

## **IMPLEMENTATION OF A NEW INSTITUTIONAL AND LEGAL FRAMEWORK FOR THE WATER SUPPLY AND SANITATION SECTOR**

**(TC-99-01-00-5)**

### **EXECUTIVE SUMMARY**

<b>Executing agency:</b>	Technical Secretariat of the Office of the President (STP) through the Executing Unit for Reform of the Water Supply and Sanitation Sector (UEAPS).
<b>Beneficiary:</b>	Dominican Republic.
<b>Objectives:</b>	The purpose of this operation is to implement a new institutional and legal framework for the nation's water supply and sanitation sector. Establishment of the oversight and regulatory authorities under this operation will complement the actions being taken under loan DR-0123 "Consolidation of Water Supply and Sanitation Reform", to provide support for reform at the operator level.
<b>Description:</b>	<p>In pursuit of this objective, this operation would provide technical cooperation financing for three components: (i) preparatory actions for the entry into force of a new institutional framework for the water supply and sanitation sector (US\$400,000); (ii) establishment of the regulatory framework and regulating agency (US\$700,000); (iii) establishment of the normative framework and oversight agency (US\$400,000).</p> <p>The first component includes reform promotion activities, support for regulatory implementation of the framework law, and studies on rate and investment policies. The second component consists of activities to support the operations of the regulatory agency through studies, technical assistance, and training. The third component involves activities to support the oversight agency's operations, through studies, technical assistance, and training. The execution period will be two years and the disbursement period, two-and-a-half years.</p>
<b>Environmental and social review:</b>	The overall social and environmental impact of sector reform will be highly positive. The new institutional framework and organizational modernization of the operators will promote better quality service, wider coverage, and a reduction in water pollution.

<b>Financing:</b>	Modality: grant	
	Beneficiary:	US\$ 720,000
	MIF:	US\$1,080,000 (TC window)
	Total:	US\$1,800,000

**Special contractual clauses:** The conditions precedent to the first disbursement for Component 1 (preparatory activities for implementation of the new institutional framework for the water supply and sanitation sector) will be the standard Bank conditions.

Entry into force of the framework law and fulfillment of the conditions indicated in the preceding paragraph will be conditions precedent to the disbursement of components 2 (establishment of the regulatory agency) and 3 (establishment of the oversight agency).

**Exceptions to Bank policy:** None.

## **I. COUNTRY ELIGIBILITY**

- 1.1 The Donors Committee declared the Dominican Republic eligible for all financing modalities at its meeting on September 12, 1994.

## **II. BACKGROUND**

- 2.1 Water supply and sanitation services in the Dominican Republic are deficient in terms of coverage, quality, and efficiency. The central government has dedicated a substantial volume of resources to the sector, especially in the 1990s when investments in water supply and sanitation accounted for between the 1.6% and 1.8% of GDP – among the highest rates in the region. According to the figures for 1996, however, the coverage of these services is among the region's lowest: only 41% of the population have household connections and about 11%, sewerage connections. In rural areas only about 56% of all households have access to the formal water supply infrastructure. Wastewater treatment is virtually nonexistent.
- 2.2 The main players in the water supply and sanitation sector are the country's three service providers: the Water Supply and Sewerage Corporation of Santa Domingo (CAASD), serving the capital; the Water Supply and Sewerage Corporation of Santiago (CORAASAN), serving the country's second largest city; and the National Water Supply and Sewerage Board (INAPA), serving the rest of the country. These operators were set up as autonomous public entities. Nonetheless, they depend on transfers from the central government to finance their investments and even part of their operating costs, and they have made little effort to achieve financial self-sufficiency. The situation is particularly critical for INAPA and CAASD, whose operating costs exceed billings and whose collection rates are below 65%.
- 2.3 The sector's legal and institutional framework is ambiguous and not conducive to efficient, high-quality service. INAPA was established as a water and sanitation oversight body, with policy-making and service delivery functions. CAASD and CORAASAN were created subsequently to perform the same functions in their respective jurisdictions. Consequently, there are no independent bodies with responsibility for setting policies and regulating the sector.
- 2.4 Fundamental changes are required to separate the functions of service delivery, regulation, and policy-making in the sector. This is the only way to break the cycle of insufficient collection to cover the cost of good service, resistance to paying for bad service, the lack of incentives and resources for companies to invest and improve their efficiency, poor maintenance of the infrastructure, and the exclusion of marginal neighborhoods from the service network.
- 2.5 The movement toward sector reform gained momentum during the First Congress of the Dominican Association of Sanitary Engineers, held in May 1996, when professionals from the sector (most of whom work for the operators) declared

publicly that a profound reform was necessary. The need for progress in that direction occupies a prominent place on the agenda of the government that took office in September 1996. A Presidential Commission for Reform and Modernization of the State (CPRME), reporting directly to the executive branch, was set up that same month to manage the process of State reform.

