



MALTA RESOURCES AUTHORITY

Malta Resources Authority

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**SUBJECT: CONSULTANCY SERVICES TO THE
MALTA RESOURCES AUTHORITY FOR
FINANCIAL AND ENGINEERING
ASSESSMENTS OF THE WATER SERVICES
CORPORATION**

Tender Document: MRA /74/10

The cost of this tender dossier is € 50

IMPORTANT

This Tender does not require the submission of a Bid Bond

**CONSULTANCY SERVICES TO THE MALTA RESOURCES AUTHORITY
FOR FINANCIAL AND ENGINEERING ASSESSMENTS OF THE WATER
SERVICES CORPORATION**

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CONSULTANCY SERVICES TO THE MALTA RESOURCES AUTHORITY FOR FINANCIAL AND ENGINEERING ASSESSMENTS OF THE WATER SERVICES CORPORATION

PART 1:

1.0 SCOPE OF TENDER

1.1 Introduction

1.1.1 This Tender, which is being issued by the Malta Resources Authority, hereinafter referred to as “the Contracting Authority”, is for consultancy services related to financial and engineering assessments of the Water Services Corporation as required by the Contracting Authority.

1.1.2 A payment of Fifty Euros (€ 50) is to be effected at the Cash Office, Malta Resources Authority, Millennia, Aldo Moro Road, Marsa and proof of purchase is to be submitted in accordance with clause 1.2.6.

1.2 Tender Documentation

1.2.1 Each submission for Tender shall clearly indicate the details of the tenderer responsible for such activity and the rates/prices, inclusive of VAT and all other charges as may be applicable. The start date, as indicated, shall be upon the issuance of the ‘**Order to Start Works**’ issued by the Officer in Charge.

1.2.2 A form referred to as “**Schedule of Prices & Rates**” is attached with the Tender Document. Prospective bidders are requested to complete the form, giving the rates and prices in EURO for each item as indicated, inclusive of VAT and all taxes and any other charges as applicable. This form must be filled in and submitted with the tender document. Prospective bidders shall not at any time of the contract period request a revision of the rates/prices. **Failure to fill in the form, or a form with incomplete information, or a form containing ambiguous financial information (e.g. prices, totals etc.) shall disqualify the tender submission.**

1.2.3 Tenderers may supplement the “**Schedule of Prices & Rates**” with additional pricing information if they deem this necessary.

1.2.4 A form referred to as “**Tenderer’s Details**” is attached with the Tender Document. Prospective bidders are requested to fully complete the form and submit it with the Tender Document.

1.2.5 Tenderers shall complete the attached form referred to as “**Tender Form**” (including the Tenderer’s Declarations), and also confirming the tenderer’s undertaking that the offer

shall not be retracted or withdrawn for a period of three (3) months from the closing date of the offer. **Failure to submit this form completed in all respects, shall disqualify the bid.**

- 1.2.6 A form referred to as “**Proof of Purchase**” is attached with the Tender Document. Prospective bidders are requested to complete the form, attach a copy of the receipt issued by the Cash Office referred to in 1.2.1 and submit it with the Tender Document.
- 1.2.7 A form referred to as “**Data on Joint Venture/Consortium**” is attached with the Tender Document. Prospective bidders are requested to complete the form, and submit it with the Tender Document if they are planning to bid as a Joint Venture / Consortium.
- 1.2.8 A form referred to as “**Sub-Contracting**” is attached with the Tender Document. Prospective bidders are requested to complete the form, and submit it with the Tender Document if they are planning to Sub-Contract the works or any part of the works listed in the Tender Document.
- 1.2.9 A form referred to as “**Statement on Conditions of Employment**” is attached with the Tender Document. Prospective bidders are requested to complete the form, and submit it with the Tender Document.
- 1.2.10 A form referred to as “**Specifications Form**” is attached with the Tender Document. Prospective bidders are requested to complete the form by filling in the requested data and submit it with their Tender offer.

1.3 Definitions

Note: the following definitions are given here for convenience only, in the context of the tender procedure. The definitions set out in the contract as concluded are determining for the relations between the parties to the contract.

Administrative order. Any written or oral instruction or order issued by the Project Manager to the Contractor regarding the execution of the services.

Authority: means the Malta Resources Authority.

Beneficiary Country: The Maltese Islands.

Breakdown of the overall price. A heading-by-heading list of the rates and costs making up the price for a lump-sum contract.

Budget Breakdown: In a fee-based contract, the schedule which breaks down the contract value, stating out the fee rates and the provision for incidental expenses.

Cash Flow Forecast: The Contractor’s estimate of the cash flows arising directly from the execution of a fee-based contract.

