
Office of Utilities Regulation

REQUEST FOR PROPOSAL

WAS (2015/WAS/005/RFP.001)

Consultancy Services for a Management and Operational Audit of the K-Factor Programme



OFFICE OF UTILITIES REGULATIO

February 22, 2016

Section 1. Letter of Invitation

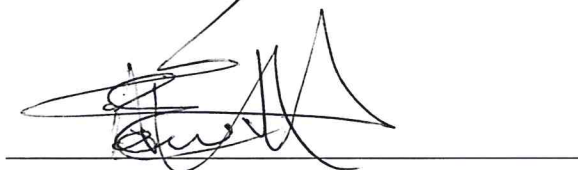
February 22, 2016

Dear Sir/Madam

1. The Office of Utilities Regulation ("OUR"), which regulates utilities in Jamaica, has committed funds to undertake Consultancy Services for the conduct of a **Management and Operational Audit of the K-Factor Programme** for which this Request for Proposals ("RFP") is issued.
2. The OUR now invites proposals from experienced and competent persons to provide the following consulting services for the conduct of a **Management and Operational Audit of the K-Factor Programme**. More details on the services are provided in the Terms of Reference.
3. A firm will be selected under the Quality Cost-Based Selection (QCBS) method and procedures described in the Government of Jamaica Handbook of Public Sector Procurement Procedures, Revised March, 2014 which can be found at the following website - www.mof.gov.jm .
4. The RFP includes the following documents:
 - Section 1 - Letter of Invitation
 - Section 2 - Instructions to Consultants (including Data Sheet)
 - Section 3 - Technical Proposal - Standard Forms
 - Section 4 - Financial Proposal - Standard Forms
 - Section 5 - Terms of Reference
 - Section 6 - Standard Forms of Contract

Yours sincerely,

OFFICE OF UTILITIES REGULATION



Ansord Hewitt

Director - Regulation, Policy, Monitoring & Enforcement

Section 2. Instructions to Consultants

Definitions

- a. "OUR" or "Procuring Entity" means the agency with which the selected Consultant signs the Contract for the Services.
- b. "Consultant" means any entity or person that may provide or provides the Services to the Procuring Entity under the Contract.
- c. "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is, the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- d. "Data Sheet" means such part of the Instructions to Consultants used to reflect specific country and assignment conditions.
- e. "Day" means calendar day.
- f. "Government" means the Government of Jamaica
- g. "Instructions to Consultants" (Section 2 of the RFP) means the document which provides Consultants with all information needed to prepare their Proposals.
- h. "LOI" (Section 1 of the RFP) means the Letter of Invitation being sent by the Procuring Entity to the Consultants.
- i. "NWC" means National Water Commission.
- j. "Personnel" means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Government's country; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Government's country.
- k. "Proposal" means the Technical Proposal and the Financial Proposal.
- l. "RFP" means the Request For Proposals.
- m. "Services" means the work to be performed by the Consultant pursuant to the Contract.
- n. "Sub-Consultant" means any person or entity to whom the

Consultant subcontracts any part of the Services.

- o. "Terms of Reference" (TOR) means the document included in the RFP at Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, and expected results and deliverables of the assignment.

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- 1. Introduction**
- 1.1 The Procuring Entity named in the Data Sheet will select a consulting firm/organization (the Consultant) in accordance with the method of selection specified in the Data Sheet.
 - 1.2 Consultants are invited to submit a Technical Proposal and a Financial Proposal, for consulting services as specified in the Data Sheet for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
 - 1.3 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to attend the pre-proposal conference if one is specified in the Data Sheet. Attending the pre-proposal conference is optional. Consultants should contact the Procuring Entity's representative named in the Data Sheet to arrange for their visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
 - 1.4 The OUR will timely provide, at no cost to the Consultants, the inputs and facilities specified in the Data Sheet, assist the firm in obtaining licenses and permits needed to carry out the services, and make available relevant project data and reports.
 - 1.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The OUR is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.

- 1.5.1 The OUR reserves the right not to award a contract to any party with whom we are currently in litigation or in the past engaged in litigation.
- Conflict of Interest**
- 1.6 Consultants are required to provide professional, objective, and impartial advice and at all times hold the OUR interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.
- 1.6.1 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:
- (i) A firm that has been engaged by the OUR to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services other than consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.
- Conflicting assignments**
- (ii) A Consultant (including its Personnel and Sub-Consultants) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the

Consultant to be executed for the same or for the OUR. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a procuring entity in the privatization of public assets shall not purchase, nor advise procuring entities of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment should not be hired for the assignment in question.

Conflicting relationships

- (iii) A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Procuring Entity's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the assignment, (ii) the selection process for such assignment, or (iii) supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the OUR throughout the selection process and the execution of the Contract.

1.6.2 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the OUR, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

1.6.3 No agency or current employees of the OUR shall work as Consultants in connection with the project to which this RFP relates. Recruiting former employees of OUR to work on this project is acceptable provided no conflict of interest exists. If the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their government or employer confirming that they are on leave without pay from their official position and

allowed to work full-time outside of their previous official position. Such certification shall be provided to the OUR by the Consultant as part of his technical proposal.

Unfair Advantage

1.6.4 If a Consultant could derive a competitive advantage from having provided consulting services related to the assignment in question, the Procuring Entity shall make available to all Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

Fraud and Corruption

1.7 The OUR requires that Consultants (including its Personnel and Sub-Consultants), observe the highest standard of ethics during the procurement and execution of its contracts. In pursuance of this policy:

(a) the terms set forth below for the purposes of this provision, are defined as follows:

“corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;

“fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract, to the detriment of the OUR and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the OUR of the benefits of free and open competition;

“collusive practice” means a scheme or arrangement between two or more bidders, with or without the knowledge of the OUR, designed to establish bid prices at artificial non-competitive levels or to influence the action of any party in the procurement

process or the execution of a contract; and

“**coercive practice**” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;

- (b) the OUR will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question;
 - (c) the OUR will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded contract with the OUR if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract with the OUR; and
 - (d) the OUR will have the right to require that a provision be included in the RFP and in its contracts, requiring Consultants to permit the OUR to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the OUR.
- 1.8 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, as requested in the Financial Proposal submission form (Section 4).

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| Origin of Consulting Services | 1.9 | Consulting Services provided under the Contract may originate from any country except where: <ul style="list-style-type: none"> • the procurement is covered under a Free Trade Agreement; • a multilateral funding agency policy which limits the origin; • the procurement is limited to local consultants. |
| Only one Proposal | 1.10 | Consultants may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, to more than one Proposal. |
| Proposal Validity | 1.11 | The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The OUR will make its best effort to complete contract negotiations within this period. Should the need arise however, the OUR may request Consultants to extend the validity period of their Proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal. If the final evaluation for contract award has not yet been completed, Consultants may in their confirmation of extension of validity of the Proposal, submit new staff in replacement, who would then be considered in the final evaluation for contract award. Consultants have the right to refuse to extend the validity of their Proposals. |
| 2. Clarification and Amendment of RFP Documents/ Extension of | 2.1 | Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the Proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the OUR's address |

Deadline for Submission of Proposals

indicated in the Data Sheet. The OUR will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the OUR deems it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under paragraph 2.2 of these Instructions to Consultants.

2.2 At any time before the submission of Proposals, the OUR may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the OUR may, if the amendment is substantial, extend the deadline for the submission of Proposals.

2.3 The OUR reserves the right to extend the deadline for the submission of Proposals for any other reason it may deem fit. Such extension of time shall be notified by way of an addendum issued by the OUR in accordance with paragraph 2.2 of these Instructions to Consultants.

3.Preparation of Proposals

3.1 The Proposal, as well as all supporting documentation and related correspondence exchanged by the Consultants and the OUR, shall be written in the English language.

3.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

3.3 While preparing the Technical Proposal, Consultants

must give particular attention to the following:

- (a) If a consulting firm/organization considers that it may enhance its expertise for the assignment by associating with other consulting firms/organizations in a joint venture or sub-consultancy, it may do so. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate in its Technical Proposal who will act as the leader of the joint venture. This indication should be accompanied by any relevant Power of Attorney or other acceptable documentation evidencing the authority of the leader.
- (b) The estimated number of professional staff-months for the Project is indicated in the Data Sheet. However, the Proposal shall be based on the number of Professional staff-months estimated by the Consultants.
- (c) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.
- (d) Documents to be issued by the Consultants as part of this assignment must be in English. It is expected that the firm's Personnel be proficient in reading, writing, and speaking English.