- 2.6 In November 1997, an analysis of the water supply and sanitation sector, prepared by the Interinstitutional Technical Committee (CTI) and the CPRME, with support from the Pan American Health Organization (PAHO), the Inter-American Development Bank (IDB), and the United Nations Children's Fund (UNICEF), proposed basic guidelines for sector reform, including:
  - a. the establishment of a single body for setting national policies for the sector;
  - b. the establishment of an independent body responsible for regulatory functions;
  - c. the restructuring of water supply and sanitation service providers (APS), to ensure their financial and administrative autonomy and thus promote the delivery of efficient, high-quality service;
  - d. the promotion of community and user participation, particularly with respect to the rural service systems.
- 2.7 As a result of this progress, there is now a broad consensus among government decision-makers and operators about the implications of the reform process, which include in particular the full participation of private initiative. In order for this participation to take place, a suitable institutional and legal framework is required.
- 2.8 With support from the IDB, a technical cooperation operation was initiated with Spanish funds to develop an institutional structure and regulatory framework for the sector in addition to the modifications in the corporate structure of the APS service providers. A proposal for the legal framework and the corresponding draft legislation to encourage the involvement of private enterprise have also been prepared and will be used by the government to prepare its final framework law proposal for submission to congress.
- 2.9 The loan entitled "Consolidation of water supply and sanitation reform" (DR-0123) for approximately US\$60 million, including investments, will contribute to sector reform at the operator level. Bank financing would be made available in three packages of similar amounts, subject to eligibility conditions that would include the following: (a) for the first package, signature of provisional contracts between the operating companies and the government; (b) for the second package, enactment of the new framework law by the Congress; and (c) for the third package, establishment of the institutional framework for the sector and placement of the oversight and regulatory agencies in operation.

### **III. DESCRIPTION OF THE PROJECT**

#### **A. Objectives**

- 3.1 The objective of this operation is to complement loan DR-0123, "Consolidation of water supply and sanitation reform", through support for the introduction of a new institutional and legal framework for the sector at the national level. Activities related to the placement in operation of the oversight and regulatory agencies will supplement the actions being taken under the loan in support of reform at the operator level.

#### **B. Description**

- 3.2 In pursuit of these objectives, the operation consists of the components described below.

##### **1. Activities to prepare for the introduction of a new institutional framework for the water supply and sanitation sector (US\$400,000)**

- 3.3 This component consists of activities prior to approval of the framework law by Congress to support: (a) the organization of events to present the reform proposal to the sector, including a seminar analyzing experiences in other countries and a program to promote public awareness about the cost of producing drinking water and treating wastewater, the need to pay for services, and household metering; (b) the preparation of provisional contracts for corporations participating in the loan; (c) the development of implementing regulations for the framework law; and (d) studies on rate and investment policies.

##### **2. Establishment of the regulatory agency (US\$700,000)**

- 3.4 This component would support basic technical assistance activities, studies, and training needed for the regulatory agency to implement the new national regulatory framework. It consists of the following activities:

##### **a. Technical assistance (US\$250,000)**

- 3.5 Financing would be provided for specialized advisory services on required for consolidation of the regulatory agency: technical support in organizing and preparing the institution for supervision of water supply and sanitation operators and other functions assigned to it under the framework law.
- 3.6 Technical assistance for introduction of the regulatory framework will include: (a) the establishment of rules and procedures to be applied by the regulatory agency, covering the conditions that must be met by a company to become a water supply and sanitation operator, the issuance of operating licenses, quality

parameters for water supply and sewerage, and sanctions to be imposed on operators in breach of the established provisions and parameters established in the regulatory framework; (b) development of a procedures manual, including the internal procedures of the regulatory agency, operating manuals, and salary structure; (c) studies to provide basic information for the supervision of operators.

**b. Training (US\$200,000)**

- 3.7 The professional staff of the regulatory agency will be trained in all areas necessary for the performance of regulatory functions, including business operations, operating efficiency, water and service quality, wastewater disposal, financial matters and rates, economic and financial efficiency, and private sector participation in water supply. Professional training programs and internships will also be provided for regulatory agency personnel in countries where there are successful models for regulation of the water supply and sanitation sector.

