

Terms of Reference
for Advisory Services to Develop Legislation
for the Establishment of
the Office of Water Resources Management
at the Ministry of Public Utilities

1. **Background**

Historically, the approach by Trinidad and Tobago to water resources management has been shaped by a combination of domestic legislation and international agreements. The major legislative instruments are, principally, the:

- (a) Water and Sewerage Act Chap. 54:40;
- (b) Waterworks and Water Conservation Act Chap. 54:41;
- (c) Regulated Industries Commission Act, Chap. 54:73;
- (d) Environmental Management Act Chap. 35:05;
- (e) Litter Act, Chap. 30:52;
- (f) Municipal Corporations Act, Chap. 25:04; and
- (g) Public Health Ordinance, 1917.

Before the Water and Sewerage Act (“the Act”) was enacted, the Ministry of Health (MoH) was the sole authority responsible for the purification and supply of water under the Public Health Ordinance. The Act did not take these responsibilities away from the MoH but instead, held the Water and Sewerage Authority (WASA) “*jointly and severally responsible*”. The Act also makes provision for WASA to prevail, should there be a conflict in the exercise of powers or duties between the MoH and WASA.

Currently, Trinidad and Tobago's water sector is undergoing significant transformation, propelled by the 2022 Cabinet approval of the National Integrated Water Resources Management Policy (NIWRMP). This proactive initiative, spearheaded by the Ministry of Public Utilities (MPU), lays the groundwork for a comprehensive overhaul of the nation's water management practices. At the heart of this policy, lies the establishment of an independent water resources entity, vested with the authority to holistically oversee the management of the country's water resources.

As part of this transformation, the governance architecture of the WASA will undergo a profound shift. This would entail, revisiting the outdated Act, with a specific focus on legally and institutionally segregating the functions of water resources management from water supply and sewerage service provision administered under the Act. Currently, the Act assigns both regulatory and management responsibilities of freshwater resources to the WASA, resulting in the resource regulator, Water Resources Agency (WRA), operating from within the institutional framework of WASA, being the supplier and distributor of the resource.

Recognizing the implications of this configuration, the Government has taken a decisive step by endorsing the NIWRMP. This policy directive in the NIWRMP, outlines several critical actions, including the establishment and enforcement of requisite legal instruments such as the proposed Water Resources Management Act (“the WRMA”). To achieve this, existing laws such as the Act, the Waterworks and Water Conservation Act (“the WWCA”), and other relevant pieces of

legislation may require appropriate amendments to achieve the objectives as articulated in the NIWRMP.

A pivotal aspect of this shift involves the MPU establishing an Office of Water Resources Management (OWRM) as a distinct department within the MPU. This decision to establish the OWRM as approved by Cabinet, is aimed at implementing the NIWRMP and managing the distribution of responsibilities that exist across various government entities, state authorities, educational institutions, and NGOs for water resources management. Importantly, the OWRM's functions will be clearly segregated from those responsible for water supply and distribution as currently administered by the WASA and thereby, empowering it to, amongst other things, to:

- (a) administer the water abstraction licensing system and diligently regulate the issued licenses; and
- (b) effectively manage, monitor, and regulate the nation's invaluable water resources.

Amidst these developments, the MPU seeks to engage a legal consultant to facilitate the transition of water resources management responsibilities from the WASA to the OWRM.

1.1 Programme Details

The Inter-American Development Bank (IDB) Loan Operation for the National Water Sector Transformation Programme (NWSTP) was signed on March 7, 2023, between the Government of the Republic of Trinidad and Tobago and the IDB. The NWSTP has a general objective to improve the efficiency, quality, sustainability and resilience of potable water supply service and water security in Trinidad and Tobago. The specific objectives are to: (i) improve operational efficiency and reliability of water supply services; (ii) improve quality of water services for underserved communities in Trinidad and Tobago (iii) develop capacity and provide institutional strengthening to the MPU and WASA to improve governance and sustainable management of water resources. The NWSTP has three (3) main components as follows:

Component 1: Water Stabilization and Improvement - This component will finance the development of a comprehensive program to urgently stabilize water supply services to prevent further service decline throughout the country and to improve quality of water service in underserved communities with a level of service below 24/3.