Language

Technical Proposal Format and Content

3.4 Consultants are required to submit a Full Technical Proposal (FTP). The Data Sheet indicates the format of the Technical Proposal to be submitted. Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive. The Technical Proposal shall provide the information indicated in the following paragraphs from (a) to (g) using the attached Standard Forms (Section 3 of this RFP). Paragraph (c) indicates the recommended number of pages for the

description of the approach, methodology and work plan of the STP. A page is considered to be one printed side of A4 or letter size paper.

- (a) A brief description of the Consultants' organization and an outline of recent experience of the Consultants and, in the case of joint venture, for each partner, on assignments of a similar nature are required in Form TECH-2 of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ Professional staff, duration of the assignment, contract amount, and Consultant's involvement. Information should be provided only for those assignments for which the Consultant was legally contracted by the OUR as a corporation or as one of the major firms within a joint venture. Assignments completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the OUR.
- (b) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the OUR (Form TECH-3 of Section 3 of the RFP).
- (c) A description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical

approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.

- (d) The list of the proposed professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks (Form TECH-5 of Section 3).
- (e) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment (Form TECH-7 of Section 3). The staff-months input should be indicated separately for home office and field activities, and for foreign and local professional staff.
- (f) CVs of the professional staff signed by the staff themselves or by the authorized representative of the professional staff (Form TECH-6 of Section 3).
- (g) A detailed description of the proposed methodology and staffing for training.

3.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.

Financial Proposals

3.6 The Financial Proposal shall be prepared using the attached Standard Form (Section 4). It shall list all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at the Consultants' home office), and (b) reimbursable expenses indicated in the Data Sheet. If appropriate,

these costs should be broken down by activity and, if appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.

Taxes

- 3.7 The Consultant may be subject to Jamaican taxes (such as: value added or sales tax, social charges or income taxes on non-resident foreign Personnel or resident Personnel, duties, fees, levies) on amounts payable by the OUR under the Contract. The Consultant should take any such taxes into account when finalizing its Financial Proposal as it will be responsible for paying such taxes.

All resident/Jamaica based Consultants are required to present a valid Tax Compliance Certificate issued by the Jamaica tax authorities ("TCC") with its Proposal. For non-resident/foreign Consultants, a valid TCC will be required prior to execution of the Contract.

- 3.8 Consultants shall quote the price of their services and costs in the Financial Proposal in United States Dollars. Notwithstanding the foregoing, some or all payments under the Contract to a Consultant which is resident in Jamaica may be made in Jamaican dollars. In this case, the Contract price shall be converted to Jamaican dollars at the prevailing rate of exchange published by the Bank of Jamaica as at the date of execution of the Contract by the OUR and the successful Consultant.
- 3.9 Commissions and gratuities, if any, paid or to be paid by Consultants and related to the assignment will be listed in the Financial Proposal Form FIN-1 of Section 4.

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- 4. Submission, Receipt, and Opening of Proposals**
- 4.1 The original proposal (Technical Proposal and Financial Proposal) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signs the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4, respectively.
- 4.2 An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".
- 4.3 The Technical Proposal shall be marked "ORIGINAL" and shall be submitted with such number of copies and in such form as is indicated in the Data Sheet. All required copies of the Technical Proposal are to be made from the original. If there are discrepancies between the original and the copies of the Technical Proposal, the original shall govern.
- 4.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL". Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the name of the assignment, and with a warning "DO NOT OPEN WITH THE TECHNICAL PROPOSAL." The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. This outer envelope shall bear the address and title indicated in the Data Sheet and be clearly marked "DO NOT OPEN BEFORE 11:00 a.m. Eastern Standard Time (EST) on April

6, 2016. The OUR shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. Non-compliance with the requirements specified in this paragraph 4.4 may be a ground for rejection of the Proposal. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.

4.5 The Proposals must be sent to the address indicated in the Data Sheet and deposited in the TENDER BOX provided at that address for this purpose no later than the time and the date indicated in the Data Sheet, or any extension to this date in accordance with paragraph 2.3. Any proposal received by the OUR after the deadline for submission shall be returned unopened.

4.6 The OUR shall open the Technical Proposal immediately after the deadline for their submission at the date, time and place indicated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and securely stored.

5. Proposal Evaluation

5.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the OUR on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the OUR in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

- Evaluation of Technical Proposals** 5.2 The evaluation committee established by the OUR (the “Evaluation Committee”) shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Terms of Reference, or if it fails to achieve the minimum technical score indicated in the Data Sheet.
- Public Opening and Evaluation of Financial Proposals** 5.3 After the technical evaluation is completed the OUR shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process. Where possible the Financial Proposals should be opened publicly. In this case, the OUR shall simultaneously notify in writing Consultants that have secured the minimum qualifying mark, of the date, time and location for opening of their Financial Proposals. The opening date should allow Consultants sufficient time to make arrangements for attending the opening. Consultants’ attendance at the opening of Financial Proposals is optional.
- 5.4 Financial Proposals shall be opened publicly in the presence of the Consultants’ representatives who choose to attend. The name of the Consultants, and the technical scores of the Consultants shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall then be opened, and the total prices read aloud and recorded. Copy of the record shall be sent to all Consultants.
- 5.5 The Evaluation Committee will correct any

computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount the partial amount will prevail, or between word and figures the amount in words will prevail. In addition to the above corrections, as indicated under paragraph 3.6, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, no corrections are applied to the Financial Proposal in this respect.

5.6 The lowest evaluated Financial Proposal (F_m) will be given the maximum financial score (S_f) of 100 points. The financial scores (S_f) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (S_t) and financial (S_f) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + P = 1$) indicated in the Data Sheet: $S = S_t \times T\% + S_f \times P\%$. The firm achieving the highest combined technical and financial score will be invited for contract negotiations.

6. Negotiations

6.1 The date and address of negotiations will be notified to the Consultant whose Proposal has received the highest combined score as indicated in paragraph 5.6 above. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff indicated in its Proposal. Failure in satisfying such requirements may result in the OUR proceeding to negotiate with the next highest ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

Technical Negotiations

6.2 Negotiations will include a discussion of the Technical

Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The OUR and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as "Description of Services". Special attention will be paid to clearly defining the inputs and facilities required from the OUR to ensure satisfactory implementation of the assignment. The OUR shall prepare minutes of negotiations which will be signed by the OUR and the Consultant.

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| Financial Negotiations | 6.3 | It is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount, if any, to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm's tax liability in Jamaica, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates. |
| Availability of Professional staff/experts | 6.4 | Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the OUR expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the OUR will require assurances that the Professional staff will be actually available. The OUR will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the |

Proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.

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| Conclusion of the negotiations | 6.5 | Negotiations will conclude with a review of the draft Contract. To complete negotiations the OUR and the Consultant will initial the agreed Contract. If negotiations fail, the OUR may invite the Consultant whose Proposal received the second highest combined score to negotiate a Contract. |
| 7. Award of Contract | 7.1 | After completing negotiations the OUR shall award the Contract to the selected Consultant and publish notice of the award on its website. After Contract signature the OUR shall promptly notify all other Consultants who have submitted proposals of the award and return the unopened Financial Proposals to the unsuccessful Consultants. |
| | 7.2 | The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet. |
| 8. Confidentiality | 8.1 | Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal. |

Instructions to Consultants

DATA SHEET

Paragraph Reference	
1.1	<p>Name of Procuring Entity: Office of Utilities Regulation</p> <p>Method of selection: Quality and Cost-Based Selection</p>
1.2	Name of the assignment is: Consultancy Services for a Management and Operational Audit of the K-Factor Programme
1.3	The will be no pre-proposal conference.
1.4	<p>When the Consultant is performing the Services at the OUR offices, the OUR shall provide office accommodation, internet access, photocopying, printing, facsimile local and international telephone calls and transportation to and from the airport and for specific activities relating to the Audit of the K-Factor Programme.</p> <p>The OUR will also make all necessary arrangements to ensure that the Consultant has access to the necessary resources and inputs (contact personnel, documents, records, software etc.) within the NWC that will enable and facilitate the conduct of the Audit.</p>
1.9	The procurement is limited to local consultants.
1.11	Proposals must remain valid for One Hundred and Twenty (120) days after the Proposal submission date, i.e. until: August 4, 2016.
2.1	<p>Clarifications may be requested no later than Seven (7) days before the Proposal submission date.</p> <p>The address for requesting clarifications is:</p> <p>Office of Utilities Regulation 3rd Floor, PCJ Resource Centre 36 Trafalgar Road Kingston 10</p> <p><u>Attention: Mr. Garfield Bryan</u></p>