**c. Priority studies (US\$250,000)**

- 3.8 The studies necessary for the operations of the regulatory agency would be carried out, most notably on the following subjects: rate scales and crossed subsidies based on a contingent evaluation analysis; update of technical standards and all provisions applied to the operators to ensure quality service; and support for the design of provisions concerning user rights and duties, with user participation at public hearings.

**3. Establishment of the oversight agency (US\$480,000)**

- 3.9 The aim of this component is to provide support in the form of technical assistance, training, and studies, for the establishment and institutional strengthening of the oversight agency in the areas of planning, sector policy formulation, public consultation in these areas, and the development of strategies for the formal introduction of services in marginal sectors.

**a. Technical assistance (US\$340,000)**

- 3.10 Financing will be provided for the specialized advisory services required to place the oversight agency in operation, with technical support to organize and prepare the institution for the functions of sector policy guideline formulation, strategic planning, technical assistance, and other functions assigned to it by the framework law.
- 3.11 Technical assistance for the establishment and placement in operation of the oversight agency will include: (a) design and introduction of a national water information system, with data on level of service, quality indicators, coverage and continuity of service, and management indicators; (b) establishment of the rules and procedures to be applied by the oversight agency; (c) development of a procedures

manual, including internal procedures for the agency, operating manuals, and salary structure; (d) establishment of policy-making, financing, and technical assistance mechanisms for the water supply and sanitation sector.

**b. Training (US\$70,000)**

- 3.12 Professional staff in the oversight agency will be trained in all areas essential to the performance of its functions, including: (a) sector planning; (b) financing and subsidization policies; (c) strategic planning, including policy formulation in the areas of investment, financing, rate systems, and subsidies; and (d) various forms of private sector participation and the corresponding contract types. Oversight agency officials would also benefit from professional training programs and internships in countries with successful sector policy and private sector participation models.

**c. Priority studies (US\$70,000)**

- 3.13 Studies required for the oversight agency's operations will also be conducted, and in particular on a plan of priorities for investment in the sector and a strategy for expanding water and sanitation services to marginal sectors.

#### **IV. PROGRAM EXECUTION**

- 4.1 This program would be executed over a period of two years by the Technical Secretariat of the Office of the President (STP) through the Executing Unit for Reform in the Water Supply and Sanitation Sector (UEAPS). The disbursement period would be two-and-a-half years. Once the regulatory and oversight agencies for the sector have been established they will gradually assume the functions of the UEAPS for execution of this operation.
- 4.2 The operation would be executed in two stages. The first, consisting of component 1, would start once the government has met the standard Bank conditions. The second stage, i.e. components 2 and 3, would start once the government has presented evidence to the Bank that the framework law has entered into force. The final terms of reference for the operation's consultancy contracts must be submitted by the executing agency to, and approved by, the Bank.

#### **V. COST AND FINANCING**

- 5.1 The preliminary estimate of costs to be financed with nonreimbursable resources from the Multilateral Investment Fund (MIF) are shown in the table below. A detailed budget can be found in the project technical files. These resources will be used to finance the studies and technical assistance required for the regulatory and

oversight agencies to begin operations, as well as the training activities planned under this operation.

<b>PROJECT EXECUTION BUDGET</b>			
<b>CATEGORIES</b>	<b>MIF</b>	<b>LOCAL</b>	<b>TOTAL</b>
1. Preparatory activities	<b>240,000</b>	<b>160,000</b>	<b>400,000</b>
2. Startup of the regulatory agency	<b>420,000</b>	<b>280,000</b>	<b>700,000</b>
a. technical assistance	150,000	100,000	250,000
b. training	120,000	80,000	200,000
c. priority studies	150,000	100,000	250,000
3. Startup of the oversight agency	<b>290,000</b>	<b>190,000</b>	<b>480,000</b>
a. technical assistance	220,000	120,000	340,000
b. training	70,000		70,000
c. priority studies		70,000	70,000
<b>SUBTOTAL</b>	<b>950,000</b>	<b>630,000</b>	<b>1,580,000</b>
Contingencies	130,000	90,000	220,000
<b>TOTAL</b>	<b>1,080,000</b>	<b>720,000</b>	<b>1,800,00</b>