Component 2: Support for Water Sector Transformation – This component will support capacity development and institutional strengthening of the MPU and WASA to improve governance and sustainable management of water resources. In addition, it will support the separation of the functions of water resources management from WASA and implementation of Integrated Water Resources Management (IWRM).

Component 3. Network Optimization – This component will finance urgent priority works to optimize network performance and reduce non-revenue water. These works will be executed through a Co-Management Performance Based Contract with a specialized consulting firm (CF). The CF will be required to prepare and commence the implementation of a Non-Revenue Water Reduction Strategy and Programme for the country. The CF will also provide strategic advice and technical support to the Executive Team of WASA in the transformation of WASA.

To this end, the consultancy for the provision of the *Advisory Services to Develop Legislation for the Establishment of the Office of Water Resources Management at the Ministry of Public Utilities* is being funded as part of Component 2 of the IDB Loan Programme.

2. Current State

Given the challenges inherent in the existing legislative framework, there is a need for new legislation to provide support to the globally accepted paradigm of integrated water resources management and to clarify the roles and responsibilities of various agencies within the water sector.

Currently, the establishment of the OWRM within the MPU is underway. This collaborative endeavour involves a Working Group with responsibility for establishing the OWRM, the Legal Services Division of the MPU and the Legislative Drafting Department of the Office of the Attorney General and Legal Affairs. The collective efforts of these departments are directed at crafting the necessary legislation to effectively implement the NIWRMP, including the drafting of the Water Resource Management Bill. This collaborative approach underscores the commitment to address water management challenges holistically, combining legal expertise and policy implementation to establish a robust framework aligned with global standards.

3. General Objective of the Consultancy

The main objective of soliciting advisory services from a legal consultant, is to provide the MPU with legal and regulatory services that will allow for the operationalization of the OWRM, including but not limited to the preparation of a legislative brief and drafting of the requisite legislation.

4. Scope of Services

The work to be provided by the consultant will focus on the development of the legal and regulatory framework to facilitate the movement of water resources management functions from within WASA into the Office of Water Resource Management, a unit within the MPU with economic regulatory oversight by the Regulated Industries Commission (RIC). The consultant will

also be required to provide legal advice on the institutional structure, governance arrangements, and decision-making processes of the OWRM.

The Individual Consultant will undertake the following tasks in collaboration with the MPU's Legal Services Division. It is proposed that the consultancy be executed in three (3) phases as follows:

Phase 1 - Project Initiation

- (a) Conduct inception meetings with the executing agency and key stakeholders upon commencement of the project to -
 - (i) review the process for conducting all activities within the project;
 - (ii) determine roles and responsibilities;
 - (iii) discuss the basis on which consultancy works will be executed; and
 - (iv) finalize the methodology, work breakdown structure, project schedule for all project deliverables, identification of any risks and mitigation strategies and any other relevant details for the implementation of deliverables.

Note: This shall be documented in an Inception Report and presented to key stakeholders.

Phase 2 - Stakeholder Consultation and Legislative Brief

- (b) Review the Cabinet approved NIWRM Policy, draft Water Resources Management Bill and all other relevant documentation provided by the MPU that relates to the operationalisation of the OWRM. Conduct desk research with respect to other related pieces of legislation. Advise on and identify suitable approaches for the operationalisation of the OWRM and the most efficient and effective way to separate the functions of water resources management from WASA and establish the OWRM including the provision of legal advice on the institutional structure, governance arrangements, and decision-making processes of the OWRM. This shall be documented in a Document Review Report;
- (c) Conduct key stakeholder consultations and consult with subject matter experts. Presentation of findings based on Document Review to key stakeholders and obtain feedback. This shall be documented in a Stakeholder Workshop Report;
- (d) Draft Water Resources Management (WRM) legal brief, clearly articulating the drafting instructions; including but not limited to recommendations for the appropriate governance framework, a licensing framework, identification of existing laws to be impacted and the required amendments to the same;
- (e) Present the draft WRM legal brief and action plan to key stakeholders, and revise the same based on the feedback of the stakeholders.