	Facsimile: (876) 929-3635 E-mail: rfp-k-factor@our.org.jm
3.3(b)	The estimated number of professional staff-months required for the assignment is three and half (3.5) months.
3.4	<p>The format of the Technical Proposal to be submitted is the Full Technical Proposal (FTP). Information should therefore be provided in the formats indicated in Section 3: Technical Proposal Standard Forms:</p> <p>TECH-1 Technical Proposal Submission Form</p> <p>TECH-2 Consultant's Organization and Experience</p> <p style="padding-left: 20px;">A. Consultant's Organization</p> <p style="padding-left: 20px;">B. Consultant's Experience</p> <p>TECH-3 Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the OUR</p> <p style="padding-left: 20px;">A. On the Terms of Reference</p> <p style="padding-left: 20px;">B. On the Counterpart Staff and Facilities</p> <p>TECH-4 Description of the Approach, Methodology and Work Plan for Performing the Assignment</p> <p>TECH-5 Team Composition and Task Assignments</p> <p>TECH-6 Curriculum Vitae (CV) for Proposed Professional Staff</p> <p>TECH-7 Staffing Schedule</p> <p>TECH-8 Work Schedule</p>
3.4(c)	The prospective Consultant must describe the proposed programme of work in sufficient detail to enable the OUR to assess (a) the degree to which the Scope of Work is understood, and (b) the competence of the Consultant to perform the activities prescribed.

3.6	<p>The Financial Proposal shall include a breakdown of the following reimbursable expenses:</p> <ol style="list-style-type: none"> (1) a per diem allowance in respect of Personnel of the Consultant for every day in which the Personnel shall be absent from its home office for purposes of the Services; (2) cost of necessary travel, including transportation of the Personnel by the most appropriate means of transport and the most direct practicable route; (3) other allowances where applicable and provisional or fixed sums (if any); and (4) cost of such further items required for purposes of performing the Services not covered in the foregoing. <p>Additionally, Financial Proposals are to be based on a fixed fee¹ and are to indicate how the proposed overall Project costs have been developed, including staff man-hours and the relevant hourly/daily rates; travel and accommodation expenses, office expenses; overheads, contingencies and all other relevant costs.</p>
3.7	<ol style="list-style-type: none"> 1. Amounts payable by the Procuring Entity to the Consultant under the Contract will be subject to local taxation. 2. The Consultant is required to ascertain its liability for Jamaican taxes, duties, fees or other impositions, and take any such taxes, duties, fees and other impositions, if any, into account when finalizing its Financial Proposal, as it will be responsible for paying such taxes. The proposed Contract Sum shall be deemed to include all such taxes, duties, fees or other impositions. 3. General Consumption Tax will be withheld by the Procuring Entity as withholding tax payable to the Inland Revenue Department and a withholding tax certificate will be issued to the Consultant. <p><u>Local Consultants must include a valid Tax Compliance Certificate (TCC). Proposals without a valid TCC will not be accepted.</u></p>

4.3	<p>1. Consultants must submit one original Technical Proposal and one electronic copy of same on portable media such as CD-ROM or USB Drive, and one original of the Financial Proposal and one electronic copy of same on portable media such as CD-ROM or USB Drive.</p> <p>2. Proposals transmitted by electronic mail will not be accepted and this may result in the Consultant's disqualification from the procurement process.</p>
4.4 & 4.5	<p>The outer envelope of the Proposal submission shall be clearly marked as follows:</p> <p>Consultancy Services for a Management and Operational Audit of the K-Factor Programme</p> <p>"DO NOT OPEN BEFORE APRIL 6, 2016."</p> <p>Addressed to:</p> <p>Office of Utilities Regulation 3rd Floor, PCJ Resource Centre 36 Trafalgar Road Kingston 10</p> <p><u>Attention: Garfield Bryan</u></p> <p><u>Proposals shall be sent to the above address and will be placed in the Tender Box provided for this purpose.</u></p> <p>Proposals must be submitted no later than the following date and time:</p> <p>April 6, 2016 at 11:00 a.m. Eastern Standard Time (EST).</p>
4.6	<p>Technical Proposals that are submitted by the Proposals submission date will be opened on April 6, 2016 at 11:15 a.m. Eastern Standard Time (EST) at Office of Utilities Regulation, 3rd Floor, PCJ Resource Centre, 36 Trafalgar Road, Kingston 10. Consultants or their representatives are invited to attend the opening.</p>

5.2	<p>Criteria, sub-criteria, and point system for the evaluation of Full Technical Proposals are:</p> <p>(i) Specific experience of the Consultants relevant to the assignment:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">a) Have conducted five (5) or more similar exercises</td> <td style="text-align: right; padding-right: 20px;">20 points</td> </tr> <tr> <td style="padding-left: 20px;">b) Have conducted more than three (3) but less than five (5) similar exercises</td> <td style="text-align: right; padding-right: 20px;">10 points</td> </tr> <tr> <td style="padding-left: 20px;">c) Have conducted less than three (3) but more than zero similar exercises</td> <td style="text-align: right; padding-right: 20px;">5 points</td> </tr> <tr> <td style="padding-left: 20px;">d) Have conducted no similar exercises</td> <td style="text-align: right; padding-right: 20px;">0 points</td> </tr> </table> <p>Total points for criterion (i): 20 points</p> <p>(ii) Adequacy of the proposed methodology and work plan in response to the Terms of Reference:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">a) Technical approach and methodology</td> <td style="text-align: right; padding-right: 20px;">15 points</td> </tr> <tr> <td style="padding-left: 20px;">b) Work plan</td> <td style="text-align: right; padding-right: 20px;">15 points</td> </tr> <tr> <td style="padding-left: 20px;">c) Organization and staffing</td> <td style="text-align: right; padding-right: 20px;">10 points</td> </tr> </table> <p>Total points for criterion (ii): 40 points</p> <p>(iii) Key professional staff qualifications and competence for the assignment:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">a) Team Leader</td> <td style="text-align: right; padding-right: 20px;">5 points</td> </tr> <tr> <td style="padding-left: 20px;">b) Auditing (Process and Technical)</td> <td style="text-align: right; padding-right: 20px;">10 points</td> </tr> <tr> <td style="padding-left: 20px;">c) Engineering (with experience in design, construction and maintenance in public water and sewerage systems)</td> <td style="text-align: right; padding-right: 20px;">10 points</td> </tr> <tr> <td style="padding-left: 20px;">d) Programme/Project Management</td> <td style="text-align: right; padding-right: 20px;">10 points</td> </tr> <tr> <td style="padding-left: 20px;">e) Other Team Members</td> <td style="text-align: right; padding-right: 20px;">5 points</td> </tr> </table> <p>Total points for criterion (iii): 40 points</p> <p>The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following sub-criteria and relevant percentage weights:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">1) General qualifications</td> <td style="text-align: right; padding-right: 20px;">30%</td> </tr> <tr> <td style="padding-left: 40px;">a) Masters and above</td> <td style="text-align: right; padding-right: 20px;">30%</td> </tr> <tr> <td style="padding-left: 40px;">b) Bachelors only</td> <td style="text-align: right; padding-right: 20px;">15%</td> </tr> </table>	a) Have conducted five (5) or more similar exercises	20 points	b) Have conducted more than three (3) but less than five (5) similar exercises	10 points	c) Have conducted less than three (3) but more than zero similar exercises	5 points	d) Have conducted no similar exercises	0 points	a) Technical approach and methodology	15 points	b) Work plan	15 points	c) Organization and staffing	10 points	a) Team Leader	5 points	b) Auditing (Process and Technical)	10 points	c) Engineering (with experience in design, construction and maintenance in public water and sewerage systems)	10 points	d) Programme/Project Management	10 points	e) Other Team Members	5 points	1) General qualifications	30%	a) Masters and above	30%	b) Bachelors only	15%
a) Have conducted five (5) or more similar exercises	20 points																														
b) Have conducted more than three (3) but less than five (5) similar exercises	10 points																														
c) Have conducted less than three (3) but more than zero similar exercises	5 points																														
d) Have conducted no similar exercises	0 points																														
a) Technical approach and methodology	15 points																														
b) Work plan	15 points																														
c) Organization and staffing	10 points																														
a) Team Leader	5 points																														
b) Auditing (Process and Technical)	10 points																														
c) Engineering (with experience in design, construction and maintenance in public water and sewerage systems)	10 points																														
d) Programme/Project Management	10 points																														
e) Other Team Members	5 points																														
1) General qualifications	30%																														
a) Masters and above	30%																														
b) Bachelors only	15%																														

