

**Performance Management Unit
(PMU)**

**On behalf of
Yarmouk Water Company YWC**

Consulting Services

Independent Technical and Economic Auditor

For

Yarmouk Water Company

Management Contract

**Terms of Reference,
Conditions of Tender**

August 2011



1. Introduction

1.1. General

Al Yarmouk Water Company LLC (YWC), owned completely by the Water Authority of Jordan (WAJ), is the utility responsible for providing water and wastewater services to the Northern governorates of the Hashemite Kingdom of Jordan (HKJ), it is the legal successor of the Northern Governorates Water Administration (NGWA) which has been a distinct department of (WAJ) until its corporatisation and registration under the company name “Al Yarmouk Water Company” on 26 July 2010.

On 30 June 2011 YWC have signed a performance based Management Contract with the Consortium of Veolia Water Mena and Aqua Treat “The Management Contractor”, to provide management, operations and maintenance services related to the water and wastewater infrastructure of the northern governorates of HKJ.

The main objective of the contract is to improve the standards of services in the northern governorates and to increase the efficiency of the system.

Goals of the Management Contract are:

- To improve the water and wastewater services to customers in the Northern Governorates;
- To improve the operational cash flows of Al Yarmouk Water through the achievement of cost efficiencies and improved revenue management and in particular the water sales;
- To establish, for Al Yarmouk Water, the foundation for sustainable operational and business effectiveness and efficiency; and
- To reduce the amount of non-revenue water through, among other things, controlling leakage and unauthorized connections to the Facilities.

The Management Contract is about 40% performance based contract, and provides for Incentive Compensation to the Management contractor linked to Incentive Performance Indicators (IPI) or requires payments of Liquidated Damages to YWC by the Management Contractor if the minimum targets are not met.

The Management Contractor shall receive an Annual Fee (AF), covering all its services according to the contract, consisting of a Fixed Fee (FF) and a Variable Fee (VF) as incentive compensation.

The VF will be paid to the Management Contractor as incentive compensation for exceeding specific minimum performance targets on an annual basis as set out in the Contract.



1.2. Duration of Assignment:

Five years, but no permanent presence in Jordan is envisaged.

The services shall be provided by means of intermittent Fixed and Provisional visits to YWC as follows:

1. Fixed Missions :

- One mission of 10 working days duration for the purpose of verification of baseline year figures
- Five annual missions of 10 working days duration each for auditing of the Management Contractor's achievements and Calculation of the Incentive Compensation and Liquidated Damages for the respective contract year.

2. Provisional Missions :

Maximum of six missions, each of 5 working days duration upon request by YWC to perform any of the services in 2.1 hereinafter.

1.3. Financing of the Services:

Grant to Yarmouk Water Company from German Federal Ministry for Economic Cooperation and Development (BMZ) through KfW Development Bank through the study and expert fund.

Scope of Work:

To audit the Management Contract between Yarmouk Water Company (YWC) and the Management Contractor reasonably independently and fairly.

2.1. Objectives of the Independent Auditor "Technical and Economic expert":

The services of the Independent Auditor "Technical and Economic Expert" are defined in General Conditions Sections 1.1, 1.11, 2.7, 2.8.8, 6.2.2, 6.3.2, 6.6 and Appendix No.8 Article -3 and Article -5 in the Management Contract.

Main tasks of the Independent Auditor:

- Undertake an audit of the Management Contractor's achievements;
- Calculate the Incentive Compensation and Liquidated Damages, i.e. the Variable Fee (Appendix 8), for the applicable



fiscal year, attend meetings with YWC/ PMU/ Management Contractor to explain the calculations;

- Resolve all disputes with respect to the calculation of the Incentive Compensation;
- Issue final determination with respect to the calculation of Incentive Compensation in case any party disagreed with the calculations. The final determination by the Independent Auditor, with respect to the calculation of the Incentive Compensation, shall be final and binding to the Parties unless and until one Party notifies the other within 10 days of receiving the Independent Auditor's final determination that it disagrees with such determination and its intention to refer the disputed matter to the stipulation of GC Article 8;
- Determine the inflation and currency exchange adjustments to the Management Contractor's fixed fee in case of parties disagreement;
- Determines the value of undeployed Man Months by the Management Contractor ;
- Determine the adjustments of the Contract related to Material Change in Law in case of parties disagreement (GC 1.11);
- Testify the quality of deliverables by the Management Contractor to YWC. (G.C section 2.7 (2) b:
 - Revise and Adjust the incentive performance figures to correct any major deviations during the term of the contract in the case of material change in working conditions, or new and different information is discovered or different data is found or on request of either party (Article 3 Appendix 8);
 - Agree with MC and PMU on Incentive and minimum performance targets in case of extension of the Contract, or decide them in case of any disagreement;
 - Testify the management Contractor's compliance or non-compliance with the Minimum Performance Targets, as defined in Article 5 of Appendix 8;
 - Testify the Management Contractor's compliance or non-compliance with the Performance Standards as defined in Appendix 3;
- Verify the baseline year figures for the performance indicators measured by the Management Contractor.

