeting room for meetings (with needed facilities, and refreshments) upon prior notice. This will be provided free of any costs to the Expert.
- All available relevant documents.

E. MANAGEMENT ARRANGEMENTS AND RELEVANT STAKEHOLDERS

The Consultant will be technically, contractually and administratively responsible for the preparation and implementation of the assignment to the PWA. PWA will appoint a Focal Coordinator for this assignment. Relevant stakeholders for consultation includes (but not limited to) Prime Minster Office, PWA, WSRC, CMWU, Service Providers (at least 20 Service providers to be defined by PWA) in clear modality to be defined by the Consultant in the Inception report.

F. CONTRACTS TYPE AND PAYMENTS SCHEDULE

The contract is lump Sum. The payments schedule (Reference to Item C “Reporting and Outputs to be Achieved” of the ToR) is:

Payment No	Outputs Delivered and acceptable to PWA
First payment 30% of Contract value	upon the submission of draft Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G” and conducting a workshop. (Output #2) acceptable to PWA
Second payment: 70% of the contract price	upon the submission of Final Terms of Reference for a Technical Assistance Consultancy Service to Design of a National Service Provider Improvement Program to improve the operational and financial performance of service providers across the WB&G (Output #3) acceptable to PWA

Financial supporting documents:

- TAX Invoice
- Source Deduction

G. DURATION OF SERVICE AND LEVEL OF EFFORTS:

- The consultancy Service duration is **three months**
- The estimated efforts for the assignment/ number of work days are 20 working days. However, it is the responsibility of the Expert to estimate the required input to successfully complete the assignment and agree with the client on it.

Below is a suggested timeframe for the delivery of the key outputs for the assignment, however, the consultant is submit a revised delivery timeframe within his work plan in the inception report to be submitted in the first week after contract signature:

- First draft of the Term of Reference is due 1.5 month after the contract is signed, submitted to PWA for review and approval. (some working papers for certain topics could be submitted for review and comments along the development of the first draft).
- The final version of the ToR ready for disclosure is due 3 month after the signing of the contract.

H. QUALIFICATIONS:

The Consultant shall have proven experience in conducting similar tasks for similar target groups and be knowledgeable in the Region (preferably in the Palestinian water Sector as well).

The Consultant shall hold the following qualifications:

- a. Master degree in public administration or any other relevant field;
- b. A graduate degree in planning, engineering, water resources management, economics, or any other relevant field;
- c. 10 years of experience in the water sector and similar sectors;
- d. 10 years of practical experience in the field of institutional developing of water service entities (utilities, water companies)
- e. At least one relevant similar experiences to the assignment
- f. Excellent skills in speaking and writing English. Skills in Arabic would be an asset.

ANNEX I: National Service Performance Improvement Program: a conceptual proposal

Introduction

This note is an effort to propose a conceptual framework for the design a multi-phase program to improve the quality-of-service delivery of water and wastewater services in the West Bank and Gaza.

This activity is included in the World Bank- supported Associated Works Program as a **sub-component 2.2** (see description below)⁵. The main objective of the program is to ready the improved service providers to join other neighboring providers into the creation of sub-regional utilities in the first stage and ultimately 4 larger regional utilities in WB&G. The establishment of the 4 regional water utilities – one of the main reform planks of the water sector in WB&G – is defined in the 2014 Water Law and was re-emphasized in a recent Cabinet Decision (November 2020).

This component is intended to support the operational and financial improvement of selected service providers through a program of targeted incentives and capacity building activities. The goal is to improve the conditions for planning and operation of water supply and sanitation systems, through the establishment of autonomous water departments (and/or possible use of private operators).

The component will support the development of water and sanitation services by providing to following inputs:

- a) Technical assistance for establishment of autonomous water departments, which will be responsible for oversight and planning (to prepare business plans and expansion plans) as well as day-to-day efficient operation of existing systems.
- b) Technical assistance and financial incentives to service providers to establish systems for routine operations and maintenance, financial management, customer management, and improved service performance (i.e. lower operating costs, reduce unaccounted for water and expand systems – where needed - to meet demand.

Defining Target Areas:

Several requests from service providers to support in the establishment of (regional) water utilities have been made, e.g. Tubas, Maythaloan, Jenin Municipality, Jenin JSC, CMWU in Gaza. There are also on-going donor-funded projects that support the establishment of a RWU in Hebron, Jenin Water Department, JSC Tubas and Maythaloan.