	<p>2) Experience on similar projects 70%</p> <p>a) worked on four or more similar projects 70%</p> <p>b) worked on three similar projects only 50%</p> <p>c) worked on two similar projects only 30%</p> <p>d) worked on one similar projects only 15%</p> <p>TOTAL POINTS FOR THE THREE CRITERIA: 100</p> <p>The minimum technical score required to pass is: <u>80</u> Points</p>
5.6	<p>The formula for determining the financial scores is the following:</p> <p>$S_f = 100 \times F_m / F$</p> <p>S_f is the financial score</p> <p>F_m is the lowest price</p> <p>F is the price of the proposal under consideration.</p> <p>The weights given to the Technical and Financial Proposals are:</p> <p>T = 0.7</p> <p>P = 0.3</p>
7.2	<p>Expected date for commencement of consulting services: June 20, 2016.</p> <p>The date and location for commencement of services will however be confirmed and specified in the Contract executed with the successful Consultant.</p>

Section 3. Technical Proposal - Standard Forms

The Technical Proposal shall be submitted in the accordance with the forms and formats attached to this section as listed below:

TECH-1 Technical Proposal Submission Form

TECH-2 Consultant's Organization and Experience

A. Consultant's Organization

B. Consultant's Experience

TECH-3 Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the OUR

A. On the Terms of Reference

B. On the Counterpart Staff and Facilities

TECH-4 Description of the Approach, Methodology and Work Plan for Performing the Assignment

TECH-5 Team Composition and Task Assignments

TECH-6 Curriculum Vitae (CV) for Proposed Professional Staff

TECH-7 Staffing Schedule

TECH-8 Work Schedule

Note that instructions included in square brackets are for your guidance only and should not be included in the Proposal submitted.

FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Address, Date]

To: **Office of Utilities Regulation**
3rd Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10

Attention: Garfield Bryan
Consultancy Services for a Management and Operational Audit of the
K-Factor Programme

Dear Sirs:

We, the undersigned, offer to provide the consulting services in connection with the **Consultancy Services for a Management and Operational Audit of the K-Factor Programme** [Insert Date] (the "RFP") and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed in a separate envelope.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant is applicable].

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e. before the expiration of date indicated in Paragraph Reference 1.11 of the Data Sheet included in the RFP, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph Reference 7.2 of the Data Sheet included in the RFP.

We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

FORM TECH-2 CONSULTANT'S ORGANIZATION AND EXPERIENCE

A - Consultant's Organization

[Provide here a brief (two pages) description of the background and organization of your firm/entity and each associate for this assignment.]

B - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment. Use 20 pages.]

Assignment name:	Approx. value of the contract (in current US\$):
Country: Location within country:	Duration of assignment (months):
Name of Procuring Entity:	Total N ^o of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current US\$):
Start date (month/year): Completion date (month/year):	N ^o of professional staff-months provided by associated Consultants:
Name of associated Consultants, if any:	Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):
Narrative description of Project:	
Description of actual services provided by your staff within the assignment:	

Firm's Name: _____

**FORM TECH-3 COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON
COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE OUR**

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

B - On Counterpart Staff and Facilities

[Comment here on counterpart staff and facilities to be provided by the OUR according to Paragraph Reference 1.4 of the Data Sheet including: administrative support, office space, local transportation, equipment, data, etc.]

FORM TECH-4 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR
PERFORMING THE ASSIGNMENT

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (inclusive of charts and diagrams) divided into the following three chapters:

- a) Technical Approach and Methodology,*
- b) Work Plan, and*
- c) Organization and Staffing*

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the OUR), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

c) Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.]

FORM TECH-6 CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

1. **Proposed Position** [*only one candidate shall be nominated for each position*]: _____

2. **Name of Firm** [*Insert name of firm proposing the staff*]: _____

3. **Name of Staff** [*Insert full name*]: _____

4. **Date of Birth:** _____ **Nationality:** _____

5. **Education** [*Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment*]: _____

6. **Membership of Professional Associations:** _____

7. **Other Training** [*Indicate significant training since degrees under 5 - Education were obtained*]: _____

8. **Countries of Work Experience:** [*List countries where staff has worked in the last ten years*]: _____

9. **Languages** [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

10. Employment Record

[*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

From [Year]: ____ To [Year]: _____

Employer: _____

Positions held: _____

<p>11.</p> <p>Detailed</p> <p>Tasks</p> <p>Assigned</p> <p>[List all tasks to be performed under this assignment]</p>	<p>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Office of Utilities Regulation: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
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13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

 [Signature of staff member or authorized representative of the staff] Date: _____
 Day/Month/Year

Full name of authorized representative: _____

FORM TECH-7 STAFFING SCHEDULE¹

N°	Name of Staff	Staff input (in the form of a bar chart) ²												Total staff-month input				
		1	2	3	4	5	6	7	8	9	10	11	12	... n	Home	Field ³	Total	
Foreign																		
1		[Home]																
		[Field]																
2																		
3																		
n																		
												Subtotal						
Local																		
1		[Home]																
		[Field]																
2																		
n																		
												Subtotal						
												Total						

- 1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).
 - 2 Months are counted from the start of the assignment. For each staff indicate separately staff input for home and field work.
 - 3 Field work means work carried out at a place other than the Consultant's home office.
- Full time input
 Part time input

FORM TECH-8 WORK SCHEDULE

N°	Activity ¹	Week ²												
		1	2	3	4	5	6	7	8	9	10	11	12	... n
1														
2														
3														
4														
5														
N														

- 1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Procuring Entity approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in the form of a bar chart.

Section 4. Financial Proposal - Standard Form

The Financial Proposal Standard Form shall be used for the preparation of the Financial Proposal according to the instructions provided under paragraph. 3.6 of Section 2.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Breakdown of Costs by Activity

FIN-4 Breakdown of Remuneration

FIN-5 Reimbursable expenses

Note that instructions included in square brackets are for your guidance only and should not be included in the Proposal submitted.

FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM

[Address, Date]

To: **Office of Utilities Regulation**
3rd Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10

Consultancy Services for a Management and Operational Audit of the K-Factor Programme

Dear Sirs:

We, the undersigned, offer to provide the consulting services in connection with the **Consultancy for a Management and Operational Audit of the K-Factor Programme** in accordance with your Request for Proposal dated [Insert Date] (the "RFP") and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures¹]. This amount is inclusive of all taxes, for which we may be liable.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Paragraph Reference 1.11 of the Data Sheet included in the RFP.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below²:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

- 1 Amounts must coincide with the ones indicated under Total Cost of Financial proposal in Form FIN-2.
- 2 If applicable, replace this paragraph with: "No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution."

FORM FIN-2 SUMMARY OF COSTS

<i>Item</i>	Costs
	UNITED STATES DOLLARS
Total Costs of Financial Proposal ¹	

- 1 Indicate the total costs to be paid by the OUR. Such total costs must coincide with the sum of the relevant Subtotals indicated in all Forms FIN-3 provided with the Proposal.

FORM FIN-3 BREAKDOWN OF COSTS BY ACTIVITY¹

Group of Activities (Phase):² _____ _____	Description:³ _____ _____
<i>Cost component</i>	Costs
	UNITED STATES DOLLARS
Remuneration ⁴	
Reimbursable Expenses ⁴	
Subtotals	

- 1 Form FIN-3 shall be filled at least for the whole assignment. In case some of the activities require different modes of billing and payment (e.g.: the assignment is phased, and each phase has a different payment schedule), the Consultant shall fill a separate Form FIN-3 for each group of activities. The sum of the relevant Subtotals of all Forms FIN-3 provided must coincide with the Total Costs of Financial Proposal indicated in Form FIN-2.
- 2 Names of activities (phase) should be the same as, or correspond to the ones indicated in the second column of Form TECH-8.
- 3 Short description of the activities whose cost breakdown is provided in this Form.
- 4 Remuneration and Reimbursable Expenses must respectively coincide with relevant Total Costs indicated in Forms FIN-4, and FIN-5.

FORM FIN-4 BREAKDOWN OF REMUNERATION¹

Name ²	Position ³	Staff-month Rate ⁴
Foreign Staff		
		[Home]
		[Field]
Local Staff		
		[Home]
		[Field]

- 1 Form FIN-4 shall be filled in for the same Professional and Support Staff listed in Form TECH-7.
- 2 Professional Staff should be indicated individually; Support Staff should be indicated per category (e.g.: draftsmen, clerical staff).
- 3 Positions of the Professional Staff shall coincide with the ones indicated in Form TECH-5.

4 Indicate separately staff-month rate and currency for home and field work.

.