Phase 3 - Presentation and Final Report

- (f) Draft primary and subsidiary legislation, including but not limited to regulations and rules for water resource management, for the operationalization of the OWRM as a Unit within the MPU together with the amendments (where necessary to existing legislation) in accordance with the approved WRM legal brief;
- (g) Draft SMART Action/Implementation Plan for all items to be implemented by the MPU and/or the OWRM as it relates to the achievement of goals, objectives and implementation of strategies that are recommended in the inception report and result from the stakeholder consultations;
- (h) The consultant will be required to make presentation(s) based on primary and subsidiary legislation and the approved action plan for the establishment of the OWRM as a Unit within the MPU;
- (i) The Consultant will prepare and submit a **Final Report**. The Final Report will contain a clear and concise summary of the activities undertaken, inputs, outputs, conclusions, recommendations and lessons learnt.

The assignment will have the following deliverables:

No.	Deliverable	Delivery Timeframes (Working Days)	Review Period (Working Days)	Payment Amount	Report Details
PHASE 1: Project Initiation					
1.	Inception Report and Presentation to Key Stakeholders.	10 days after commencement of services	5 days	Ten percent (10%) of contract price payable upon approval of Deliverable 1.	Electronic MS Word and PDF. Two (2) hard bound copies
PHASE 2: Stakeholder Consultations and Legislative Brief					
2.	Documentation Review Report: Review the Cabinet approved NIWRM Policy, Draft Water Resources Management Bill and all the other relevant documentation; identify approaches to	10 days after approval of Deliverable 1	10 days	Ten percent (10%) of contract price payable upon approval of Deliverable 2, and completion of Deliverable 3	Electronic MS Word and PDF. Two (2) hard bound copies of Deliverable 2 and Deliverable 4

	provide the legal framework for the operationalisation of the OWRM.				
3	Stakeholder Consultations and Presentation #1: Presentation of findings based on Document Review to key stakeholders and obtain feedback which should be documented in the Stakeholder Workshop Report	1 day	1 day		
4.	Legislative Brief: Draft Water Resources Management Legal Brief	30 days after approval of Deliverable 2	10 days	Ten percent 10 % of the Contract Price payable upon approval Deliverable 4 & 5.	
5.	Stakeholder Consultation(s) #2: Presentation of Draft Legal Brief to key Stakeholders	5 days after approval of Deliverable 4	1 day		
6.	Final Legislative Brief: Water Resources Management Legal Brief incorporating feedback on comments/issues identified	5 days after completion of Stakeholder Consultation (s)	5 days	Fifteen percent (15%) of contract price payable upon submission and approval of Deliverable 6	Electronic MS Word and PDF. Two (2) hard bound copies
7.	Drafting of Primary and Subsidiary Legislation Draft primary and subsidiary legislation in accordance with the approved WRM legal brief;	20 days after approval of Deliverable 6	10 days	Twenty percent 20 % of the Contract Price payable upon approval of Deliverable 7 and 8.	Electronic MS Word and PDF Two (2) hard bound copies
8.	Stakeholder Consultation(s) #3: Presentation of Draft Legislation to key Stakeholders	10 days after submission of Deliverable 7	1 day		PPT

9.	Action/ Implementation Plan: Draft SMART Action/Implementation plan and presentation to key stakeholders.	10 days after completion of Stakeholder Workshop(s)	10 days	Ten percent (10%) of contract price payable upon approval of Deliverable 9.	Electronic MS Word and PDF. Two (2) hard bound copies
PHASE 3: Presentation and Final Report					
10.	Present Report and Presentation: Prepare and deliver PowerPoint presentation to key stakeholders inclusive of: - Action Plan - Primary and Subsidiary Legislation	15 days after approval of Deliverable 8.	15 days	Twenty-five percent (25 %) of contract price payable upon approval of Deliverables 10 and 11.	Electronic MS Word and PDF. Two (2) hard bound copies
11.	Submission of the Finalized Report Document: Prepare and submit final report inclusive of , but not limited to, lessons learnt, finalised brief, action plan, primary and subsidiary legislation.	20 days after completion of Deliverable 9.	15 days		Electronic MS Word and PDF. Two (2) hard bound copies

