

## PROJECT PROFILE

### I. BASIC INFORMATION ABOUT THE PROJECT

<b>Country:</b>	The Commonwealth of The Bahamas		
<b>Name of Project:</b>	Legal and Regulatory Framework Update (BH-T1017)		
<b>Project Team:</b>	Evan Cayetano (WSA/CJA) Team Leader; Yvon Mellinger (INE/WSA) Alternate Team Leader; Colin Forsythe (TSP/CBA); Camille Davis-Thompson (CCB/CBA); Catalina Gallego (INE/WSA).		
<b>Beneficiary:</b>	Commonwealth of The Bahamas; Water and Sewerage Corporation; and the water and sanitation sector of The Bahamas.		
<b>Executing Agency:</b>	Inter-American Development Bank, through its Water and Sanitation Division (INE/WSA)		
<b>Financing Plan:</b>	IDB (INWAP):	US\$250,000	
	Local Counterpart:	50,000	
	Total	US\$300,000	
<b>Technical and Basic Responsibility</b>	INE/WSA		
<b>Duration:</b>	Execution period	9 months	
	Disbursement period	12 months	
<b>Tentative dates</b>	Approval date: April 2009		

### II. BACKGROUND AND JUSTIFICATION

#### A. Background

- 2.1 The existing legal framework governing groundwater abstraction in The Bahamas is not sufficient to support proper groundwater regulation and management, leading to increasing stress on the country's water resources. Additionally, the current legal framework does not provide for transparent costs recovery for the operation, maintenance (OPEX) and capital expenditure (CAPEX) of the Water and Sewerage Corporation (WSC), the state-owned company and the main water and sanitation service provider in The Bahamas. These issues are causing a downward spiral in the quality and efficiency of the services provided by the WSC, which has consequently become a drain on Government financing.

- 2.2 In April 2003, the Government of the Commonwealth of The Bahamas (GOB), with financing under Loan 1112/OC-BH, contracted Water Management Consultants in association with Crown Agents and Holowesco & Company to develop a strategy for a regulatory framework for the integrated management of groundwater and control of pollution. This study was completed and remains the latest and most comprehensive review on this subject matter to date. However, the recommendations were never implemented.
- 2.3 In The Bahamas, apart from minor amount of rain water harvesting, all water supplies are drawn from groundwater, whether fresh, brackish or saline in quality. Saline and brackish groundwater is treated by reverse osmosis (RO) to provide fresh water. The Environmental Study mentioned above identified eight specific threats to groundwater resources, *i.e.*: overabstraction, physical disturbance, point-source pollution, solid waste disposal, wastewater disposal, septic tanks, abstraction wells, and diffuse pollution. In addition to these anthropogenic threats, the naturally occurring threat to groundwater in The Bahamas is storm surge caused by storms and hurricanes.
- 2.4 The practical solutions to address the negative impacts currently affecting the groundwater consist of good working practice in the construction and operation of wells, good design and good construction of underground storage and septic tanks. These, in turn, require control, enforcement of standards, and public education.
- 2.5 A recent review of the financial situation of the WSC shows increases in water losses as production volumes increase. The margin required to meet OPEX and CAPEX of the utility company has been shrinking over these past years. Exacerbating the situation, the WSC Act 1976 is outdated and allocates to WSC the conflicting roles of the WSC as a utility service provider and a water regulator. Additionally, it is acknowledged that the WSC lacks financial and operational autonomy necessary for an efficient utility.
- 2.6 Whereas this situation has long been recognized by technical staff of the WSC, the political directorates of the GOB have now acknowledged the increasing gravity of the related problems of groundwater pollution and inefficiencies of the WSC operations. In March 2008, the GOB requested Bank's assistance to help address them. An initial support has been provided in the context of the Water Strategic Sector Plan (WSSP) for The Bahamas, which included a review and update of WSC Business Plan as well as a review of the existing tariff structure. These studies have been presented to GOB leading the GOB into recognizing the need for an adequate legal and regulatory framework. Consequently, in January 2009, the GOBH requested Bank's assistance through INWAP for that purpose.