FORM FIN-5 BREAKDOWN OF REIMBURSABLE EXPENSES

N°	Description¹	Unit	Unit Cost²
	Per diem allowances	Day	
	International flights ³	Trip	
	Miscellaneous travel expenses	Trip	
	Local transportation costs		

- 1 Delete items that are not applicable or add other items according to Paragraph Reference 3.6 of the Data Sheet.
- 2 Indicate unit cost.
- 3 Indicate route of each flight, and if the trip is one- or two-way.

Section 5 Terms of Reference

Management and Operational Audit of the K-Factor Programme

1.0 INTRODUCTION

In its 2007 application for a review of the tariff, the National Water Commission (NWC) proposed to the Office that a “K-factor be established to fund capital projects that will not generate any significant increase in revenues but are necessary for system reinforcement and reliability or to comply with regulatory intervention by the National Environmental and Planning Agency (NEPA)... The [NWC] has also proposed that a programme be funded to reduce the level of non-revenue water (NRW) through a combination of mains replacement and other technical and commercial interventions. A third component of the K-factor as proposed by NWC would incorporate the expansion of the collection network for wastewater so as to reduce the average unit cost of treatment for the newly commissioned Soapberry Wastewater Treatment Plant”.²

The Office considered the proposal and in the “National Water Commission-Review of Rates Determination Notice” (Document No. WAT 2008/01 (the 2008 Determination Notice) dated April 28, 2008 and approved the incorporation of a K-Factor into the 2008-2013 Tariff. The funds flowing from the tariff would be placed in a special account to be used only for K-Factor projects as approved by the OUR. The pool of K-Factor funds would also allow the NWC to secure loans from financial institutions and development agencies for eligible projects and provide for consistent repayment of such loans. These loans would place the NWC in a position to undertake significant capital intensive infrastructure projects in the short term.³

In its tariff application in 2013, the NWC requested an extension of the K-Factor Programme which was considered by the Office. The Office in the “National Water Commission - Review of Rates Determination Notice” dated October 1, 2013 (Document No. 2013/WAS/004/DET.003 (the 2013 Determination Notice) and “Reconsideration of the Office’s Decision: Determination Notice (Document No. 2013/WAS/004/DET.003) on “National Water Commission Review of Rates” Document No. 2014/WAS/004/RCN.001 dated July 24, 2014 expressed the view that the K-Factor shall continue across tariff regimes to ensure funds are available to service loans. Consequently, the K-Factor Programme was extended for an additional fifteen (15) years up to 2032.

² Section 3.4.2, 2008 Determination Notice

³ Section 9.9, @008 Determination Notice

2.0 OBJECTIVES OF THE K-FACTOR

The aforementioned 2008 Determination Notice set out the objectives of the K-Factor as follows:

- To fund a capital intensive programme of efficiency improvement inclusive of mains replacement as well as other NRW activities.
- To fund capital rehabilitation programmes that will not yield any significant increase in revenues for the NWC but is required to comply with a specific regulatory direction
- Incorporate the expansion of the collection network for wastewater so as to better utilise Soapberry Wastewater Treatment Plant.

3.0 THE K-FACTOR PROGRAMME DEVELOPMENTS (2008 TO 2014)

3.1 K-Factor Schedule 2008-2013

The Office determined the K-Factor and X-Factor to be included in the 2008-2013 tariffs as shown in Table 1 below:

Table 1: K-Factor (2008-13)

Year Ending March	2009	2010	2011	2012	2013
K-Factor (%)	5%	14%	20%	23%	25%
X-Factor (%)	5%	10%	10%	12%	13%

3.2 Deemed K-Factor Cash Inflow 2008-2013

In the 2008 Determination Notice, Section 13.5, the Office states, inter alia: *“NWC shall account for the deemed K-Factor cash inflow calculated on the basis of 95% of the K-Factor billing”*.

Prompted by representations from the NWC regarding the challenges it faced in relation to the collection of receivables, the Office reviewed the deemed K-factor cash inflow rate and **reduced it to 90%** of K-Factor billing **as at March 7, 2011** as per “Amendment to National Water Commission Review of Rates Determination Notice” (Document No. WAS2001001_DET001AMD001) dated February 28, 2011.

3.5 K-Factor Inflows, Outflows and Project Expenditure

To date, over J\$19B has been collected and spent in relation to the K-Factor programme since its inception in 2008. See Table 3 below.

Table 3: K-Factor Inflows and cumulative outflows FY 2008/9 to 2014/15)

	Financial Year						
	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
	J\$M	J\$M	J\$M	J\$M	J\$M	J\$M	J\$M
Inflow (after 95% (2008-2010)/90% deemed)	511.86	1,755.24	2,493.76**	3,457.13	3,999.79	3,984.63	3,135.19
Spent	191.72	683.27	2,796.31	3,441.87	5,104.62	3,984.63	3,135.19
Cumulative Inflow	511.86	2,267.11	4,760.87	8,218.00	12,217.78	16,202.41	19,337.60
Cumulative Spent	191.72	874.99	3,671.30	7,113.17	12,217.78	16,202.41	19,337.60
K-Factor Fund balance	320.15	1,392.12	1,089.56	1,104.83	-	-	-

*Source: NWC Audited Financial Statements, ** Deemed K-Factor billing set to 95% (April 2008), 90% (March 7, 2011) and 92% (October 2013)

Table 4: K-Factor Projects Approved by OUR as at September 30, 2015 (Summary)

Project Type	# of projects	Estimated Cost (J\$M)
NRW Reduction /Water Supply Improvement	68	24,445
Sewerage/Wastewater Treatment	33	7,629
Total	101	32,075

Source: OUR Records

Since the start of the K-Factor in 2008, the OUR has approved just over an hundred projects estimated to cost approximately J\$32.075B. As can be seen in Table 4, approximately 68% of the project relate to NRW and Water

supply/Efficiency improvements while 32% relate to Wastewater Treatment and Sewerage.

3.6 K-Factor Projects Completed as at September 30, 2015 (Summary)

As per Table 5 below, sixty (60) projects have been completed between the start of the K-Factor in 2008 and September 30, 2015. More than half (55% or 33 of the 60) of the completed projects relate to NRW reduction while 45% relate to sewerage. Notably however, 87% of the expenditure (J\$16.9B of the J\$19.52B) on completed projects was in relation to NRW reduction.

Table 5: K-Factor Completed Projects and Expenditure as at September 30, 2015

Type	Status	Count	Expenditure (J\$M)
Non-Revenue Water Reduction (NRW)	Completed/(in Maintenance period)	33	16,982
Sewerage	Completed/(in Maintenance period)	27	2,570
	Total Expenditure	60	19,552

*Source: NWC K-Factor Report: Capital Expenditure as at September 2015

4.0 RATIONALE FOR THE AUDIT

As discussed above, the NWC has spent more than J\$19.55 billion on K-Factor projects since 2008. Despite this level of expenditure, particularly on NRW reduction projects, said expenditure does not seem to have led to any commensurate reduction in the aggregate NRW for the NWC over the subsequent tariff periods. In 2008, NWC estimated the aggregate NRW to be 62%. However, the latest available data (December 31, 2015) from the NWC estimated the aggregate NRW to be 69.78%.

Additionally, the Office has not been able to quantitatively assess the impact of the K-Factor Programme, and particularly the completed projects on the NWC's operations in terms of the stated K-Factor objectives.

To this end and in order to assess overall effectiveness and efficiency of the K-Factor Programme, the Office is now seeking to conduct a management and operational audit of the said Programme.

5.0 BACKGROUND

5.1 The Regulatory Framework

The OUR was established by the Office of Utilities Regulation Act, 1995 (OUR Act) to regulate prescribed utility services as specified in the First Schedule of the OUR Act. Under the OUR Act, the OUR regulates the provision of telecommunications, electricity, water and sewerage services.

Section 4 of the OUR Act prescribes the functions of the OUR which enables it to undertake such measures as it considers necessary or desirable in order for it to carry its regulatory functions.

Sections 4 (1) of the OUR Act inter alia, empowers the OUR to:

- (i) regulate the provision of prescribed utility services by licensees or specified organizations; and
- (ii) carry out, on its own initiative or at the request of any person, such investigations in relation to the provision of prescribed utility services as will enable it to determine whether the interests of consumers are adequately protected

In the performance of its functions, the OUR can, pursuant to Section 4(3) of the OUR Act inter alia, undertake such measures as it considers necessary or desirable to—

- (a) encourage competition in the provision of prescribed utility services;
- (b) protect the interests of consumers in relation to the supply of a prescribed utility service;
- (c) encourage the development and use of indigenous resources; and
- (d) promote and encourage the development of modern and efficient utility services;
- (e) enquire into the nature and extent of the prescribed utility services provided by a licensee or a specified organization....”