## **VI. JUSTIFICATION AND RISKS**

- 6.1 Eligibility criteria. The proposal is consistent with the general objectives of the MIF, in that it would attempt to strengthen public sector service providers to facilitate private sector participation as a means of accelerating economic and social growth in a developing country. It is also consistent with the criteria established in Article 3(2)(c) and (d) of the Agreement Establishing the MIF, which provides that resources from the Technical Cooperation Facility shall be used for advisory services to support the design and implementation of institutional plans and programs to promote private sector participation.
- 6.2 This operation is also consistent with Bank activities to consolidate the reform process, and in particular technical cooperation provided to support reform and consolidation of reform in the water supply and sanitation sector (DR-0123).
- 6.3 The main risk of this operation stems from the need for a broad consensus among the country's leading political groups in support of sector reform. The Congress, which must approve the legislation necessary for reform, is controlled by the opposition party, and presidential elections are to be held in June 2000.
- 6.4 To mitigate this risk, the STP, with technical cooperation support from the reform operation, will organize events to build consensus among key power groups, including members of Parliament and political party leaders. The structure of loan operation DR-0123 in three stages, with eligibility conditions linked to progress in



implementing the reform, is designed to foster continuity. Accordingly, emergency works and institutional development activities will be financed to produce visible effects in the short term. The largest disbursements for investment in infrastructure rehabilitation and expansion will be subject to the approval and entry into force of the new legal framework for the sector.

## **VII. EVALUATION OF THE RESULTS**

- 7.1 The STP, through the UEAPS, will prepare an evaluation report at the end of the technical cooperation disbursement period. This report will determine the extent to which the planned activities have been completed and the objective of promoting sector reform has been fulfilled. This progress will be measured in terms of specific benchmarks: (a) submission of the framework law to the Congress; (b) entry into force of the framework law; and most importantly, (c) effective operation of the oversight and regulatory agencies for the sector. Operation means effective execution of their main functions with the characteristics of efficiency and independence incorporated into their design.

**LOGICAL FRAMEWORK**  
**IMPLEMENTATION OF A NEW INSTITUTIONAL AND LEGAL FRAMEWORK FOR THE WATER SUPPLY AND SANITATION**  
**SECTOR**  
**(TC-99-01-00-5)**

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
Water supply and sanitation services functioning effectively throughout the country	<ul style="list-style-type: none"> <li>• Conformity with the provisions of national policy concerning: <ul style="list-style-type: none"> <li>- indices for water supply and sewerage coverage</li> <li>- quality of APS services (quality of drinking water, pressure, continuity of service, customer service, wastewater treatment)</li> </ul> </li> <li>• APS services are provided efficiently, i.e. at minimum cost</li> <li>• APS services are financially sustainable</li> </ul>	Reports from the regulatory authority for the subsector	
<b>GOALS</b> Institutional and legal framework for the sector reform	Oversight and regulatory agencies performing the functions established in the proposed legal framework	Reports from the Technical Secretariat of the Office of the President	<ul style="list-style-type: none"> <li>• APS companies in Santo Domingo, Santiago, and Moca are rehabilitated as planned</li> <li>• The number of financially autonomous APS systems operating on a self-sustaining basis increases as planned</li> <li>• The number of rural APS systems operating with community responsibility in the O&amp;M increases as planned</li> </ul>
<b>COMPONENTS</b> Promotion of the program for reform of the water supply and sanitation sector	Activities to promote and disseminate information on the reform carried out in accordance with the program	STP reports	

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
Support for the establishment of regulatory authority for the subsector	<ul style="list-style-type: none"><li>• Regulations for the framework law drafted</li><li>• Procedural and operational manuals for the regulatory authority completed</li><li>• Basic information on the operators prepared</li><li>• Training program for personnel conducted</li><li>• Priority studies completed</li></ul>	STP documents and reports	
Support for the establishment of oversight authority for the subsector	<ul style="list-style-type: none"><li>• Final design of the oversight authority completed</li><li>• Personnel training program conducted</li><li>• National water information system installed</li><li>• Strategy for service in marginal sectors formulated</li></ul>	STP documents and reports	

## PROPOSED RESOLUTION

### REPUBLICA DOMINICANA. NON-REIMBURSABLE TECHNICAL COOPERATION FOR THE ESTABLISHMENT OF THE NEW INSTITUTIONAL AND LEGAL FRAMEWORK OF THE POTABLE WATER AND SANITATION SECTOR

The Donors Committee of the Multilateral Investment Fund

#### RESOLVES:

1. That the President of the Inter-American Development Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the República Dominicana and to adopt such measures as may be pertinent for the execution of the project memorandum referred to in Document MIF/AT-\_\_\_\_\_, with respect to a nonreimbursable technical cooperation for the establishment of the new institutional and legal framework of the potable water and sanitation sector.
2. That up to the sum of US\$1,080,000, or its equivalent in other convertible currencies is authorized for the purpose of this resolution, chargeable to the resources of the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above-mentioned sum is to be provided on a non-reimbursable basis.