5. Characteristics of the Consultancy

The characteristics of this consultancy are outlined as follows:

- (a) **Type of Consultant:** Individual Consultant selection based on qualifications (ICQ);
- (b) **Contract Duration:** Nine (9) calendar months after signing of contract. The assignment will tentatively start on February/March 2024; and
- (c) **Place(s) of work:** MPU and Consultant's work office. If not local, a minimum of three (3) missions to Trinidad and Tobago are expected with approximately five (5) business days on the ground.

6. Requirements Skills and Core Competencies

The Consultant will be expected to possess the following:

Minimum Qualifications:

- Ten (10) years of experience as a practicing Attorney at Law;

- Five (5) years of related experience in water sector reforms within a developing country context;
- Ten (10) years of experience in legislative drafting and review of laws and regulations in the CARICOM region and more specifically for Trinidad and Tobago;
- Experience in crafting policies and developing laws to strengthen national or regional regulatory frameworks;
- Experience in drafting laws to establish coordinating or regulatory institutional frameworks and arrangements with respect to utilities;
- Experience and expertise in developing institutional coordination regimes between and among national government entities;
- Expertise in conducting gap assessments and international benchmarking assessments;
- Experience and knowledge of the regulatory framework for water in T&T would be an asset;
- Experience working across multiple government organizations;
- Working knowledge of projects funded by Inter-American Development Bank, World Bank, United Nations or similar multilateral organizations;
- Knowledge of, and experience in the law making process and legislative drafting techniques in Trinidad and Tobago or another CARICOM jurisdiction will be an asset;
- LLM in Legislative Drafting from an accredited educational institution;
- LEC from an accredited educational institution;
- Fluent in English;

Knowledge:

Knowledge of, and experience with the laws of Trinidad and Tobago generally; laws, regulations and policies, best practices in relation to utilities and regulators, specifically:

- Extensive knowledge of Labour Laws and the Industrial Act in Trinidad and Tobago;
- Considerable knowledge of utility regulation and experience working with utility regulators; and
- Considerable knowledge of legal drafting principles and practices, legal research skills and techniques.

Skills and Abilities:

- Proficiency in the use of Microsoft Office Suite;
- Skill in the use of personal computers;
- Ability to use the internet for research purposes;
- Skill in drafting legal documents/instruments;
- Skill in negotiation, mediation and arbitration;
- Ability to plan, organize, co-ordinate the activities relevant to drafting new legislation and undertaking legislative amendments;

- Strong analytical skills with the ability to apply and interpret policy directives, laws and regulations within the relevant legal framework;
- Ability to present and explain statements of fact and the law logically, orally and in writing;
- Ability to maintain confidentiality; and
- Ability to work within a team and maintain effective working relationships.

7. Compulsory Compliance

- Eligibility: as per Policies for the Selection and Contracting of Consultants Financed by IDB 1.13 of GN-2350-15) as per information on Eligible Countries at Annex IV.
- No Conflict of Interest: as per 1.11 of GN-2350-15.
- Not Sanctioned by the Bank: IDB's Group List of sanctioned firms and individuals – <https://www.iadb.org/en/who-we-are/transparency/sanctions-system/sanctioned-firms-and-individuals>

8. Supervision and Reporting Requirements

Working Relationship and Contractual Arrangements:

The consultant will be working under the overall supervision of the MPU's Working Group for operationalisation of the OWRM and will report to the Chair of the Working Group with dotted line reporting to the Permanent Secretary (PS) of the MPU. The PS is responsible for approval and execution of all contractual matters.

The consultant will be under the obligation of confidentiality. Information, data, database, knowledge resources in the forms of briefings, reports, and such documentation issued by and for the MPU will be MPU's property, and require permission for use and disclosure.

