



TERMS OF REFERENCE FOR A DIRECTED WRC PROJECT

THEMATIC AREA	Advisory Services
TITLE	Exploration of the best international practice relating to the procurement and regulation of water utilities for long-term concessions
TOR	1010081

Background and Rationale

Recent green drop, blue drop and no drop results reveal a highly concerning reality across South Africa. Green Drop (Wastewater) results show that 47% of South Africa's wastewater systems are in a critical state with systems that are operating at excellent or within good standards have decreased from 14% to just 8%. The Blue Drop (drinking water) results show that while some water risks have stabilized, they remain at an unacceptably high level overall. The No Drop (water loss) results show high levels of non-revenue water and that systemic pipe leaks continue to plague the country and threaten water security of the country and its ability to deliver on universal access. However, South African water utilities and municipalities that have used concessions selectively demonstrate high effectiveness in improving infrastructure management and service delivery and circular economy outcomes. Concession areas, such as the iLembe-Siza Water concession on the Dolphin Coast and Silulumanzi in Mbombela, have shown exceptional performance in Blue and Green Drop audits for drinking water and wastewater treatment.

The South African water services sector is undergoing a wave of regulatory reform. The Department of Water and Sanitation (DWS) is overhauling the water sector through the Water Services Amendment Bill which aims to separate municipal oversight (Water Services Authorities) from operational delivery (Water Service Providers). This reform requires all providers to obtain competency-based operating licenses directly from the DWS to ensure accountability and reliable service. Amongst others, this reform is driving a shift to a 'utility style' model of ringfencing water service delivery. The WSA Bill requires municipalities to clearly define their roles as a Water Services Authority (planning and oversight) and Water Service Provider (delivery of services). The WSP licensing requirements prohibits municipalities or entity from acting as a WSP without formal operating license issued by DWS tied to minimum competency and financial standards and thus, affords DWS with enforcement mechanisms to penalize non-compliance, rectify failing systems and hold municipal managers and entity directors accountable. Licensed WSPs can be achieved through various models (public, private, community, etc). These reforms reaffirm the importance of having an effective performance contract in place which is informed by Section 78 of the Local Government: Municipal Systems Act. Finally, the Water Services Amendment Bill ensures that water derived revenue is legally ring-fenced and reinvested into water and sanitation infrastructure and service delivery.



The amendments seek to address the fundamental issue where municipalities act as both the Water Service Authority (WSA) and the Water Service Provider (WSP), ("referee and a player at the same time". Thus, there is a need to provide greater clarity on the differentiated functions of the WSA and the WSP and how DWS could effectively guide the process and provide an efficient regulatory function to WSA's/WSP.

This WRC study will review local and international best practices and benchmark for minimum competency, financial health, and governance before service providers are allowed to operate. The study will provide specific guidance and tools to strengthen institutional weaknesses in service delivery and guide practitioners on the models (regulatory, procurement, processes, etc) to unlock long-term effective service delivery and guide the development and implementation of performance based contracts /concession models that will guide the licensing process between DWS and Water Service Authorities (WSAs) and the contractual arrangements that need to be built to manage actual service delivery effectively between WSA's and WSP's. Thus, the study seeks to learn from international and national best practice to understand how to bring effect to the Water Services Amendment Bill. This must be informed relevant legislative processes (eg. Section 78) where an appropriate implementation model for the WSP is agreed on.

Objectives:

To develop a guideline for the development and implementation of long term performance and competency based concession/contracts aligned to the Water Services Amendment Bill to improve water and sanitation service delivery. This must be informed by lessons from regulatory, process and implementation best practice.

Scope of Work:

At a minimum, proposals will need to cover the following areas:

- A comprehensive methodology and approach to conduct the study
- Document national and international best practice examples/use cases of long term concessions and/or other innovative service delivery contracts as they are applicable to municipal water and sanitation service delivery;
- Identify legislative, regulatory and institutional processes and barriers affecting the implementation, effectiveness and attractiveness of concession models as aligned to the Water Services Amendment Bill in South Africa and recommend practical options to address these constraints.
- Develop a guideline on the development and implementation of effective performance and competency based contracts/concessions that will allow for standardized implementation of licensing of WSP's and bring effect to the operationalization of Water Services Amendment Bill.



This system introduces a benchmark for minimum competency, financial health, and governance before providers are allowed to operate

The applicant must build necessary time for significant stakeholder engagements with DWS and selected municipal and sector experts (national and international) and should have appropriate skills and experience and team composition to execute the project.

Deliverables:

The insights from the project will need to be packaged as a:

- 1) Inception report with detailed plan
- 2) Maximum of 2 progress reports (aligned to ToR and scope of work)
- 3) Guidelines (final report)
- 4) A slide deck and content development for a virtual Masterclass (aligned to approved guideline) should be prepared for upskilling relevant stakeholders on the project content.

Duration:

12 months (maximum 14 months)

Total funds available

First year budget: R300 000.

Second year budget: R300 000