Incentive Mechanisms

The main program calls for a performance-based approach to incentivize the service providers to improve their delivery standards and encourage them to join emergent regional utilities -as per the 2014 Water Law.

The main facets of the performance-based assistance may include:

⁵ Sub-component 2.2: Design of a National Service Provider Improvement Program (US\$2.5 million) will fund the design of a national program to improve the operational and financial performance of service providers across the WB&G. The NSPIP will set out a framework of incentives that will: (i) support SPs to move up the performance ladder; (ii) separate water service provision from other municipal services; (iii) where appropriate, support clustering of SPs to achieve economies of scale and work towards the establishment of regional utilities; and (iv) promote future public-private partnerships (PPPs) to the extent feasible, either through performance-based contracts to reduce NRW, meter reading, billing and collection, or more comprehensive management contracts. As part of the development of NSPIP, pilot measures for improving cost recovery will be tested in: (a) the municipalities in Gaza targeted by the infrastructure improvements supported through Component 1; and (b) selected service providers in the West Bank. This sub-component will include support for municipalities to engage consumers in the process, and to ensure that consumers' voices are represented in the policy discussions on how to develop the NSPIP. It will also include training, complemented with technical assistance to municipalities, on engaging with water consumers. Linked to these actions, representatives of women's groups will be consulted on the design of the NSPIP and opportunities for empowering young women across the water supply and sanitation value chain will be explored through innovative partnerships with the private sector.

- Service Providers expected to meet minimum conditions before they can access funds.
- PWA and/or NWRC contracts independent consultants to carry out annual assessment of service provider performance, using pre-identified criteria
- Performance score determines level of funding transferred to each service provider

Access and Performance Criteria.

The criteria to evaluate the service providers are designed to lead to improvements in:

- ***Planning and Participation***
 - Capital Investments and Service Quality Improvement Plans to involve increasing numbers of citizens' groups in the participation process
- ***Sustainability***
 - Improvements in financial management (adoption of computerized, integrated, up-to-date systems)
 - Achievement of annual targets in revenue generation; Updating of infrastructure asset inventories and improved condition of assets;
- ***Accountability***
 - Upward accountability through timely submission of financial management and progress reports; timely submission of external audits; compliance with audit recommendations;
 - Downward accountability by informing citizens of budgets, plans, expenditures, procurement, audit findings, and other information to promote effective citizen participation in decision making.
- ***Service delivery***
 - Implementation progress of improvement projects
 - Improved quality of existing service and infrastructure through O&M

Stepped Approach

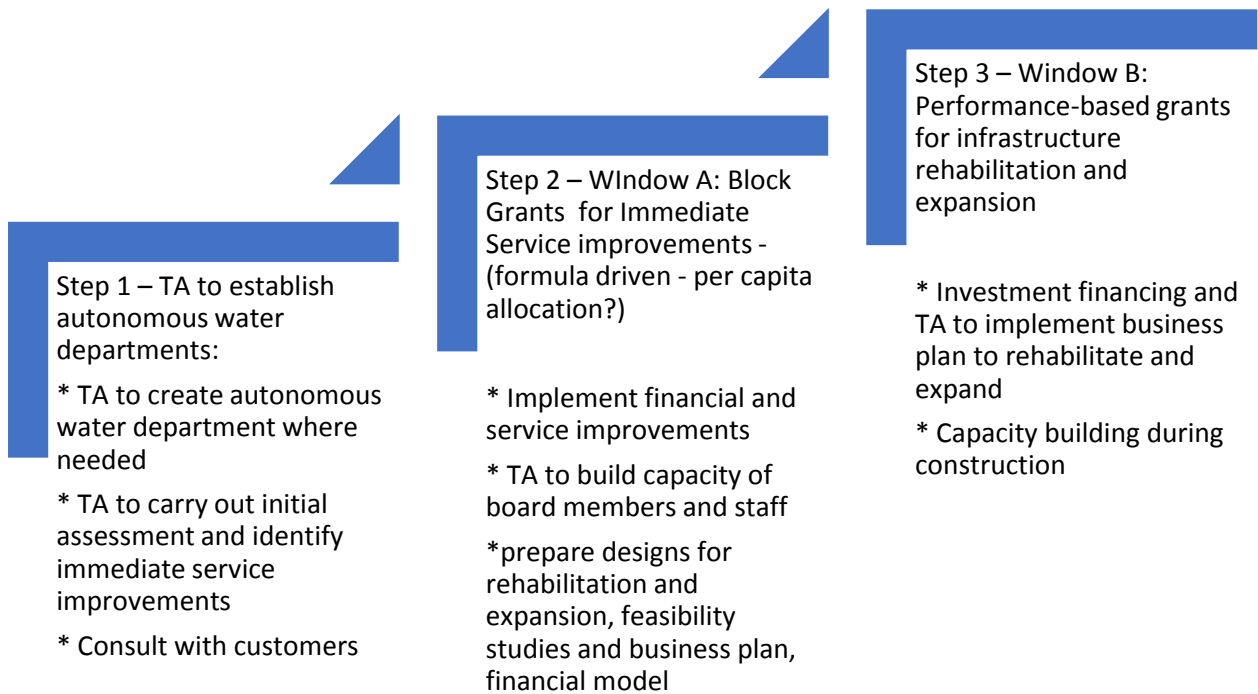
The performance-linked and incentive-based stepped approach for water supply and sanitation services could be designed as follows:

Step 1a – service providers receive technical assistance to form autonomous water departments (ToR for consultants to be prepared by PWA)

Step 1b- service providers will receive technical assistance for preparing initial assessment of service delivery, assets, and, with citizen participation, prepare applications for financial assistance for immediate improvements (ToR to be prepared by PWA)

Step 2 – Window A: Block Grants – (formula driven equity grants – could be on population basis) newly ring-fenced water departments will implement basic financial (audits, revenue collection improvement, etc.) and technical improvements (data management systems, metering, repairs, etc.) within their immediate reach – these funds could also be used for procuring design services, feasibility studies, preparation of business plans, capacity building for members and utility staff, stakeholder consultation and the implementation of immediate service improvements.

Step 3 – Window B: Performance-based grants – conditional and formula-based. Water departments will receive financial assistance based on their improvements using formulas that take into account achievements under the above listed criteria (planning and participation, sustainability, accountability and service delivery) – the funds could be used for rehabilitation, construction of facilities, construction supervision and further capacity building through the construction period.



Elements of successful program

- **Financing size and timing**
 - Access to meaningful/substantial funding is critical to show improvements in service delivery to citizens – the availability of funds under this project (and other donor projects) need to be significant compared to make a difference.
 - Predictable funding facilitates planning for investments.
- **Perspective**
 - Generational perspective is required for real institution building; the success of such a program - to cover some 300 service providers - will depend on continuity of funding over extended periods of time – beyond a pilot phase.
- **Exit Strategy**
 - Each “group” of service providers need to fully aware that after about 3-4 years of support, they must “graduate” to self-sustaining operations, including joining regional utilities as they aggregate for economies of scale and even potential access to financial markets for future investments.

ANNEX II: Template Terms of Reference

[Sample outline:

1. **Background** _____
2. **Objective(s) of the Assignment** _____
3. **Scope of Services, Tasks (Components) and Expected Deliverables**

- 3.1 _____
- 3.2 [indicate if downstream work is required]
- 3.3 [indicate if training is a specific component of the assignment]
- 3.4 [indicate any sustainable procurement requirements that apply]
- 3.5 **[Note to Client: For ESHS, the scope of services of the consultant for civil works supervision should be based on the following:**

Ensure that the Contractor's ESHS performance is in accordance with good international industry practice and delivers the Contractor's ESHS obligations.

The ESHS related services include but are not limited to:

1. *review and approve the Contractor's Environment and Social Management Plan (C-ESMP), including all updates and revisions (not less than once every 6 months);*
2. *review and approve ESHS provisions of method statements, implementation plans, GBV/SEA prevention and response action plan, drawings, proposals, schedules and all relevant Contractor's documents;*
3. *review and consider the ESHS risks and impacts of any design change proposals and advise if there are implications for compliance with ESIA, ESMP, consent/permits and other relevant project requirements;*
4. *undertake audits, supervisions and/or inspections of any sites where the Contractor is undertaking activities related to the Works, to verify the Contractor's compliance with ESHS requirements including its GBV/SEA obligations, with and without contractor and/or client relevant representatives, as necessary, but not less than once per month*
5. *undertake audits and inspections of Contractor's accident logs, community liaison records, monitoring findings and other ESHS related documentation, as necessary, to confirm the Contractor's compliance with ESHS requirements;*
6. *agree remedial action/s and their timeframe for implementation in the event of a noncompliance with the Contractor's ESHS obligations;*
7. *ensure appropriate representation at relevant meetings including site meetings, and progress meetings to discuss and agree appropriate actions to ensure compliance with ESHS obligations;*
8. *check that the Contractor's actual reporting (content and timeliness) is in accordance with the Contractor's contractual obligations;*
9. *review and critique, in a timely manner, the Contractor's ESHS documentation (including regular reports and incident reports) regarding the accuracy and efficacy of the documentation;*
10. *undertake liaison, from time to time and as necessary, with project stakeholders to identify and discuss any actual or potential ESHS issues;*
11. *establish and maintain a grievance redress mechanism including types of grievances to be recorded and how to protect confidentiality e.g of those reporting allegations of GBV/SEA.*
12. *ensure any GBV/SEA instances and complaints that come to the attention of the consultant are registered in the grievance redress mechanism*
13. *[add any other tasks as appropriate].*

4. **Team Composition & Qualification Requirements for the Key Experts (and any other requirements which will be used for evaluating the Key Experts under Data Sheet 21.1 of the ITC)**

[Note to Client: For supervision of civil works contracts, Key Expert/s with sufficient qualifications and experience to provide Environment, Social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), Health and Safety [ESHS] oversight shall be required. The Key Expert/s academic and professional qualifications and experience to recognize and to deliver good international industry practice with respect to Environment, Social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), Health and Safety (ESHS) should be specified here. The same expert positions should be included for evaluation in ITC 21.1].

5. Reporting Requirements and Time Schedule for Deliverables

[At a minimum, list the following:

- (a) format, frequency, and contents of reports;*
- (b) number of copies, and requirements to electronic submission (or on CD ROM). Final reports shall be delivered in CD ROM in addition to the specified number of hard copies;*
- (c) dates of submission;*
- (d) persons (indicate names, titles, submission address) to receive them; etc.*

*If the Services consist of or include the **supervision of civil works**, include the following on ESHS reporting:*

- (e) “The Consultant shall provide immediate notification to the Client should any incident in the following categories occur while carrying out the Services. Full details of such incidents shall be provided to the Client within the timeframe agreed with the Client.
 - (i) confirmed or likely violation of any law or international agreement;*
 - (ii) any fatality or serious (lost time) injury;*
 - (iii) significant adverse effects or damage to private property (e.g. vehicle accident); or*
 - (iv) any allegation of gender based violence (GBV), sexual exploitation or abuse (SEA), sexual harassment or sexual misbehavior, rape, sexual assault, child abuse or defilement, or other violations involving children,**
- (f) Ensure that contractor immediate notifications on ESHS aspects are shared with the Client immediately;*
- (g) Immediately inform and share with the Client any immediate notification related to ESHS incidents provided to the Consultant by the Contractor, and as required of the Contractor as part of the Progress Reporting;*
- (h) Share with the Client in a timely manner the Contractor’s ESHS metrics, as required of the Contractor as part of the Progress Reports.”*

6. Client’s Input and Counterpart Personnel

- (a) Services, facilities and property to be made available to the Consultant by the Client:
_____ [list/specify]*
- (b) Professional and support counterpart personnel to be assigned by the Client to the Consultant’s team:
_____ [list/specify]*

7. Environmental and Social Policy

[Note to Client: for supervising civil works contracts:

- 14. The Client should attach or refer to the Client’s environmental, social, health and safety policies that will apply to the project. If these are not available, the Client should use the following guidance in drafting an appropriate policy for the Works.*

SUGGESTED CONTENT FOR AN ENVIRONMENTAL AND SOCIAL POLICY (STATEMENT)

The Works' policy goal, as a minimum, should be stated to integrate environmental protection, occupational and community health and safety, gender, equality, child protection, vulnerable people (including those with disabilities), sexual harassment, gender-based violence (GBV), sexual exploitation and abuse (SEA), HIV/AIDS awareness and prevention and wide stakeholder engagement in the planning processes, programs, and activities of the parties involved in the execution of the Works. The Client is advised to consult with the World Bank to agree the issues to be included which may also address: climate adaptation, land acquisition and resettlement, indigenous people, etc. The policy should set the frame for monitoring, continuously improving processes and activities and for reporting on the compliance with the policy.

