

**STRENGTHENING OF THE WATER AND SANITATION
REGULATORY AGENCY OF THE PROVINCE OF
BUENOS AIRES, ARGENTINA**

(TC-97-04-05-9)

EXECUTIVE SUMMARY

EXECUTING AGENCY:	Ministry of Public Works and Services (MOSP) of the Province of Buenos Aires
BENEFICIARY:	Water and Sanitation Regulatory Agency of Buenos Aires (ORBAS)
OBJECTIVES:	To support the establishment and startup of the regulatory agency for the water and sanitation sector in the province of Buenos Aires and contribute to the transfer of regulatory know-how and experience in the sector in Argentina. The program provides for the use of MIF resources to carry out the following activities: (i) establishment and startup of ORBAS, including the development of its organizational structure, staff training, and the design of information and customer participation systems; (ii) strengthening of the regulatory framework, including the development of a rate system and service quality control procedures; and (iii) workshop to share experiences in regulating the sanitation sector in Argentina.
FINANCING:	Modality: Grant (Window I) Recipient: US\$1,000,000 MIF: <u>US\$1,000,000</u> Total: US\$2,000,000
IMPLEMENTATION SCHEDULE:	Execution period: 24 months Last disbursement: 30 months
EXCEPTIONS TO BANK POLICY	None.
SPECIAL CONTRACTUAL CONDITIONS:	Presentation of the final terms of reference and the program plan of action prior to the first disbursement (paragraph 4.3).

I. COUNTRY ELIGIBILITY

- 1.1 On November 30, 1993, the Donors Committee declared Argentina eligible for all modalities of financing under the Multilateral Investment Fund (MIF).

II. BACKGROUND

- 2.1 Argentina's water supply and sanitation sector has been going through a process of institutional transformation since 1980, when the services delivered by Obras Sanitarias de la Nación [National Sanitation Works] (OSN) were decentralized to the provinces. This process intensified beginning in 1989, when the national government began a stage of policy and administrative reforms that affected all economic sectors, including public utilities. In this context, the State Reform (23,696) and Economic Emergency (23,697) Acts laid the legal foundation for private-sector participation in the delivery of these services.
- 2.2 The policy aimed at increasing private-sector participation in the water supply and sanitation sector has led to the signature of concession contracts with private companies in greater Buenos Aires (1993) and in the provinces of Corrientes (1991), Santa Fe (1995), Tucumán (1995), Formosa (1996), Santiago del Estero (1997), and Córdoba (1997). Similar transfer processes are being prepared in the provinces of Mendoza, Salta, and Buenos Aires. Along with these actions, regulatory agencies have been set up in those provinces that have concessioned out service delivery.
- 2.3 As part of this process, on September 11, 1996, the Government of the Province of Buenos Aires enacted Law 11,820, under which: (i) the provincial Executive Branch was authorized to concession out, through competitive bidding and for a period of up to 30 years, the water supply and sewerage systems delivered directly by the province through the Administración General de Obras Sanitarias [General Sanitation Works Administration] (AGOSBA); (ii) the regulatory framework for water supply and sanitation service delivery in the province was approved; and (iii) provision was made for the establishment of the Organismo Regulador Bonaerense de Aguas y Saneamiento [Buenos Aires Water and Sanitation Regulatory Agency] (ORBAS).
- 2.4 Currently, AGOSBA provides services to 2.1 million inhabitants in the province, achieving 60% coverage in water supply and 40% in

sewerage in its jurisdiction. ^{1/} In addition to AGOSBA, which covers approximately 26% of the province's urban population, services are also provided by: (i) Aguas Argentinas, which covers 43% of the population (surrounding the federal capital); (ii) the municipalities (27%); and (iii) cooperatives (3%).