2.2. Deliverables:

Inception Report:

The inception report should include the development and establishment of the approach and methodology for the audits, in consultation with YWC, PMU and the Management Contractor.

This report should also include the auditor's verification of the base year figures for the performance indicators measured by the Management Contractor.

This report will be required to be approved by PMU and KFW and should be completed within 10 weeks after the Independent Auditor's starting date.

(3 copies plus the computer-files in form of one pdf-file per report, additionally the calculations as excel-files)

Audited Statements of Operations of the Management Contractor's Performance for the respective contract year

(Five audited statements)

The auditor should develop and submit to YWC

1. Calculation for Incentive Compensation / Liquidated Damages for each respective year of the five contract years (3 copies each)
2. Audited statement of operations of the Management Contractor's performance for the respective contract year of the five contract years (3 copies each).

The auditor should review the achievement of the (Incentive and minimum) performance targets by the Management Contractor as per Appendix 8 and should review the Management Contractor's compliance with the Performance Standards as per Appendix No. 3 , and recommend to YWC .

The Independent auditor should determine the amount of Liquidated Damages in accordance with Incentive Compensation and Liquidated Damages Appendix No 8.

The first audit should be conducted starting upon completion of the first year of the Management Contractor is expected to be on 31st Dec 2012.

The first calculation of Incentive compensation and the first audited statement of operations is expected to be by 31st March 2013.

2.3. Language:

All deliverables and correspondences should be presented in English Language



3. Instructions to Bidders

3.1. Structure of Independent Auditor and Association with Jordanian Partner

1. The "Independent Auditor" shall be a reputed internationally experienced water utility (water supply and sanitation) operating firm with at least 5 years of experience or a water engineering firm with at least 10 years of experience. "Internationally experienced" is understood to have experience in more than one country.
2. The "Independent Auditor" is free to associate with a Jordanian partner the services he sees fit to fulfill the scope of services.
3. The Independent Auditor team shall include highly qualified technical and economic professionals with international experience in the operation of water and wastewater utilities and in auditing the performance of water utilities or water utility management contractor. However, the team shall include, at least experts that have the following expertise.
 1. Technical Auditing Expert:
 - Engineer of minimum 20 years of international experience in water and wastewater services, management and operations.
 - Must have international technical experience in auditing the performance of water and wastewater utilities or auditing the performance of water utility Management Contractor for at least 5 years
 - Regional experience is a plus
 - Capability to communicate in English, Arabic is a plus.
 2. Economic Expert
 - Certified Management Accountant (CMA) with minimum 5 years of international experience in auditing the performance of water and wastewater utilities or auditing the performance of water utility Management Contractor for at least 5 years
 - Regional experience is a plus
 - Capability to communicate in English, Arabic is a plus.



3.2. Qualification of Consultants

Bidders are seen as qualified if the evaluation leads to the result of a minimum of 70 points according to the table below “Criteria for the Qualification”.



Criteria for the Qualification

	<i>Firm Auditing Experience:</i>	100
	<i>Evidence of experience gained in the last 10 years in the field of auditing the performance of water and wastewater operational service/ utilities:</i>	
I	<i>Auditing Experience worldwide</i>	25
II	<i>Auditing experience under similar working conditions in developing countries</i>	25
III	<i>Experience in auditing PPP-contracts in the water sector (water supply and sanitation), in particular management contracts</i>	50

3.3. Requests for Clarification

Prospective Consultants may request a clarification of the TOR up to six days before the deadline for submission of responses.

3.4. Submission of Bids:

3.4.1. The Bidder shall submit two separated sealed envelopes:

- Envelope 1: Qualification documents
- Envelope 2: Proposal

The overall envelop (incl. envelope 1 and 2) shall be marked with the words “Tender Documents: Independent Auditor YWC”.