Central Government Authority: means the Department of Contracts.

Commission: The European Commission.

Conflict of interest. Any event influencing the capacity of a candidate, tenderer or supplier to give an objective and impartial professional opinion, or preventing him, at any moment, from giving priority to the interests of the Central Government Authority and the

Contracting Authority. Any consideration relating to possible contracts in the future or conflict with other commitments, past or present, of a candidate, tenderer or supplier, or any conflict with his own interests. These restrictions also apply to sub-contractors and employees of the candidate, tenderer or supplier.

Contract: The signed agreement entered into by the parties for the performance of the services, including all attachments thereto and all documents incorporated therein.

Contract Value: The total value of the contract to be paid by the Contracting Authority in terms of the agreed terms and conditions.

Contracting Authority: means the Malta Resources Authority.

Contractor: The party which contracts to perform the services.

Day: Calendar day.

Drawings: Drawings provided by the Contracting Authority, and/or drawings provided by the Contractor and approved by the Project Manager, for the carrying out of the services.

EC: The European Community.

EU: The European Union.

Evaluation Committee: a committee made up of an odd number of voting members (at least three) appointed by the Contracting Authority and possessing the technical, linguistic and administrative capacities necessary to give an informed opinion on tenders.

Fee-Based Contract: A contract under which the services are provided on the basis of fixed fee rates for each day/hour worked by experts/service provider.

Final Beneficiary: The Malta Resources Authority

Foreign currency: Any currency permissible under the applicable provisions and regulations other than the Euro, which has been indicated in the tender.

General conditions: The general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of contracts.

General damages: The sum not stated beforehand in the contract, which is awarded by a court or an arbitration tribunal, or agreed between the parties, as compensation payable to an injured party for a breach of the contract by the other party.

Global Price Contract: A contract under which the services are performed for an all-inclusive fixed price.

In writing: This includes any hand-written, typed or printed communication, including fax transmissions and electronic mail (e-mail).

Liquidated damages: The sum stated in the contract as compensation payable by the Contractor to the Contracting Authority for failure to complete the contract or part thereof within the periods under the contract, or as payable by either party to the other for any specific breach identified in the contract.

Modification: An instruction given by the Project Manager which modifies the works.

Month: Calendar month.

National currency: The currency of the country of the Contracting Authority.

Period: A period begins the day after the act or event chosen as its starting point. Where the last day of a period is not a working day, the period expires at the end of the next working day.

Plant: appliances and other machinery, and, where applicable under the law and/or practice of the state of the Contracting Authority, the temporary structures on the site required to carry out the works but excluding equipment or other items required to form part of the permanent works.

Project: The project in relation to which the services are to be provided under the contract.

Project Manager: The natural or legal person responsible for monitoring the implementation of the contract on behalf of the Contracting Authority.

Public Service: Government Ministries and Departments.

Services: Activities to be performed by the Contractor under the contract such as technical assistance, studies, training and designs.

Special conditions: The special conditions laid down by the Contracting Authority as an integral part of the tender document, amplifying and supplementing the general conditions, clauses specific to the contract and the terms of reference.

Tender document/s: The dossier compiled by the Contracting Authority and containing all the documents needed to prepare and submit a tender.

Tender price: The sum stated by the tenderer in his tender for carrying out the contract.

Terms of Reference: The Tender Specifications and Conditions drawn up by the Contracting Authority giving the definition of its requirements and/or the objectives in respect of the provision of services, specifying, where relevant, the methods and resources to be used by the Contractor and/or the results to be achieved by it.

Time Limits: Those periods in the contract which shall begin to run from the day following the act or event which serves as the starting point for those periods. Should the last day of the period fall upon a non-working day, the period shall expire at the end of the first working day following the last day of the period.

Written communications: Certificates, notices, orders and instructions issued in writing under the contract.