In addition to its statutory mandate, the OUR ensures that the interests of the utility consumers and those of the utility companies alike are protected. This balancing of interests is reflected in the OUR’s Mission Statement: *“To contribute to*

national development by creating an environment for the efficient delivery of utility services to the customers whilst assuring that service providers have the opportunity to make a reasonable return on investments."

5.2 The Water and Wastewater Sector

Currently, over 70% of the Jamaican population has access to piped water supply and 33% has access to sewerage infrastructure. The remaining 'un-sewered' customers have soak-away pits and/or pit latrines. The NWC, a government owned utility, is the major provider of water and wastewater services across Jamaica, harnessing and treating approximately 298,029.9 mega-litres of potable water per day⁴. Although other service providers exist, including thirteen (13) municipal authorities and a number of private water companies, the NWC provides more than 9% of all potable water distributed across the island.

5.3 The National Water Commission (NWC)

According to its latest (2010/11) published Annual Report, the NWC delivers potable water to more than 400,000 customers from a water supply system including over four hundred and fifty (450) discrete water supply systems with more than 9,000 km of pipelines. Similarly, the NWC is also the major provider of wastewater services across Jamaica. Approximately 30% of all Jamaican households are connected to central sewers attached to over sixty-five (65) sewerage systems operated by NWC, primarily in urban centers and housing schemes.

Of the total amount of water produced by the NWC, as at December 2014 approximately 69% was NRW⁵. This is partly due to poor condition of the potable water delivery of the NWC which has traditionally suffered from insufficient maintenance and capital investment.

With regard to wastewater services, a significant number of NWC's waste water treatment plants and conveyance facilities have exceeded their useful lives and require substantial rehabilitation or replacement. This has resulted in breaches of various regulatory requirements, particularly those relating to the environment and enforced the National Environmental and Planning Agency (NEPA). The fact that NWC supplies the majority of Jamaican households with potable water services but less than a third of these households are connected to centralized sewers, suggest that the NWC is well placed to increase its provision of waste water services.

⁴ Source: Economic and Social Survey Jamaica 2013

⁵ NRW is the difference between production and billed consumption.

6.0 OBJECTIVE OF THE AUDIT

This Audit will represent a comprehensive review of the NWC's management and operation of the K-Factor Programme including the billing, collection and accounting for funds, project selection and implementation, compliance with regulatory directives, including the relevant MOU as executed, achievement of the stated objectives and the sustainability of the Programme. The Consultant is also expected to make recommendations to the Office in relation to the routine monitoring of the K-Factor Programme.

The objective of the Consultancy is to:

1. From a historical and current perspective, determine the extent to which NWC's practices in relation to the K-Factor Programme are in compliance with the 2008 and 2013 Determination Notices, MOU and other regulatory directives;
2. Determine the extent to which the NWC's policies and practices routinely and accurately account for K-Factor fund allocation in accordance with standard accounting practices;
3. Ascertain the extent to which the K-Factor Programme is achieving its stated objectives.
4. Determine the sustainability of the existing K-Factor Programme in relation to the achievement of the stated objectives and propose suitable alternatives or amendments.
5. Recommend appropriate mechanisms that will enable the OUR to effectively monitor the K-Factor Programme.

7.0 SCOPE OF WORK

The Consultant shall perform a complete management and operational audit on the K-Factor Programme. The Consultant shall use internationally accepted auditing procedures designed to achieve the overall objectives outlined above to conduct the following activities:

1. Review all of the NWC's documentation concerning internal policies and practices in relation to the administration and conduct of the K-Factor Programme.

2. Review the following documents:

National Water Commission- Review of Rates Determination Notice” (Document No. WAT 2008/01 (the 2008 Determination Notice) dated April 28, 2008;

http://www.our.org.jm/ourweb/sites/default/files/documents/sector_documents/determination_of_nwc_review_of_rates_-_april_28_2008_0.pdf

- a) Reconsideration of the Office’s Decision on “National Water Commission’s Review of Rates” – Determination Notice No. Wat 2008/01 – Reconsideration Notice (Document No. Wat 2008/02: RCN/01).
http://www.our.org.jm/ourweb/sites/default/files/documents/sector_documents/reconsideration_of_the_offices_decision_on_-_wat_2008-01_may_27_2008_0.pdf
- b) Amendment to National Water Commission Review of Rates Determination Notice No. WAT 2008/01 (Document No. WAS2008001_DET001AMD001).
http://www.our.org.jm/ourweb/sites/default/files/documents/sector_documents/amendment_to_national_water_commissions_review_of_rates- determination_notice- february 28 2011 1.pdf
- c) Memorandum of Understanding Between the Office of Utilities Regulation and National Water Commission Regarding the K-Factor Program October 2010
- d) National Water Commission Review of Rates Determination Notice Document No. 2013/WAS/004/DET.003
http://www.our.org.jm/ourweb/sites/default/files/documents/sector_documents/nwc_determination_notice_2013_-_2018.pdf
- e) Reconsideration of the Office’s Decision: Determination Notice (2013/WAS/004/DET.003) “National Water Commission Review of Rates – Final Decision Adoption Date July 24, 2014 (Document No. 2014/WAS/004/RCN.001
http://www.our.org.jm/ourweb/sites/default/files/documents/sector_documents/nwc_reconsideration_2.pdf
- f) Correspondence between the OUR and the NWC regarding K-Factor issues.

- g) NWC's Management Reports on the K-Factor's administration.
 - h) K-Factor Progress Reports to OUR.
 - i) K-Factor Monthly Reports to OUR.
 - j) NWC's Audit Reports on K-Factor Programme.
 - k) NWC's Financial Reports.
 - l) Documentation in relation to all loans being serviced with K-Factor funds.
 - m) All other NWC records and reports relating to the K-Factor Programme.
3. Determine the extent to which the NWC accurately applied the tariff provisions in relation to the K-Factor for the period April 1, 2008 to December 31, 2015 with specific emphasis on:
- a) Total Billed K-Factor charges per month
 - b) Total Deemed K-Factor per month
4. In relation to the period April 1, 2008 to December 31, 2015, to determine the extent to which NWC deposited deemed K-Factor funds to the designated K-Factor accounts in a manner consistent with the applicable OUR determinations, MOU and other directives including:
- a) Comparison of Actual Deposits to the K-Factor Bank Accounts to Deemed K-Factor billing
 - b) Identification of any variance
5. In relation to the period April 1, 2008 to December 31, 2015, determine the extent to which funds withdrawn from the designated K-Factor accounts were consistent with the applicable OUR determinations, MOU and other directives including:
- a) Comparison of actual withdrawals from bank accounts for the purpose of legitimate expenditure on approved K-Factor Projects
 - b) Actual spent on approved projects (The Consultant should verify the legitimacy of the withdrawals from the K-Factor accounts)
 - c) Use of funds to service loans related to approved K-Factor projects (see item 10 below)

6. Determine the extent (if any) that the NWC expended K-Factor funds outside of the scope of and contrary to the objectives of the K-Factor Programme in its intended administration.
7. Detail the process used by NWC to develop and select projects to be submitted to OUR for approval for K-Factor funding. This should include but not be limited to:
 - a) Identification of relevant project areas.
 - b) Selection criteria (including how priority is determined).
 - c) Design and Scope of the relevant project.
 - d) Development of cost/benefit analysis.
8. Detailed description of NWC structures and internal arrangements for the management of the K-Factor Programme including:
 - a) Billing and accounting.
 - b) Project identification and development.
 - c) Procurement
 - d) Project management and implementation.
 - e) Reporting
9. For the period April 1, 2008 to December 31, 2015, provide a detailed report on the projects approved by the OUR for funding through K-Factor including:
 - a) Name of project, including its unique project code/identifier (if any)
 - b) Date of OUR approval for the relevant project.
 - c) Project cost, as approved by OUR.
 - d) Total Actual Expenditure per project.
 - e) Any variance between the OUR approved project cost and the project's actual expenditure.
 - f) Current Status of Project.
10. For the period April 1, 2008 to December 31, 2015, provide a comprehensive report on all loans being funded from K-Factor inflows including:
 - a) Total Loan amount.
 - b) Name of institution from which the relevant Loan was secured.