Envelope 2 (Proposal) shall be sealed and shall include two clearly marked envelops:

- Envelope 2.1: Technical Proposal
- Envelope 2.2 Financial Proposal

- 3.4.2. The offer for services under the present ToR shall be presented in English language.
- 3.4.3. The Financial Proposal shall be sealed and no financial information shall be contained in the Technical Proposal.
- 3.4.4. Only envelope 1 (“Qualification documents”) will be opened on the submission date. Envelope 2 will remain sealed.
- 3.4.5. After the evaluation of the qualification documents, the envelopes 2 and 2.1 (Technical Proposal) of the qualified bidders will be opened while the envelopes 2.2 (Financial Proposal) of the qualified bidders remain sealed until the technical evaluation is completed.
- 3.4.6. After the evaluation of the Technical Proposals, envelope 2.2 (Financial proposal) of the bidders which reached the minimum threshold value for the technical criteria will be opened.
- 3.4.7. The whole process of tendering is governed by KfW's "Guidelines for the Assignment of Consultants in Financial Cooperation with Developing Countries”, as published on the webpage of KfW.
- 3.4.8. All correspondence regarding this invitation and proposals shall be addressed to:
Ministry of Water and Irrigation
PMU
Eng. Raja Ammari
6 Jaber Ben Hayyan St.
Shmissani-Amman-Jordan
Fax. No. (+) 962-6-5627823
Tel. No. (+) 962- 6- 5652261 ext 1044
Raja-ammari@pmu.gov.jo
- 3.4.9. The Qualification Documents, Technical Proposal, and Financial Proposal shall be submitted in two copies to the office of the PMU, not later than 11:00 h a.m. Jordan local time on the date indicated in the invitation for tenders. One set of the proposals shall be marked "Original" and be signed by the authorised representatives of the Bidder. In case of any differences between original and copies of the documents, only the original shall be considered.
- 3.4.10. The Qualification Documents (Envelope 1) will be publicly opened at 12:00 hours on the same day. Late proposals, whether delayed in the mail or for other reasons, will NOT be considered.
- 3.4.11. On the submission date, one additional copy of the proposals shall be dispatched to (not relevant for timely submission):
Kreditanstalt für Wiederaufbau (KfW)
LIIC2, Dr. Manuel Schiffler
Palmengartenstrasse 5-9
D-60325 Frankfurt am Main, Germany
- 3.4.12. The Proposals shall remain valid and open for acceptance for a period of 120 days after the date of opening.
- 3.4.13. PMU expressly reserves the right to accept or reject any bid without being obliged for any further explanation of such action.
- 3.4.14. YWC Management Committee, has the right to cancel or to stop the bidding process at any time without being obliged for explanations, and



shall not be subject to any claims from any of the bidders as a result of such act

3.5. Technical Proposal

The Technical Proposal shall contain, but not necessarily be limited to, the following information:

- 3.5.1. A detailed critical analysis and the Auditor's interpretation of the Incentive Compensation and Liquidated Damages Appendix(Appendix No.8) and Performance Standards Appendix (Appendix No.3) .
- 3.5.2. Auditor's description of how they would conduct the audit, and how they approach the work efforts of the subsequent years;
- 3.5.3. Auditor's qualifications, including its experience in water sector and in auditing water utilities or management contracts;
- 3.5.4. Provision of positive peer reviews, if any;
- 3.5.5. Timetable and staffing schedules indicating staff-day input, duration and deployment details (field and home office assignment) of Auditor's expatriate and local staff (including bar charts);
- 3.5.6. Curricula vitae of the proposed personnel showing the specific experience in the respective fields;
- 3.5.7. Tasks to be assigned to each member of the team;
- 3.5.8. Account of envisaged back-up services from the home office, the Curricula vitae of the backstopping personnel available to assist the team and provide back-up services.
- 3.5.9. Tasks to be performed by the Auditor and those assumed to be assigned to sub-contractors.
- 3.5.10. A statement of the Auditor that he strictly abides to the stipulations of the Terms of Reference without any reservations or exceptions.
- 3.5.11. Declarations that they
 - Are independent as defined by applicable auditing standards,
 - Have not been suspended or barred from performing government audits,



- Have not been the objects of any disciplinary action during the last three years.