2.0 TENDER PROCESS

2.1 General Instructions (Pre Submission of Tenders)

- 2.1.1 In submitting a Tender, the tenderer accepts in full and its entirety, the content of this Tender Document, including subsequent Clarifications issued by the Contracting Authority, whatever its own corresponding conditions may be, which it hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this Tender Document.
- 2.1.2 No account shall be taken of any reservation in the Tender as regards the Tender Document; any disagreement, contradiction, alteration or deviation shall lead to the Tender offer not being considered further.
- 2.1.3 The Tender Evaluation Committee shall, after having obtained approval by the Contracting Authority, request rectifications in respect of incomplete/non-submitted information pertinent to the documentation as outlined in sub-clauses 1.2.4, 1.2.6, 1.2.7, 1.2.8, 1.2.9 and 1.2.10 **only**. Such rectification/s shall be submitted within two (2) working days from notification, and shall be subject to a non-refundable administrative penalty of €50. **Failure to comply shall result in the Tender offer not being considered further.**
- 2.1.4 Tenderers bear the sole liability of examining with appropriate care the Tender documents, including those design documents available for inspection, and any clarification notes to the Tender documents issued during the Tendering period, and for obtaining reliable information with respect to conditions and obligations that may in any way affect the amount or nature of the Tender or the execution of the works. In the event that the tenderer is successful, no claim for alteration of the Tender amount shall be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.
- 2.1.5 Tenderers shall promptly notify the Finance and Administration Section, within the Malta Resources Authority, of any ambiguity or discrepancy that they may discover upon examination of the Tender Document.
- 2.1.6 Tenderers requiring clarification or interpretations of the Tender Document shall make a written or faxed request (fax number 22955200) or via e-mail (email address: enquiry@mra.org.mt) at least **six (6) working days prior** to the closing date for receipt of Tenders. **Any request after this date shall not be accepted.**
- 2.1.7 Any interpretations, corrections or changes to the Tender Document by the Contracting Authority shall be made by an official addendum. Interpretations, corrections or changes made in any other manner shall not be valid, and Tenderers shall not rely upon such interpretations, corrections and changes.
- 2.1.8 Addenda shall be faxed or emailed to all those who are known by the Contracting Authority to have procured a complete Tender Document.
- 2.1.9 No addenda shall be issued later than four (4) working days prior to the date of receipt of Tenders except an addendum postponing the date for receipt of Tenders or withdrawing the request for tenders.
- 2.1.10 The Contracting Authority may, at its own discretion, extend the deadline for submission of Tenders to give tenderers sufficient time to take clarification notes into account when

preparing their Tenders.

- 2.1.11 The tenderer shall provide all documents required by the provisions of the Tender document. All such documents, without exception, shall comply strictly with these conditions and provisions, and contain no alterations made by the tenderer.

2.2 Eligibility

- 2.2.1 Participation in tendering is open on equal terms, to all natural and legal persons of the member States of the European Union, the beneficiary country, and any other country in accordance with Regulation 76 of the Public Procurement Regulations.
- 2.2.2 Natural persons, companies or undertakings who fall under any of the conditions set out in Regulation 50 of the Public Contracts Regulations, 2010 (Legal Notice 296 of 2010) shall be excluded from participation in the award of the Contracts. Tenderers or candidates who have been guilty of making false declarations shall also incur financial penalties representing 10% of the total value of the contract being awarded.
- 2.2.3 All materials, equipment and services to be supplied under the Contract must originate in an eligible country. For these purposes, “origin” means the place where the materials and/or equipment are mined, grown, produced or manufactured and/or from which services are provided.

2.3 Only one Tender per Tenderer

- 2.3.1 Submission or participation by a tenderer in more than one tender for a contract shall result in the disqualification of all those tenders for that contract in which the party is involved.
- 2.3.2 A Company shall not tender for a given contract both individually and as a partner in a joint venture/consortium.
- 2.3.3 A Company shall not tender for a given contract both individually/partner in a joint venture/consortium, and at the same time be nominated as a sub-contractor by any other tenderer, or joint venture/consortium.
- 2.3.4 A Company may act as a sub-contractor for any number of tenderers, and joint venture/consortia, provided that it does not participate individually or as part of a joint venture/consortium, and that the nominations do not lead to a conflict of interest, collusion, or improper practice.

2.4 Tender expenses

- 2.4.1 The Tenderer shall bear all costs associated with the preparation and submission of the Tender.
- 2.4.2 The Contracting Authority shall neither be responsible for, nor cover, any expenses or losses incurred by the Tenderer through site visits and inspections or any other aspect of his/her Tender.

2.5 Labour Law

- 2.5.1 Particular attention is drawn to the conditions concerning the employment of labour in Malta and the obligation to comply with all regulations, rules or instructions concerning the conditions of employment of any class of employee.

2.6 Law

- 2.6.1 By submitting their Tenders, tenderers are accepting that this procedure is regulated by Maltese Law, and are deemed to know all relevant laws, acts and regulations of Malta that may in any way affect or govern the operations and activities covered by the Tender and the resulting contract.