**B. IDB-Netherlands Water Partnership Program (INWAP)**

- 2.7 The general objective of the INWAP is to contribute to the reduction of poverty, long-term economic development, and environmental sustainability through the



implementation of internationally recognized principles of integrated water resources management (IWRM) in Latin America and the Caribbean. In pursuit of this objective, INWAP supports activities that enhance the capacity of Latin American and Caribbean countries to reform their institutional, legal and policy frameworks, among others. INWAP is financed by the Netherlands Ministry of Foreign Affairs and implemented through a trust fund (Fund). These funds are completely untied and therefore consultants from any Bank member country can be hired with INWAP resources. Within the Bank, the Water and Sanitation Division of the Infrastructure and Environment Department (INE/WSA) is technically responsible for the administration of the Fund.

### **C. Justification**

- 2.8 There is a pressing need for regulating and protecting the groundwater resources of The Bahamas. Ignoring the over exploitation and protection will have severe repercussions, such as health issues from water-borne diseases and much greater water costs. The WSC Act has not been updated since 1976 and its provisions are not adequate in the current environment. The current legislations need to be revised in the light of severe environmental, health, and financial issues facing the country in the area of water and sanitation.
- 2.9 There is the need to ensure adequate recovery of costs for operation, maintenance and required capital expenditures to ensure that WSC complies with its mandates. A 2009 review of the financial situation of the WSC confirms that the operational costs of the WSC over the past ten years have been increasing as water production has been increasing; but the volume of water sold remained relatively constant and average price of water sold has been decreasing. A primary reason for increasing cost of water production is the increase use of reverse osmosis water, and this cost has not been tied to tariff increase – indeed, there has been no tariff increase since 1993. The data also shows increases in water losses as production volumes increase. The margin required to meet OPEX and CAPEX of the utility company has therefore been shrinking over these past years. Exacerbating the situation, the WSC Act 1976 is outdated and allocates to WSC the conflicting roles of the WSC as a utility service provider and a water regulator. At the same time, the WSC lacks financial and operational autonomy necessary for an efficient utility.
- 2.10 The request to the INWAP is to assist the GOB, WSC, and the water sector in The Bahamas as a whole in revising the current legislation in light of severe environmental, health, and financial issues facing the country in the area of water and sanitation. This proposed technical cooperation intends to remove the responsibility of protection of groundwater resources from the WSC and assign this to the Integrated Water Resource Management unit within the Ministry of Environment. It also proposes to remove the responsibility of economic regulator from the Cabinet and place it under the auspices of the Public Utilities Commission (PUC), which is an independent regulator of utilities in The Bahamas.

### III. OBJECTIVES AND DESCRIPTION OF THE PROJECT

#### A. Objective

- 3.1 The objective of this Legal and Regulatory Framework Project is to modernize the legislative framework of the water and sanitation sector of The Bahamas and provide for the protection of groundwater resources and economic efficiency of water and sanitation utility providers. The project will contribute to: (i) the environmental sustainability of the water resources of the Bahamas; and (ii) the economic sustainability the Water and Sewerage Corporation (WSC).
- 3.2 The expected outcome is a legislative framework document, including draft bills that would be presented to Cabinet for its approval, passage through Parliament and adoption as law.

#### B. Components of the Project

- 3.3 The Project has two components, which would jointly address the issues. These are: (i) Environment – Water Resources Management, and (ii) Economic Regulations.
- 3.4 ***Component 1: Environment – Water Resources Management.*** This component will address the issues of groundwater abstraction and the control of pollution. It will finance consulting services to review the existing reports on groundwater management and pollution control, plans pertaining to integrated water resources management Plan, and Water and Sanitation Strategic Sector Plan 2009. The consultants will prepare recommendations for required legal and regulatory changes including definition of the agency responsible for enforcement and the corresponding resources required, and fee structure for water resources management. A phased timetable for the implementation of the legislation including temporary measures is also to be prepared.
- 3.5 ***Component 2: Economic Regulations.*** This component will address the need for an independent economic regulator for the water and sanitation sector. It will finance the consulting services to review the WSC Corporate Business Plan, audited financial statements, and its cost of service. The consultants will prepare recommendations for fee structure for the Public Utilities Commission (PUC) as the regulator of the water and sanitation service providers and propose a process for the PUC to regulate the water sector – pricing, and quality of the service. Recommendations for transition period for the full implementation of the tariff and fee structures and a phased implementation of the legislation including temporary measures to be adopted will also be prepared.