-
- c) Project to which Loan is attached.
 - d) Loan terms, included but not limited to;
 - 1. Date the loan was secured.
 - 2. Month of first loan payment.
 - 3. Payment instalments (Monthly/Quarterly etc.) and amounts used to service the Loan.
 - 4. Moratorium (if any/applicable)
 - 5. Scheduled repayment period.
 - 6. Any special conditions.
11. Determine the sustainability of the K-Factor Programme in terms of its real and inherent ability to successfully fund the completion of existing projects given:
- a) Projected inflows
 - b) Projected outflows
 - 1. Loan service
 - 2. Direct financing
12. For all the completed projects identified in 9.f above, determine the extent to which these projects were:
- a) Completed within planned project time.
 - b) Completed within the project cost as approved by the OUR, (with explanation of variance noted).
 - c) Procured in a manner that is consistent with the relevant Government of Jamaica Procurement Rules and Guidelines
 - d) Works completed is consistent with the reported expenditure
 - e) Able to achieve the objectives/outcomes identified in the project profiles upon which their approvals were based in terms of:
 - 1. NRW Reduction
 - 2. Increased Revenues
 - 3. Improved Service Reliability
 - 4. Reduced Electricity costs
 - 5. Reduced Maintenance and Operating costs
 - 6. Improved/Expanded sewer collection network
 - 7. Increased flows to the Soapberry Treatment plant

13. Ascertain the extent to which the existing NWC systems provide accurate, comprehensive and timely K-Factor reports to the OUR;
14. Identify any areas of weakness within the NWC's systems as it relates to the K-Factor Programme as mentioned in item 13 above; and propose measures to correct same;
15. Make recommendations on how the existing K-Factor Programme could be improved with due regard for international best practices;
16. Make recommendations on how the regulator can more effectively monitor the K-Factor Programme.

8.0 DELIVERABLES

The consulting services shall be considered complete on delivery and acceptance of the following reports:

1. An Inception Report outlining the schedule and logistics for conducting the assignment inclusive of detailed work plan, within **one (1) week** of the commencement date of the Services.
2. A First Interim Report **four (4) weeks** after the commencement of the Services reflecting the initial findings and highlighting any specific issue that may materially affect the scope of the works.
3. A Second Interim Report **eight (8) weeks** after the commencement of the Services.
4. A Draft Final Report **twelve (12) weeks** after the commencement of the Services.
5. A Final Report, incorporating agreed revisions after review by the OUR, not later than **two (2) weeks** after the receipt of comments on the Draft Final Report.

Reports are to be submitted with three (3) printed copies and an electronic version in the agreed format.

9.0 PROJECT SCHEDULE

It is anticipated that the consulting services will be completed within fourteen (14) weeks of the award of the contract.

Section 6. Standard Form of Contract

STANDARD FORM OF CONTRACT

Consultants' Services

Lump-Sum



OFFICE OF UTILITIES REGULATION

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CONTRACT FOR CONSULTANTS' SERVICES

Lump-Sum

between

OFFICE OF UTILITIES REGULATION

and

[name of the Consultant]

Dated: _____

I. Form of Contract

LUMP-SUM

This CONTRACT (hereinafter called the "Contract") is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, the Office of Utilities Regulation (hereinafter called the "OUR") and, on the other hand, *[name of Consultant]* (hereinafter called the "Consultant").

*[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: "...(hereinafter called the "OUR") and, on the other hand, a joint venture/consortium/association consisting of the following entities, each of which will be jointly and severally liable to the OUR for all the Consultant's obligations under this Contract, namely, *[name of Consultant]* and *[name of Consultant]* (hereinafter called the "Consultant").]*

WHEREAS

- (a) the OUR has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the "Services");
- (b) the Consultant, having represented to the OUR that it has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) The following Appendices:
 - Appendix A: Description of Services
 - Appendix B: Reporting Requirements
 - Appendix C: Key Personnel and Sub-Consultants
 - [Appendix D: Breakdown of Contract Price in Foreign Currency]
 - [Appendix E: Breakdown of Contract Price in Local Currency]
 - Appendix F: Services and Facilities Provided by the OUR
 - Appendix G: Not Used
2. The mutual rights and obligations of the OUR and the Consultant shall be as set forth in the Contract, in particular:

-
- (a) the Consultants shall carry out the Services in accordance with the provisions of the Contract; and
- (b) the OUR shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of the Office of Utilities Regulation:

[Authorized Representative]

[Witness by: name of Witness]

For and on behalf of *[name of Consultant]*:

[Authorized Representative]

[Witness by: name of Witness]

[Note: *If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:*]

For and on behalf of each of the Members of the Consultant

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]

II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a. **“Applicable Law”** means the laws and any instruments having the force of law in Jamaica.
- b. **“Consultant”** means [*insert names*) of *Consultant*].
- c. **“Contract”** means the Form of Contract signed by the Parties and all the attached documents listed in its Clause 1, that is, these General Conditions (GC), the Special Conditions (SC), and the Appendices.
- d. **“Contract Price”** means the price to be paid for the performance of the Services, in accordance with Clause 6;
- e. **“Effective Date”** means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- f. **“Foreign Currency”** means any currency other than the currency of Jamaica.
- g. **“GC”** means these General Conditions of Contract.
- h. **“Government”** means the Government of Jamaica.
- i. **“Local Currency”** means the currency of Jamaica.
- j. **“Member”** means any of the entities that make up the joint venture/consortium/association comprising the Consultant, and **“Members”** means all of these entities.
- k. **“Party”** means the OUR or the Consultant, as the case may be, and **“Parties”** means both of them.
- l. **“Personnel”** means persons hired by the Consultant or by any Sub-Consultants and assigned to the performance of the Services or any part thereof.

- m. “**SC**” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- n. “**Services**” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- o. “**Sub-Consultants**” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- p. “**Tax Compliance Certificate**” means a document issued by the Ministry with portfolio responsibility for finance in Jamaica to an individual or company as proof that the Jamaican tax liabilities and wage related statutory deductions of that individual or company have been duly paid.
- q. “**Third Party**” means any person or entity other than the OUR, the Consultant or a Sub-Consultant.
- r. “**In writing**” means communicated in written form.

**1.2 Law
Governing
Contract**

This Contract, its meaning and interpretation, and the relationship between the Parties shall be governed by the Applicable Law.

1.3 Language

This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices

1.4.1

Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SC.

1.4.2

A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, as the OUR may approve.

-
- 1.6 Authority of Member in Charge** In case the Consultant consists of a joint venture/ consortium/ association of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the OUR under this Contract, including without limitation the receiving of instructions and payments from the OUR.
- 1.7 Authorized Representatives** Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the OUR or the Consultant may be taken or executed by the officials specified in the SC.
- 1.8 Taxes and Duties** The Consultant, Sub-Consultants, and their Personnel shall pay such taxes, duties, fees, and other impositions levied under the Applicable Law as specified in the SC, the amount of which is deemed to have been included in the Contract Price. For the duration of this Contract, the Consultant shall demonstrate that it has paid all applicable taxes, duties, fees and other impositions as may be levied in Jamaica by the submission to the OUR of a valid Tax Compliance Certificate whenever requested by the OUR.
- 1.9 Fraud and Corruption**
- 1.9.1 Definitions** The OUR requires that its bidders, suppliers, contractors and consultants observe the highest standard of ethics during the procurement and execution of its contracts. In pursuit of this policy, the OUR:
- (a) defines, for the purpose of this provision, the terms set forth below as follows:
- (i) **"corrupt practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of an officer or servant of the OUR in the procurement process or in contract execution;
- (ii) **"fraudulent practice"** means a

misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract, to the detriment of the OUR and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the OUR of the benefits of free and open competition;

(iii) “**collusive practice**” means a scheme or arrangement between two or more bidders, with or without the knowledge of the OUR, designed to establish bid prices at artificial non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract; and

(iv) “**coercive practice**” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;

1.9.2 Commissions and Fees

The OUR requires the Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC. The date the Contract comes into effect is defined as the Effective Date.
- 2.2 Commencement of Services** The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.
- 2.3 Expiration of Contract** Unless terminated earlier pursuant to Clause GC 2.6 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.
- 2.4 Modifications or Variations** Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties.
- 2.5 Force Majeure**
- 2.5.1 Definition** For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract** The failure of a Party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension of Time** Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall not be entitled to payment under the terms of this Contract, except for the OUR's payment liabilities incurred prior to the said suspension of the Contractor's performance of the Services. On resumption of the Consultant's performance of the Services, the OUR's obligation to make payments under the terms of this Contract shall also resume.

2.6 Termination

2.6.1 By the OUR

The OUR may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GC 2.6.1. With the exception of the event referred to in paragraph (f) of this Clause 2.6.1, the OUR shall give not less than thirty (30) days' written notice of termination to the Consultant. The OUR shall give not less than forty-five (45) days' written notice in the case of the event referred to in paragraph (f) of this Clause 2.6.1.