2.7 Language of Tenders / Preparation of Tenders

- 2.7.1 The Tender and all correspondence and documents related to the Tender exchanged by the tenderer and the Contracting Authority shall be written in English.
- 2.7.2 Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by an accurate translation into English. For the purposes of interpretation of the Tender, the English language shall prevail.
- 2.7.3 The Tenderer's submission shall be typed in, or handwritten in indelible ink and signed by the person listed in the Tenderers Details Form enclosed with the Tender Document. Any pages on which entries or correction to his/her submission have been made shall be initialled by the person listed in the Tenderers Details Form. All pages shall be numbered consecutively by hand, machine or in any other way acceptable by the Contracting Authority.
- 2.7.4 The Tender shall contain no changes or alterations, other than those made in accordance with instruction issued by the Contracting Authority (issued as clarification notes) or necessitated by errors on the part of the tenderer. In the latter case, corrections shall be initialled by the person signing the tender.
- 2.7.5 The Tender shall be rejected if it contains any alteration, tampering, addition or deletion to the Tender documents not specified in a clarification note issued by the Contracting Authority.

2.8 Tender Rates/Prices

- 2.8.1 The Tender rates/prices shall cover the whole of the works/supplies/services as described in the Tender Document.
- 2.8.2 The tenderer shall provide a breakdown of the overall rates/prices in Euro (€).
- 2.8.3 Tenderers shall quote all components of the rates/prices inclusive of VAT and of all taxes, customs and import duties and any discounts. Except as may be provided for in the Contract, no payment shall be made for items which have not been costed.

- 2.8.4 Different options are to be clearly identifiable in the technical and financial submission; **thus, a separate Tender form marked ‘Option 1’, ‘Option 2’ etc. for each individual option clearly outlining the rates/prices of the relative option, is to be submitted. Failure to abide by this clause shall render the Tender null.**
- 2.8.5 If the tenderer offers a discount, the discount shall be absorbed in the rates of the Schedule of Prices & Rates.
- 2.8.6 The rates/prices of the Contract shall include all of the works to be provided. The rates/prices quoted are fixed and not subject to revision or escalation in costs, unless otherwise provided for in the Special Conditions.
- 2.8.7 The budget available for this tender is € 50,000 inclusive of VAT.

2.9 Currencies of Tender and Payments

- 2.9.1 The currency of the Tender is the Euro (€). All sums in the breakdown of the overall rates/price and in other documents shall be expressed in Euro(€).
- 2.9.2 Notwithstanding the provisions of payment terms referred to under the relative Clause of the General Conditions for Service Contracts (article 26, Payments and Interest on late payments) no pre-financing will be paid in this contract. Payment under this contract shall be effected within a reasonable period of time. This shall be taken to mean that payment is to be effected within 60 days from the presentation of the bill to the Contracting Authority provided that the invoices are accepted and certified by the Contracting Authority and that the services conducted are carried out to the satisfaction of the Officer in charge of the Contract. Any penalties which shall be incurred by the Contractor shall be deducted from these bills. In breach of this time limit a Contractor shall be entitled to the payment of interest at 2% over the rate of interest established by Central Bank of Malta for the particular period. The provisions established in the General Conditions for Service Contract with respect to late payment (Article 26) are not applicable.
- 2.9.3 The Contractor shall submit VAT invoices in accordance with the Twelfth Schedule of the VAT Act. Invoices shall only be registered as valid if in full compliance with this clause and the Contracting Authority shall not be held liable for delays in payments due should the Contractor have submitted an invalid invoice. Invoices submitted not in accordance with this requirement shall not be processed for payment and the Contracting Authority reserves the right to request the Contractor to re-issue the invoice accordingly.
- 2.9.4 Payment of bills shall be stopped whenever, in the opinion of the Contracting Authority, the Contractor is under penalty for breach of any conditions of the Contract.

3.0 TENDER SUBMITTALS

3.1 Method of Submissions

3.1.1 A written proposal for this call of Tender shall be submitted at the Finance and Administration Section of the Malta Resources Authority, Marsa by the time and date indicated in the attached notice. Tenders are to be addressed to:

**The Financial Controller
Finance and Administration Section
Malta Resources Authority
Millennia, 2nd Floor
Aldo Moro Road
Marsa, MRS 9065
MALTA**

Late submissions shall not be accepted. The proposal for this Tender shall be closed in a sealed package with the Advert Number clearly marked on it and submitted either by recorded delivery (official postal/courier service) or hand delivered and deposited in the Tender Box at the Finance and Administration Section of the Malta Resources Authority. Under no circumstances will hand delivered tenders be accepted if they are handed to an employee of the Malta Resources Authority instead of being deposited in the Tender Box as stipulated above. **Any other method of submission shall NOT be accepted.**

3.1.2 By casting the Tender, the tenderer shall be deemed to be in a position to carry out all the services specified in this Tender Document.