Additionally, the consultant may be required to work/consult with the Office of the Chief Parliamentary Counsel of the Ministry of the Attorney General and Legal Affairs in executing this consultancy. All submissions must be in English Language, delivered via the form and media stated by the MPU and delivered on the date requested and addressed to:

Program Manager

TRINIDAD AND TOBAGO NATIONAL WATER
SECTOR TRANSFORMATION PROGRAM
Tel: 662-2303 Ext 5311

9. Responsibility of the Client

The MPU, as the Executing Agency for the Project, shall support the implementation of this consultancy.

Accordingly, the MPU shall -

- (a) Facilitate the arrangements for interviews and provision of access to Project documents, relevant existing regulations, legislation, policies and relevant documents as required. Efforts will also be made to have the Consultant provided with relevant reports, information and contacts from other key stakeholders;
- (b) Provide a Counterpart Team to guide the implementation of the Consultancy; and
- (c) Provide relevant and appropriate information as required by the Consultant.

10. Responsibility of the Consultant

The Consultant will -

- (a) Absorb all other expenses including direct staff, office space and facilities, computer systems and software, telecommunication systems, travel expenses, hard copy report deliveries and any other incidentals;
- (b) Undertake the activities of the consultancy utilizing primarily its own resources;
- (c) Respect and adhere to the proposed time-frames;
- (d) Conduct meetings with stakeholders in a professional, responsible manner;
- (e) Ensure the validity and reliability of any instruments and tools developed and/or utilized by the Consultant for training, workshops and sessions; and
- (f) Ensure the confidentiality of all aspects of the process/consultancy.

11. Working Language

The working language shall be English.

12. Confidentiality

The consultant shall not, except as authorized by the MPU or required by the stipulated duties under the contract, use for the consultant's own benefit or gain or divulge to any persons, firm, company or other organization whatsoever, any confidential information belonging to the Government of the Republic of Trinidad and Tobago or relating to the affairs or dealing which may come to the provider's knowledge during the engagement. This restriction shall cease to apply to any information or knowledge which may subsequently come into the public domain other than in breach of this clause.

13. Ownership

All data, records, reports and other documents prepared by the consultant, or obtained from whatever source in connection with carrying out the functions of this position, shall become and remain the property of the MPU. The service provider shall not later than upon termination or expiration of the contract, deliver all such documents to the MPU together with a detailed inventory thereof. The consultant may retain a copy of such documents but shall not use them for purposes unrelated to this contract without prior written approval of the MPU.

Annex I:

Selection Criteria

	SELECTION CRITERIA	MAXIMUM POINTS
1	Academic Qualification	20
	Degree in Law: Master of LAW and Legal Education Certificate (LLM & LEC)	20
	LLM	15
2	General Experience	25
	<i>At least ten (10) years' experience in legislative drafting and review of laws and regulations</i>	
	Over 10 years' experience	10
	Ten years' experience	5
	<i>Experience in developing institutional coordination regimes between or among national government entities</i>	
	Three (3) years and over work experience	5
	One to two years' work experience	3
	<i>Experience in conducting gap assessments and international benchmarking assessments</i>	
	Three (3) years and over work experience	5
	One to two years' work experience	3
	<i>Experience and knowledge of the regulatory framework for water in T&T would be an asset</i>	
	Three (3) years and over work experience	5
	One to two years' work experience	3
3	Specific Experience	35
	<i>At least ten (10) years related experience in legislative drafting of water sector reforms within a developing country context</i>	
	More than ten (10) related experiences	35
	Ten (10) years related experience	30
4	Adequacy for the Assignment	20
	<i>a) Knowledge of, and experience in the law making process and legislative drafting techniques in Trinidad and Tobago or another CARICOM jurisdiction will be an asset</i>	
	Over five years' experience in legislative drafting	10
	Between three to five years' experience in legislative drafting	5
	<i>b) Experience in drafting laws to establish regulatory institutional frameworks and arrangements with respect to Public Utilities</i>	
	Over five (5) years' experience	5
	Between 3 to 5 years' experience	3
	<i>c) Working knowledge of projects funded by Inter-American Development Bank, World Bank, United Nations or similar multilateral organizations</i>	5

Annex II

Expression of Interest Submission Letter

[Location, Date]

To: Programme Manager
National Water Sector
Transformation Program
Ministry of Public Utilities
Golden Grove Road
Piarco

Dear Sirs:

I, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your advertisement dated [Insert Date] and my Submission. I am hereby submitting my Expression of Interest.