3.5.12. Declaration of Undertaking according to Annex 2

3.5.13. Declaration(s) of association duly signed by the partners and specifying clearly the type of association and the lead firm (declaration to be submitted in case the legal status or status of consolidated firms or the intended cooperation between partner Consultants has changed since Prequalification)

3.5.14. Declaration on associated firms: In a duly signed declaration the Consultant (in case of an association one separate declaration for each member) has to reveal any links with other firms and give a binding declaration that should he be awarded the contract the firms with which he is associated will not intend to take part in the Programme in any other form (declaration to be submitted in case the legal status or status of consolidated firms or the intended cooperation between partner Consultants has changed since Prequalification);

3.5.15. The participation of local personnel is expressly encouraged and should be treated in the Technical Proposal. If local key personnel are proposed to participate, full details related to their assignments and qualification shall be provided.

3.6. Financial Proposal

3.6.1. The Financial Proposal shall comprise a Fixed Fee quotation to covers 6 fixed missions, and a Provisional Fee quotation to cover a maximum of 6 provisional missions.

3.6.2. The Fixed Fee and the Provisional Fee shall be quoted in Euros

3.6.3. Taxes, duties, levies etc. are not to be included in the financial proposal (see 3.10).

3.6.4. The Financial Proposal shall state clearly an overall quotation and shall comprise the following breakdown:

- Personnel costs (shown separately according to expert personnel months¹, foreign allowance and accommodation costs in place of service);

¹ For example, the rate for a skilled staff member in the home office shall include: basic salary, social insurance, general costs, personnel administration, holidays and sick leave, office services, communications costs for commission, back-up services and monitoring, data processing, insurance taken out by the firm, profit and loss. This covers the general back-up and monitoring by management staff in the home office. The services of management staff from the home office can be charged separately only if they are performing tasks that are distinguished by subject area and in time from the agreed list of individual services.



- Transport costs between the home country and the country of service;
- Local transport costs (only Amman- Irbid - Amman) ;
- Office costs in the country of service;
- Drawing up reports.

3.6.5. The prices offered shall include manpower as well as all commodities and supplies required for the above mentioned services. The price schedules for professional services shall be worked out according to the man-day schedule presented in the Technical Proposal. The Auditor shall commit to the man- day schedule and shall inform YWC and PMU on the start and the end of work of each of his staff duration in Jordan.

3.6.6. Home office support or back stopping services or general management and administration and all associated cost are regarded as genuine activities of qualified consultants. Respective costs are hence to be included in the overhead costs and will not be remunerated separately.

3.6.7. International Transport contains air fares and complementary travel cost (includes transfers, excess baggage, medical expenses, visas etc.) as a lump sum item.

3.6.8. Cost items for Local Transport are determined by the Auditor's logistical approach as presented in his Technical Proposal.

3.6.9. Production of Reports as lump sum item includes cost for report production (including freight and local distribution) as required by these Instructions or as specified in the Technical Proposal and cost for the preparation of additional copies for all types of reports.

3.6.10. The exchange rate to be applied for converting amounts in Euro to JOD and vice versa will be the rate prevailing on 21 days before the submission date. The same exchange rate will be used as a basis of a future consulting contract.

3.6.11. "Other Costs" include all expenses that might not be covered by the above categories. These costs should be applied upon approval of YWC from the provisional sum and will be reimbursed upon presentation of documentary evidence (reimbursing the cost with no profit). These activities might be planned and included in the technical offer and their execution requires the approval of YWC. These costs will not be considered in the financial evaluation.

3.6.12. Financial proposals of bidders that do not fulfill the eligibility criteria or that do not reach the technical minimum score will be returned unopened.



3.7. Evaluation of proposals:

3.7.1. The proposals received will be evaluated according to KfW Guidelines for the Assignment of **Consultants**.

3.7.2. Within the evaluation, the technical proposal will get scores in line with the following structure of items, whereas the maximum scores to be awarded are listed thereafter:

Criteria for the Technical Evaluation

1.	<i>Qualifications of Proposed key experts</i>	65
1.1	<i>Technical Auditing Expert</i>	30
	<i>Qualifications and experience</i>	
1.2	<i>Economic Expert</i>	30
	<i>Qualifications and experience</i>	
1.3	<i>Backstopping</i>	5
	<i>Assessment of the backstopping personnel available to assist the team and provide back-up services from the home office</i>	
2.	<i>Concept and Method:</i>	35
2.1	<i>Clarity and completeness of the bid</i>	5
2.2	<i>Critical Analysis of the Incentive Compensation and Liquidated Damages Appendix(AppendixNo.8) and Performance Standards Appendix(Appendix No.3)</i>	15
2.3	<i>Methodology, program of work and Staffing schedule</i>	15
Total		100

3.7.3. Only the applicants who receive not less than the minimum score of 75% of the points to be awarded for the quality of the bid for services

(Technical Proposal) can be considered in the assessment of the price quotations (Financial Proposal).