### IV. COSTS AND FINANCING

- 4.1 This TC will finance the contracting of a consulting firm with wide experience in the water sector, environmental law and legislation drafting for a total of



US\$250,000 to carry out this TC. Funding will be provided on a non-reimbursable basis by the INWAP. Local counterpart of US\$50,000 will be provided by the WSC/GOB for local staff time and related expenses.

**Cost Table (US\$)**

Component	IDB (INWAP)	Local	Total
Component 1: Environment – Water Resources Management	\$100,000	\$25,000	\$125,000
Component 2: Economic Regulation	100,000	25,000	125,000
Contingency	50,000		50,000
TOTAL	\$250,000	\$50,000	\$300,000

## **V. EXECUTION OF THE PROJECT**

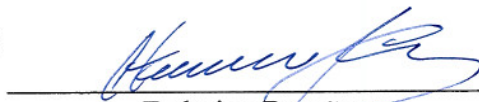
- 5.1 This TC will be executed by the IDB (INE/WSA). A consulting firm will be hired to implement the TC. INE/WSA will be responsible for contracting the consulting firm and monitoring of the implementation of the Project.
- 5.2 This TC will be implemented within an eight (8) month period; the disbursement period will be twelve (12) months.
- 5.3 The procurement of the consulting firm will be realized according to IDB policies defined in document GN-2350-7.

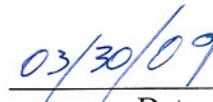
## **VI. SOCIAL AND ENVIRONMENTAL ASPECTS**

- 6.1 This technical cooperation has positive social and environmental effects as it will define legislation which will improve groundwater pollution control regulations as well as operations efficiency by improving cost recovery. The operation does not have either negative environmental nor social aspects, because only studies and legislation related to groundwater pollution control and cost recovery will be elaborated.
- 6.2 The classification and evaluation of the risk according to the criteria set out in "screening and safeguard" of ESR is C.

## **VII. APPROVAL**

Approved:

  
\_\_\_\_\_  
Federico Basaños  
Chief  
Water and Sanitation Division  
INE/WSA

  
\_\_\_\_\_  
Date



**MINISTRY OF FINANCE**

P.O. BOX N-3017  
NASSAU, THE BAHAMAS  
FAX: (242) 327-1618/ 327-1620  
TEL: (242) 327-1530

*No. FIN(201.10)...*  
*In replying please*  
*quote this number.*

14<sup>th</sup> January 2009

Mr. Oscar E. Spencer  
Inter-American Development Bank (IDB)  
IDB House  
Bay Street  
P.O. Box N-3743  
Nassau, Bahamas

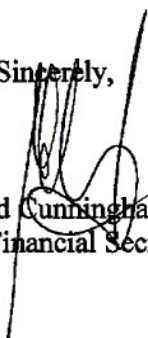
Dear Mr. Spencer,

**Re: Inter-American Development Bank's AquaFund**

Reference is made to the meeting of 23/10/08 between the IDB Country Strategy Dialogue mission, the Ministry of Finance and WSC. It was concluded that part of the Bank support for the Water and Sanitation Sector could involve accessing the AquaFund for the purpose of strengthening the legal and regulatory framework.

In this regard, please accept this as an official request by the Government of The Bahamas to access the IDB's AquaFund. Please also note that the completed Expression of Interest will follow.

Sincerely,

  
Ehurd Cunningham  
Acting Financial Secretary