The policy shall include a statement that, for the purpose of the policy and/or code of conduct, the term "child" / "children" means any person(s) under the age of 18 years.

The policy should, as far as possible, be brief but specific and explicit, and measurable, to enable reporting of compliance with the policy and reporting requirement.

As a minimum, the policy is set out to the commitments to:

- 1. apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;*
- 2. provide and maintain a healthy and safe work environment and safe systems of work;*
- 3. protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;*
- 4. ensure that terms of employment and working conditions of all workers engaged in the Works meet the requirements of the ILO labour conventions to which the host country is a signatory;*
- 5. be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for GBV, inhumane treatment, sexual activity with children, and sexual harassment;*
- 6. incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;*
- 7. work co-operatively, including with end users of the Works, relevant authorities, contractors and local communities;*
- 8. engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;*
- 9. provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation, and protects whistleblowers;*
- 10. minimize the risk of HIV transmission and to mitigate the effects of HIV/AIDS associated with the execution of the Works;*
- 15. The policy should be signed by the senior manager of the Client. This is to signal the intent that it will be applied rigorously.*

8. Code of Conduct

[Note to Client: for supervision of civil works contracts:]

A minimum requirement for the Code of Conduct should be set out by the Client, taking into consideration the issues, impacts, and mitigation measures identified, for example, in:

- project reports e.g. ESIA/ESMP*
- any particular GBV/SEA requirements*
- consent/permit conditions (regulatory authority conditions attached to any permits or approvals for the project)*

- *required standards including World Bank Group EHS Guidelines*
- *relevant international conventions, standards or treaties, etc., national, legal and/or regulatory requirements and standards (where these represent higher standards than the WBG EHS Guidelines)*
- *relevant standards e.g. Workers' Accommodation: Process and Standards (IFC and EBRD)*
- *relevant sector standards e.g. workers' accommodation*
- *grievance redress mechanisms.*

The types of issues identified could include. risks associated with: labor influx, spread of communicable diseases, sexual harassment, gender based violence, illicit behavior and crime, and maintaining a safe environment etc.]

[Amend the following instructions to the Consultant taking into account the above considerations.]

A satisfactory code of conduct will contain obligations on all Consultant's Experts that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the region, the location and the project sector or to specific project requirements. The code of conduct shall contain a statement that the term "child" / "children" means any person(s) under the age of 18 years.

The issues to be addressed include:

1. Compliance with applicable laws, rules, and regulations
2. Compliance with applicable health and safety requirements to protect the local community (including vulnerable and disadvantaged groups), the Consultant's Experts, the Client's personnel, and the Contractor's personnel, including sub-contractors and day workers (including wearing prescribed personal protective equipment, preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
3. The use of illegal substances
4. Non-Discrimination in dealing with the local community (including vulnerable and disadvantaged groups), the Consultant's Experts, the Client's personnel, and the Contractor's personnel, including sub-contractors and day workers (for example, on the basis of family status, ethnicity, race, gender, religion, language, marital status, age, disability (physical and mental), sexual orientation, gender identity, political conviction or social, civic, or health status)
5. Interactions with the local community(ies), members of the local community (ies), and any affected person(s) (for example to convey an attitude of respect, including to their culture and traditions)
6. Sexual harassment (for example to prohibit use of language or behavior, in particular towards women and/or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
7. Violence, including sexual and/or gender based violence (for example acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and deprivation of liberty)
8. Exploitation including sexual exploitation and abuse (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading behavior, exploitative behavior or abuse of power)
9. Protection of children (including prohibitions against sexual activity or abuse, or otherwise unacceptable behavior towards children, limiting interactions with children, and ensuring their safety in project areas)
10. Sanitation requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
11. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection)
12. Respecting reasonable work instructions (including regarding environmental and social norms)

13. Protection and proper use of property (for example, to prohibit theft, carelessness or waste)
14. Duty to report violations of this Code
15. Non-retaliation against personnel who report violations of the Code, if that report is made in good faith

The Code of Conduct should be written in plain language and signed by each Expert to indicate that they have:

1. *received a copy of the code;*
2. *had the code explained to them;*
3. *acknowledged that adherence to this Code of Conduct is a condition of employment; and*
4. *understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.*

A copy of the code shall be displayed in the Engineer's office. It shall be provided in appropriate languages.