- (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract, within twenty-one (21) days after being notified or within any further period as the OUR may have subsequently approved in writing.
- (b) If the Consultant becomes insolvent or bankrupt.
- (c) If the Consultant, in the judgment of the OUR has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (e) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (f) If the OUR, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

- 2.6.2 By the Consultant**
- The Consultant may terminate this Contract, by not less than thirty (30) days' written notice to the OUR, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GC 2.6.2:
- (a) If the OUR fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within thirty (30) days after receiving written notice from the Consultant that such payment is overdue.
 - (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than forty-five (45) days.
 - (c) If the OUR fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

- 2.6.3 Payment upon Termination**
- Upon termination of this Contract pursuant to Clauses GC 2.6.1 or GC 2.6.2, the OUR shall make the following payments to the Consultant:
- (a) payment pursuant to Clause GC 6 for Services satisfactorily performed prior to the effective date of termination;
 - (b) except in the case of termination pursuant to paragraphs (a) through (c), and (e) of Clause GC 2.6.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract, including, if applicable, the cost of the return travel of the Personnel and their eligible dependents.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standard For Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the OUR, and shall at all times support and safeguard the OUR's legitimate interests in any

dealings with Sub-Consultants or Third Parties.

- 3.2 Conflict of Interests** The Consultant shall hold the OUR's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.
- 3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.** The payment of the Consultant pursuant to Clause GC 6 shall constitute the Consultant's only payment in connection with this Contract or the Services, and the Consultant shall not accept for its own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of its obligations under the Contract, and the Consultant shall use its best efforts to ensure that the Personnel, any Sub-Consultants, and agents of either of them similarly shall not receive any such additional payment.
- 3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project** The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.
- 3.2.3 Prohibition of Conflicting Activities** The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their personnel not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.
- 3.3 Confidentiality** Except with the prior written consent of the OUR, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the performance of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the performance of the Services.

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- 3.4 Consultant's Actions Requiring OUR's Prior Approval** The Consultant shall obtain the OUR's prior approval in writing before taking any of the following actions:
- (a) entering into a subcontract for the performance of any part of the Services;
 - (b) appointing such members of the Personnel not listed by name in Appendix C; and
 - (c) any other action that may be specified in the SC.
- 3.5 Reporting Obligations**
- (a) The Consultant shall submit to the OUR the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
 - (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in the said Appendix B.
- 3.6 Documents Prepared by the Consultant to be the Property of the OUR**
- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the OUR, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the OUR, together with a detailed inventory thereof.
 - (b) The Consultant may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SC.
- 3.7 Accounting, Inspection and Auditing** The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time, charges and costs, and the bases thereof, and (ii) shall periodically permit the OUR or its designated representative and up to two years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the OUR, if so required by the OUR.

4. CONSULTANT'S PERSONNEL

- 4.1 Description of Personnel** The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to perform the Services. The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the performance of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the OUR.
- 4.2 Removal and/or Replacement of Personnel**
- (a) Except as the OUR may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
 - (b) If the OUR finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal act, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the OUR's written request specifying the grounds thereof, replace such person with a person possessing qualifications and experience acceptable to the OUR.
 - (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE OUR

- 5.1 Change in the Applicable Law Related to Taxes and Duties** If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GC 6.2 (a) or (b), as the case may be.
- 5.2 Services and Facilities** The OUR shall make available free of charge to the Consultant the Services and Facilities listed under Appendix F.

6. PAYMENTS TO THE CONSULTANT

- 6.1 Lump-Sum Payment** The total payment due to the Consultant shall not exceed the Contract Price which is an all inclusive fixed lump-sum covering all costs required to perform the Services described in Appendix A. Except as provided in Clause 5.1, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.
- 6.2 Contract Price** (a) The price payable in foreign currency/currencies is set forth in the SC.
- (b) The price payable in local currency is set forth in the SC.
- 6.3 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.4 Terms and Conditions of Payment** Payments will be made to the Consultant according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of an advance payment guarantee for the same amount, and shall be valid for the period stated in the SC. Such guarantee shall be in the form set forth in Appendix G hereto, or in such other form, as the OUR shall have approved in writing. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultant has submitted an invoice to the OUR specifying the amount due.

7. GOOD FAITH

- 7.1 Good Faith** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

8. SETTLEMENT OF DISPUTES

- 8.1 Amicable Settlement** The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

**8.2 Dispute
Resolution**

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

III. Special Conditions of Contract

(Clauses in brackets { } are optional; all notes should be deleted in final text)

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.4	<p>The addresses are:</p> <p style="text-align: center;">Office of Utilities Regulation 3rd Floor, PCJ Resource Centre 36 Trafalgar Road Kingston 10</p> <p>Attention: Facsimile: (876) 929-3635 E-mail:</p> <p>Consultant: _____ _____ Attention: _____ Facsimile: _____ E-mail: _____</p>
{1.6}	<p>{The Member in Charge is [insert name of member]}</p> <p><i>Note: If the Consultant consists of a joint venture/ consortium/ association of more than one entity, the name of the entity whose address is specified in Clause SC 1.6 should be inserted here. If the Consultant consists only of one entity, this Clause SC 1.6 should be deleted from the SC.</i></p>
1.7	<p>The Authorized Representatives are:</p> <p>For the OUR: _____ For the Consultant: _____</p>
1.8	<p>Any income tax, general consumption tax, customs and excise duties or other similar taxes and duties for which the Consultant may be liable under Applicable Law and all wage related statutory deductions in respect of the Consultant's Personnel who are domiciled in Jamaica for which the Consultant is liable under Applicable Law.</p> <p>General Consumption Tax, if applicable, will be withheld by the Procuring Entity as withholding tax payable to the Inland Revenue Department and issue a withholding tax certificate to the Consultant.</p>
2.1	<p>The Effective Date is the date of execution of the Contract.</p>

2.2	The date for the commencement of Services is <i>[insert date]</i> .
2.3	The Contract shall expire [] after the Effective Date, that is <i>[insert date]</i> .
3.4 (c)	The other actions are: Assigning the Contract.
3.6 (b)	The Consultant shall not use these documents and software for purposes unrelated to this Contract without the prior written approval of the OUR.
6.2(a)	The amount in foreign currency or currencies is <i>[insert amount]</i> .
6.2(b)	The amount in local currency is <i>[insert amount]</i> .
6.4	<p>The accounts are: [for foreign currency or currencies: <i>[insert account]</i> for local currency: <i>[insert account]</i></p> <p>Payments shall be made according to the following schedule:</p> <p>(a) Thirty percent (30%) of the Contract Price shall be paid on the submission of the Inception Report.</p> <p>(b) Fifteen percent (15%) of the Contract Price shall be paid on the submission of First Interim Report.</p> <p>(c) Fifteen percent (15%) of the Contract Price shall be paid on the submission of Second Interim Report.</p> <p>(d) Fifteen percent (15%) of the Contract Price shall be paid on the submission of the Draft Final Report.</p> <p>(e) Twenty-five percent (25%) of the Contract Price shall be paid on satisfactory completion of the Final Report.</p>
8.2	<p>Dispute Settlement - Arbitration</p> <p>(a) In the event of the failure of the Parties to amicably settle any dispute as to matters arising pursuant to this Contract, then the matter shall be submitted by either party to arbitration before a single arbitrator. The arbitrator shall be selected and appointed with the mutual agreement of the Parties. In the event that the Parties fail to agree on</p>

	<p>the appointment of an arbitrator within thirty (30) days after receipt of notice by one Party from the other that the matter be submitted to arbitration, then the arbitrator shall be appointed by the President of the Jamaican Bar Association.</p> <p>(b) The seat of the arbitration shall be Jamaica and disputes shall be settled in accordance with the Arbitration Act of Jamaica. Rules of procedure to be adopted shall be those as published by the United Nations Commission on International Trade Law (UNCITRAL) <i>Arbitration Rules of 1976</i>.</p> <p>(c) During the dispute settlement process, the Contractor shall continue to perform the Services in accordance with this Contract as far as is possible. Failure to do so shall be considered a breach of contract.</p>
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IV. Appendices

APPENDIX A - DESCRIPTION OF SERVICES

APPENDIX B - REPORTING REQUIREMENTS

APPENDIX C - KEY PERSONNEL AND SUB-CONSULTANTS

APPENDIX D - BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY

APPENDIX E - BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

APPENDIX F - SERVICES AND FACILITIES PROVIDED BY THE OUR

When the Consultant is performing the Services at the OUR offices, the OUR shall provide:

- office accommodation
- internet access
- photocopying
- printing
- facsimile
- local telephone calls

APPENDIX G - FORM OF ADVANCE PAYMENTS GUARANTEE

Not Used