- 3.7.4. Customs and excise duties, taxes and levies in Jordan are not to be included in the assessment of price quotations.
- 3.7.5. The weight of the quality of services (technical proposal) will be 70% of the total score meanwhile, the weight of the price quotation (financial proposal) 30% of the total score.
- 3.7.6. The bidder with the highest overall score will be invited for contract negotiations. Contract negotiations are only for the purpose of clarifying unclear items, and/or submitting supplementary information and documents to verify the stated information in the proposal.
- 3.7.7. No bidder shall contact the Employer on any matter relating to its proposal, from the time of the bid opening to the time the contract is awarded. Any effort by a bidder to influence the Employer's bid evaluation, bid comparison or contract award decision may result in the rejection of the bidder's proposal.

3.8. Budget, Remuneration and payments:

The estimated total amount payable to the Consultant for the services to be provided under this Contract as set out in this ToR shall be a lump sum quoted in Euro.

The payment schedule for will be as follow 15% of Contract Value, upon submission of the inception report.

- 15% of Contract Value, upon submission annual Audited Statement of Operations for 1st contract year.
- 15% of Contract Value, upon submission annual Audited Statement of Operations for 2nd contract year.
- 15% of Contract Value, upon submission annual Audited Statement of Operations for 3rd contract year.
- 15% of Contract Value, upon submission annual Audited Statement of Operations for 4th contract year.
- 15% of Contract Value, upon submission annual Audited Statement of Operations for 5th contract year.
- 10% of the Contract Value, upon Completion of Contract

3.9. Support by YWC

YWC will provide free of charge all existing information, data, reports and maps as far as available and will assist the Consultant in obtaining other relevant information and materials from governmental institutions and state authorities as far as possible.



However, it is the duty of the Consultant to check availability, quality and suitability of this information. The information, data, reports etc. as mentioned above will be available for the Consultant's unlimited use during execution of the proposed services. Due provision shall be made in the proposal in case the Consultant has to procure maps, aerial photographs, meteorological hydrological and geological data necessary to carry out the services at his own cost.

YWC will support the Consultant in obtaining all staff permits, authorizations and licenses required for performance of the Consultant's services in Jordan. It will also assist the consultant in clearing through customs of all equipment, materials and personal effects to be imported (and re-exported upon completion of his assignment) for the purpose of the services.

Transport within YWC service area for professional services will be provided by YWC.

YWC will also provide the Independent Auditor with a room at its headquarter (Irbid).

3.10. Proposed Contract

Basis for the consultancy contract is this ToR and the Model Contract published on the website of KfW Development Bank.

The contract shall be construed as an agreement made and to be performed in Jordan, according to the Jordanian law and regulations in force. The ToR with all annexes and memoranda in addition to the Proposals of the selected firm will form integral parts of the contract

3.11. Taxes

The Consultant and his foreign staff shall be exempted from all taxes, duties, levies, and other charges required by law in Jordan in connection with:

- Payments to the Consultant or to his foreign staff in connection with the performance of the services;
- Services performed by the Consultant or his staff in connection with the fulfillment of their tasks;
- Equipment, materials, and supplies necessary for the performance of the services, including motor vehicles and personal belongings of the foreign staff that are brought into the country of the Employer and shipped out after completion of the services or that have been destroyed in the course of the performance of the services.

If the execution of the above provision is prohibited by Jordanian law, all taxes, duties, levies, and other charges as specified above shall be directly incurred by the Employer. Where that proves not to be feasible for technical reasons, the Employer shall refund to the Consultant all amounts paid.



PMU

The Hashemite Kingdom of Jordan
Ministry of Water & Irrigation
Performance Management Unit

1. Annex 1:

Yarmouk Management Contract Documents on PMU website:
www.pmu.gov.jo "available for reading only"

Annex 2:

Declaration of Undertaking

We underscore the importance of a free, fair and competitive procurement process that precludes fraudulent use. In this respect we have neither offered nor granted, directly or indirectly, any inadmissible advantages to any public servants or other persons in connection with our bid, nor will we offer or grant any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract.

We also underscore the importance of adhering to minimum social standards ("Core Labour Standards") in the implementation of the project. We undertake to comply with the Core Labour Standards ratified by the country of @ (name of country).

We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country of @ (name of country).

(Place), this day of

Name of company

Signature(s)