I hereby declare that all the information and statements made in this Expression of Interest are true and accept that any misrepresentation contained in it may lead to my disqualification.

I undertake, if my Expression of Interest is accepted, to initiate the consulting services related to the assignment as per the Terms of Reference.

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Address:

Annex III

Curriculum Vitae Format

Name of Consultant Services	Advisory Services to Develop Legislation for the Establishment of the Office of Water Resources Management at the Ministry of Public Utilities
Name of Individual Consultant:	<i>[Insert full name]</i>
Date of Birth:	<i>[day/month/year]</i>
Nationality	

Education: *[List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained]*

Experience relevant to the Assignment: *[Experience related to the services and tasks performed; professional skills according to the assignment requirements, and knowledge of administrative systems and government organisation within the country of the Client and Region. List previous positions relevant to the Assignment starting with present position, list in reverse order, provide dates, name of contracting organization, titles of positions held, types of activities performed that best illustrate capability to handle the services/tasks and location of the assignment, and contact information of previous clients who can be contacted for references. Past position that is not relevant to the assignment does not need to be included.]*

Period	Contracting organization and Title/Position; Contact Information for References	Country	Summary of Key Activities performed relevant to the Assignment
<i>[e.g., May 2005-present]</i>	<i>[e.g., Ministry of, advisor/consultant to... For references: Tel.../e-mail.....; Mr. Bb, Deputy Minister]</i>		
Etc.			

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work):

Consultant contact information : *[e-mail....., phone.....]*

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, experience, skills and knowledge and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to termination by the Client, and/or sanctions by the Bank.

Name of Consultant	Signature	Date[day/month/year]
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|---|--|--|
| (i) This CV correctly describes my qualifications, experience, skills and knowledge | | |
| (ii) I am employed by the Executing or the Implementing Agency | | |
| (iii) I was part of the team who wrote the Terms of Reference for this consulting services assignment | | |
| (iv) I am currently debarred by a multilateral development bank (If yes, identify who) | | |

Yes	No

I confirm that I will be available to carry out the assignment for which my CV has been submitted in accordance with the Scope of Services and Consultant's Reporting Obligations set out in the Terms of Reference.

Annex IV:

Eligible Countries

This section lists the Bank's member countries, as well as the criteria to determine the nationality of consultants.

“Eligible countries are: Argentina, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Guatemala, Guyana, Haiti, Honduras, Israel, Italy, Jamaica, Japan, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, People's Republic of China, Peru, Portugal, Republic of Korea, Slovenia, Spain, Suriname, Sweden, Switzerland, Trinidad & Tobago, United Kingdom, and United States, Uruguay and Venezuela.

Eligible Territories are:

- a) Guadeloupe, French Guiana, Martinique, Reunion – as Departments of France
- b) U.S. Virgin Islands, Puerto Rico, Guam – as Territories of the USA
- c) Aruba – as a constituent country of the Kingdom of the Netherlands; and Bonaire, Curacao, Saint Marten, Saba, St Eustatius – as Departments of the Kingdom of the Netherlands
- d) Hong Kong – as a Special Administrative Region of the People's Republic of China”.

Nationality and origin of Goods and Services Criteria

The policy provisions make it necessary to establish criteria to determine a) the nationality of the firms and individuals eligible to bid or participate in a bank-financed contract and b) the country of origin of goods and services. For these determinations, the following criteria shall be used:

Nationality:

An individual is considered to be a national of a member country of the Bank if he or she meets either of the following requirements:

- i. is a citizen of a member country; or
- ii. has established his/her domicile in a member country as a “bona fide” resident and is legally entitled to work in the country of domicile.