- 2.5 The above-mentioned law gives ORBAS the capacity to act as the authority responsible for ensuring compliance with the regulatory framework, in the form of an entity constituted under public law, with legal status and its own assets. ORBAS will be connected to the Province's Executive Branch through the Ministry of Public Works and Services (MOSP).
- 2.6 The general objectives of ORBAS are to: (i) exert control over sanitation services, ensuring compliance with the regulatory framework in terms of service quality, continuity, safety, and expansion; (ii) guarantee rational use of the resources and protection of public health and the environment throughout the province; (iii) propose policies and rate schedules to the Executive Branch, for the protection of community interests, and review proposals submitted by service delivery companies; (iv) prepare and propose laws and regulations; (v) oversee the security of special hydraulic systems and dams used for water supply; and (vi) perform actions initiated by the provincial government related to the sanitation systems in its territory.
- 2.7 The Bank has been supporting the State's regulatory function through technical-cooperation operations similar to the one proposed herein. MIF resources were granted for operations to strengthen the regulatory frameworks and regulatory agencies of the provinces of Mendoza and Santa Fe in 1994 and 1997, respectively. Strengthening the regulatory framework of Mendoza is practically completed, with results deemed on a preliminary basis to be satisfactory. The Santa Fe operation is awaiting approval by the provincial legislature prior to the start of execution.

^{1/} The province of Buenos Aires currently has a population of about 13.5 million, 63% of whom live in the so-called Agglomerado Bonaerense - the area bordering the federal capital - and 11% of whom are distributed among the cities of La Plata, Mar del Plata, and Bahía Blanca. The remaining 26% live in the province's interior.

III. THE PROJECT

A. Objective

- 3.1 The main objective of the proposed program is to support the establishment, startup, and strengthening of ORBAS. The requested support falls within the context of the Province of Buenos Aires's water supply and sewerage sector reform process, which seeks to encourage private-sector participation and set up an appropriate sector regulatory system. The specific objectives of the reform are to: (i) promote efficient service delivery; (ii) help the pertinent entities become self-sustaining; (iii) safeguard service quality; (iv) promote expanded coverage; (v) create incentives for the rational and efficient use of water; (vi) protect public health and the environment; and (vii) adequately protect users' rights.
- 3.2 Taking into account that two similar operations have been approved for the provinces of Mendoza and Santa Fe, another objective which is deemed essential is to synthesize and disseminate the experiences gained, not only in the two provinces, but also in other processes currently under way in the country. These demonstration and information-transfer efforts, aimed at provinces considering carrying out similar projects in the future, will center on holding a seminar-workshop on sector regulation, and would be an integral part of the proposed financing.

B. Project components

- 3.3 In order to achieve the project's objective, MIF resources will be used to carry out the following activities:
1. Structure and startup of ORBAS
- a. Institutional and organizational structure (US\$130,000)
- 3.4 The organizational and functional structure of ORBAS will be designed and implemented along with administrative and operating procedures; the administration model to be adopted will be selected, including strategies for decentralization and control of the regulatory function; the operating policy for quality control will be designed and implemented; the personnel policy at the executive, professional, technical, and administrative levels will be designed and implemented, and staffing, functions, and responsibilities defined; the policy manual will be drafted together with basic principles that will govern the agency's activities; the standards and procedures manual will be prepared; a financial plan and the first budget for the start of its activities will be prepared; the regulatory decree to be submitted to the Executive Branch as a proposed organizational and functional structure will be drafted. The expected result is the design and

startup of an agency that will be able to perform its functions with flexibility, efficiently, and effectively.

b. Staff training (US\$172,000)

- 3.5 A staff training program will be designed and implemented; seminars and workshops to discuss and clarify the role of ORBAS, its mission, objectives, and priorities, will be conducted; staff will be trained in the operation of the models and instruments developed to simulate and evaluate the planned features of the regulatory framework as well as unforeseen circumstances; staff will be strengthened in the area of economic regulation, incentives, subsidies, and service quality control; through specialized courses on regulation and through visits to other, national and foreign, regulatory agencies, staff will be trained in specific areas of regulatory management and concession monitoring; an ongoing training and development plan will be prepared. The expected result is a professional and technical team trained in its functions in accordance with modern regulatory practices.

c. Information systems (US\$247,500)

- 3.6 A suitable information system will be designed and implemented to assist ORBAS in the performance of its functions. Studies will be conducted to identify, select, and define administrative management indicators, service rate control, and fulfillment of contractual goals for the various providers; the type and level of data unbundling needed for decision-making will be identified and the management information system designed; the information technology and communications architecture will be identified; the equipment ORBAS requires for areas related to information systems will be financed. The plan is to provide the agency with an information system that will facilitate organized data storage, the use of relevant information, the prediction of future situations, and timely decision-making.

d. Community participation and customer service (US\$72,000)

- 3.7 A plan for public information, community relations and customer service complaints will be designed; a communication, education, and awareness policy will be designed and implemented; the public information system for disseminating ORBAS decisions will be identified; a system for regular publication of information on the quality of water supplied by service providers and other data of interest to the community will be established; regulations on customer rights and duties will be drafted; procedures will be developed for receiving and processing complaints; methodologies will be prepared for developing conflict resolution and mediation systems. The expected result is the implementation of a flexible and transparent system for providing information to customers, processing complaints, and resolving disputes.

2. Strengthening of the legal and regulatory framework

a. Policies and rates (US\$114,000)

- 3.8 A rate policy will be developed and implemented; economic and financial models will be designed to calculate the rate structure and assess its efficiency in terms of promoting rational use and quantifying implicit subsidies; specific procedures will be identified to analyze the impact of internal price changes, devaluations, and other external effects on the service cost structure; models and procedures for reviewing rates and preparing economic and financial projections will be designed that will make it possible to perform sensitivity analyses based on various assumptions. The goal is to improve ORBAS's capacity to assess on a timely basis possible variations in cost factors, to analyze the economic and financial impact of such variations, and to make decisions with transparency and conviction.

b. Service quality control and adjustment of other policies
(US\$64,000)

- 3.9 Instruments and systems required to monitor and control service quality and verify compliance with expansion goals established in the concession contract will be proposed and designed; relevant indicators for monitoring service quality will be identified and selected; methodology will be established for monitoring legally required technical parameters, such as water pressure, potability, and effluent treatment; the scope and level of coordination needed to monitor environmental requirements to be applied by ORBAS will be defined, together with the actions for which provincial and national environmental authorities are responsible; the guidelines and procedures will be reviewed and adjusted as necessary to reconcile the environmental authority of these agencies. The result of these efforts will be a quality control system to properly monitor the services supplied and guarantee public health and environmental protection.

c. Regulation of other service providers (US\$60,500)

- 3.10 A program will be developed to bring services delivered directly by municipalities, cooperatives, and municipal concessionaires into line; the authority of ORBAS with respect to such services will be clarified; a diagnostic study of the current quality of the services delivered by such providers throughout the province will be conducted; the extent to which the current regulatory framework needs to be strengthened will be defined and the ways to adjust it identified; gradual compliance goals will be established; model contracts and agreements will be designed to formalize service delivery mechanisms. A program to bring small service providers into line with existing regulations will be developed, to ensure that such services meet efficiency, quality, continuity, and reasonable rate standards.

3. Workshop to share experiences (US\$50,000)

- 3.11 A seminar-workshop will be prepared and held to discuss and share experiences of the sector's existing regulatory agencies in Argentina. Regulatory agencies in the region that are receiving MIF support will participate.

IV. EXECUTION

- 4.1 The program will be executed by the Ministry of Public Works and Services (MOSP) of the government of the Province of Buenos Aires, through the Buenos Aires Water and Sanitation Regulatory Agency (ORBAS). ORBAS will be the beneficiary of the operation and will be set up and strengthened during the program, with the aforementioned program coordinating unit at its core.
- 4.2 In parallel with this program, the provincial government is initiating activities for the award of concessions, through competitive bidding, for the delivery of AGOSBA services. The proposed technical-cooperation operation needs to be timed so as to precede this activity, or, if that does not prove feasible, to give priority to the design of particularly critical monitoring and control mechanisms and to support for ORBAS during the performance of its initial functions as a regulatory agency.
- 4.3 During implementation of the technical-cooperation project, the MOSP will establish a highly-qualified technical coordination group to be responsible for the management and supervision of the proposed activities. As indicated earlier, this group will be incorporated into ORBAS as the steps required to set up this agency are completed. Contracts will be arranged for seven consultancies for the various program activities described above. The preliminary terms of reference, prepared by the executing agency, have already been provided. For each contract and based on the nature thereof, appropriate counterpart staff will be appointed to support the respective consultants. Prior to the first disbursement, the executing agency must present the final version of the terms of reference for each of the consultancies and the plan of action showing how the deadlines and timeframes for the various program activities will be coordinated.
- 4.4 The procurement of goods and consulting services will be carried out in accordance with Bank procedures. An estimated 121 consultant/months will be required as well as the purchase of equipment, software, and other inputs required by the Agency to complete its work.
- 4.5 Disbursements will be made pursuant to the Bank's procedures. An estimated 24 months will be needed to complete all the program

components and 30 months for disbursement in full. The Bank will review the program 12 months after the activities begin, to evaluate progress.

- 4.6 To cover its operating costs, ORBAS will be paid a maintenance fee that the concessionaires under its jurisdiction and the cooperatives that will fall under the concession system in the future will bill, collect, and transfer to ORBAS. According to the regulatory framework, this fee will be calculated annually and should be as low as possible: 5% of billing at most. In addition to this fee, ORBAS may receive funds from the provincial treasury, contributions or subsidies from the national government, and other resources to fulfill its functions.

V. COST AND FINANCING

- 5.1 The total cost of the project has been estimated at US\$2 million, with the nonreimbursable MIF contribution totaling up to US\$1 million, as shown in the following budget:

PROJECT BUDGET	MIF	LOCAL	TOTAL
1. Structure and startup of ORBAS			
a. Structure and organization	130,000	110,000	240,000
b. Staff training	172,000	280,000	452,000
c. Information systems	247,500	120,000	367,500
d. Customer participation	72,000	70,000	142,000
2. Strengthening of legal framework			
a. Policies and rate system	114,000	105,000	219,000
b. Service quality control	64,000	137,000	201,000
c. Regulation of small-scale providers	60,500	178,000	238,500
3. Regulation seminar-workshop	50,000	0	50,000
4. Indirect costs and contingencies	90,000	0	90,000
	1,000,000	1,000,000	2,000,000

- 5.2 A portion of the counterpart resources will be provided in the form of salaries for counterpart staff in the coordinating unit and in ORBAS, once the latter begins operations, and correspond to the periods of time spent by this personnel on program activities, including the training, information gathering, and strengthening of the regulatory agency. The local counterpart will also cover secretarial services, offices, office materials, communications,

transportation, and logistical support required to carry out the technical-cooperation project. The amount of the revolving fund to be used for eligible program expenses will be 5% of the total value of the financing.

VI. JUSTIFICATION AND RISKS

- 6.1 Support for the growing participation of private initiative in the delivery of public services, strengthening of the respective regulatory agencies, and development of the basic sanitation sector are priority areas in the Bank's strategy for Argentina. This operation would complement the Bank's efforts in this direction (loan programs under way and under consideration), including in particular: the national water supply and sewerage program (loans 621/OC and 855/SF); the sixth stage of the rural water supply program (loan 857/OC); the program to support water supply and sanitation sector reform (AR-0175); and the two MIF technical-cooperation operations for the Provinces of Mendoza and Santa Fe, mentioned above.
- 6.2 The proposed technical-cooperation program is consistent with the MIF's general approach, inasmuch as it would promote greater private-sector participation and provide the Province of Buenos Aires with a strong and efficient regulatory agency. ORBAS would have an established structure, defined procedures manuals, and appropriate regulations. This would provide staff hired by the agency with the tools needed to begin their work.
- 6.3 The strengthening of ORBAS will contribute to improving the environmental regulatory capacity that is this agency's responsibility. For this reason, the operation is expected to have a positive impact on the environment. In addition, the function of protecting community and customer interests, which is a function of ORBAS, will also be strengthened and will thus have a very favorable socioeconomic impact.
- 6.4 If the AGOSBA privatization process is delayed or paralyzed, the provincial government could lose interest in the establishment and operational startup of the sector regulatory agency. However, the AGOSBA privatization process forms part of the commitments undertaken by the government within the support program for the Province of Buenos Aires (Loan 979/OC-AR) and, accordingly, substantial modifications in this process are not anticipated.

VII. GOALS AND EVALUATION OF OUTPUT

- 7.1 The outcome of the project will be a regulatory agency better able to fulfill the functions assigned to it by law, with qualified staff and the regulatory instruments necessary to perform its work efficiently. Annex I consists of a simplified logical framework for the project and summarizes the main activities, expected output, and deadlines for the various activities.

VIII. EXCEPTIONS TO BANK POLICIES AND PROCEDURES

- 8.1 None.

IX. SPECIAL CONTRACTUAL CONDITIONS

- 9.1 As indicated earlier (see paragraph 4.3), the executing agency must present the final version of the terms of reference for each consultancy and the program plan of action prior to the first disbursement.

X. ENVIRONMENTAL AND SOCIAL ASPECTS

- 10.1 The operation profile was approved by the CESI on March 30, 1998. It was recommended that clarifications be provided with respect to: (i) the institutional relationship between ORBAS and the provincial environmental agency; and (ii) the jurisdiction of ORBAS relative to the areas within greater Buenos Aires. The consulting activities under contract for the component "strengthening of the legal and regulatory framework" (see paragraph 3.9) will cover the first CESI request. With respect to the second recommendation by the CESI, the provincial regulatory framework (Law 11,820), article 2-1, defines the scope of the law and indicates that regulatory functions in the greater Buenos Aires areas will be performed by the tripartite works and sanitation services agency (ETOSS).

**ESTABLISHMENT OF THE WATER AND SANITATION REGULATORY
AGENCY OF BUENOS AIRES**

General objective: establish and start up a legal and regulatory framework, including an efficient and effective regulatory agency in the water and sanitation sector.		
Specific objectives: establish and start up ORBAS (Buenos Aires Water and Sanitation Regulatory Agency) as the new regulatory agency; review and adjust legal and regulatory framework.		
Components	Activities	Output/Indicators
A. Establishment and startup of ORBAS		
a. Institutional and organizational structure	Design and implementation of: (i) institutional and organizational structure; (ii) operating policy for quality control; and (iii) personnel policy. A financial plan and first budget for startup of activities will be prepared.	Draft decree to be submitted to the Executive Branch Duration: 3 months Startup and implementation of procedures manuals Duration: 9 months Total duration: 12 months
b. Staff training	Develop: (i) specific training program for regulatory and control functions; (ii) seminars for technological updates; (iii) workshops to ensure that staff is achieving the expected results, clarifying regulatory function; and (iv) techniques for ongoing self-training.	Development and startup of training plan. Duration: 6 months Implementation of permanent courses Duration: 12 months Total duration: 18 months
c. Information systems	Design and implementation of a suitable information system to assist the agency in the performance of its responsibilities.	Design and planning — information system Duration: 3 months Development and implementation of applications with documentation Duration: 7 months Total Duration: 10 months
d. Community participation and customer service	Develop the organization of the community participation system, considering: (i) the design and implementation of a public information, education, and awareness policy; (ii) development of procedures for receiving and processing complaints; and (iii) drafting of methodologies to be applied for the development of dispute resolution and mediation systems.	Creation of a customer service, dissemination, and participation program Duration: 5 months Drafting of minimum content of customer regulations Duration: 3 months Startup and implementation Duration: 3 months Total duration: 8 months

**ESTABLISHMENT OF THE WATER AND SANITATION REGULATORY
AGENCY OF BUENOS AIRES**

B. Strengthening of the legal and regulatory framework		
a. Policies and rates	Specialized services will be hired to support ORBAS in the development and implementation of the rate policy.	<p>Drafting of methodology for rate reviews Duration: 3 months</p> <p>Rate policy analysis and instruments Total duration: 12 months</p>
b. Service quality control and adjustment of other policies	Specialized services will be hired to support ORBAS in: (i) adapting legislation related to quality standards for supply sources and effluent treatment; (ii) the design and implementation of a service quality control system.	<p>Current quality survey Duration: 2 months</p> <p>Identification and selection of indicators and methodology for control and coordination with environmental legislation Total duration: 6 months</p>
c. Regulation of other service providers	Develop a program to bring small service providers into line with existing regulations.	<p>Survey of service providers and proposed methodology for integrating them into the regulatory framework. Total duration: 12 months</p>
C. Workshop to share experiences		
a. Workshop	A seminar-workshop will be prepared and held to discuss and share experiences of the sector's existing regulatory agencies in Argentina. Regulatory agencies in the region that are receiving MIF support will participate.	Conduct three seminars to cover experience of Mendoza, Santa Fé, and Buenos Aires Provinces

PROPOSED RESOLUTION

**ARGENTINA. NON REIMBURSABLE TECHNICAL COOPERATION FOR THE
STRENGTHENING OF THE WATER AND SANITATION REGULATORY AGENCY OF
THE PROVINCE OF BUENOS AIRES**

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, on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the Province of Buenos Aires, and to adopt such other measures as may be pertinent for the execution of the plan of operations referred to in Document MIF/AT-_____ with respect to a technical cooperation, the purpose of which is the strengthening of the water and sanitation regulatory agency of the Province of Buenos Aires.
2. That up to the amount of US\$1.000.000 is authorized for the purpose of this resolution, chargeable to the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above mentioned sum is to be provided on a non-reimbursable basis.