3.1.3 Each Tenderer shall ascertain, prior to submitting his/her Tender, that he/she has received all addenda issued and shall acknowledge their receipt in his/her Tender.

3.1.4 Tenderers shall quote their VAT Registration Number in the appropriate space provided in the Tenderers' Details Form. Moreover, prospective bidders shall be bound to conform in all respects to the VAT legislation and regulations.

3.1.5 Tenderers are required to submit the following set of documents with their tender submission and for each option submitted (if any):

- a. **Schedule of Prices & Rates** as per Clause 1.2.2 and Part 2 of this tender document
- b. **Tenderer's Details Form** as per Clause 1.2.4 and Part 2 of this tender document
- c. **Form of Tender** as per Clause 1.2.5 and Part 2 of this tender document
- d. **Proof of Purchase** as per Clause 1.2.6 and Part 2 of this tender document

- e. **Data on Joint Venture/ Consortium Form (if applicable)** as per Clause 1.2.7 and Part 2 of this tender document
- f. **Sub-contracting Form (if applicable)** as per Clause 1.2.8 and Part 2 of this tender document
- g. **Statement on Conditions of Employment** as per Clause 1.2.9 and Part 2 of this tender document
- h. **Specifications Form** as per Clause 1.2.10 and Part 2 of this tender document
- i. **Overview of Tenderer's Personnel** as per Section 7.2 and Part 2 of this tender document
- j. **CVs of Key Experts** as per Section 7.2 and Part 2 of this tender document
- k. **Organisation and Methodology** as per Section 7.2 and Part 2 of this tender document

3.1.6 The information collected on this form shall be processed in accordance to the Data Protection Act 2001. The contents of this document are confidential and intended solely for the use of this organization, and shall not be disclosed or copied without your consent, to anyone outside the Contracting Authority unless the law permits us to.

3.2 Late Tenders

3.2.1 All Tenders received after the deadline for submission specified in the contract notice or these instructions shall be kept by the Contracting Authority. The associated guarantees shall be returned to the tenderers (if any).

3.2.2 No liability shall be accepted for late delivery of Tenders. Late Tenders shall be rejected and shall not be evaluated.

4.0 OPENING AND EVALUATION OF OFFERS

4.1 Opening of Tenders

4.1.1 Tenders shall be opened in a public session on the date and time indicated in the Tender advert and in the Tender Document, at the Finance and Administration Section of the Malta Resources Authority, Marsa, Malta by the Tender Opening Board. The Board shall draw up a 'Schedule of Tenders Received' which shall be published on the notice board at the Malta Resources Authority, Millennia Aldo Moro Road Marsa and shall also be available for public viewing.

4.1.2 Reductions or alterations to tender rates/prices made by tenderers after submission shall not be taken into consideration during the analysis and evaluation of Tenders.

4.2 Secrecy of the Procedure

- 4.2.1 After the opening of the Tenders, no information about the examination, clarification, evaluation or comparison of Tenders or decisions about the Contract award shall be disclosed before the notification of award.
- 4.2.2 Information concerning checking, explanation, opinions and comparison of Tenders and recommendations concerning the award of contract, shall not be disclosed to Tenderers or any other person not officially involved in the process unless otherwise permitted or required by law.
- 4.2.3 Any attempt by a tenderer to approach any member of the Evaluation Committee / Contracting Authority directly during the evaluation period shall be considered legitimate grounds for disqualifying his/her Tender.

4.3 Clarification of Tenders

- 4.3.1 When checking and comparing Tenders, the Evaluation Committee may, after obtaining approval from the Departmental Tenders Committee, ask a tenderer to clarify any aspect of his/her tender.
- 4.3.2 Such requests and the responses to them shall be made by email or fax. They may in no circumstances alter or try to change the rates/price or content of the Tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders.

4.4 Tender Evaluation Process

- 4.4.1 **Part 1, Administrative compliance:** The Evaluation Committee shall check the compliance of Tenders with the instructions given in the Tender Document.
- 4.4.2 The Evaluation Committee shall, after having obtained approval from the Departmental Tenders Committee, request rectification in respect of incomplete/non-submitted information pertinent to the documentation as outlined in clause 2.1.3 of this Tender document. Such rectifications shall be submitted within two (2) working days from notification, and shall be subject to a non-refundable administrative penalty of €50. **Failure to comply shall result in the Tender offer not being considered any further.**
- 4.4.3 **Part 2, Eligibility and Selection compliance:** Tenders which have been considered administratively compliant shall be evaluated for admissibility as outlined below:
 - a) Eligibility Criteria
 - b) Technical Compliance
 - c) Financial Evaluation

4.5 Correction of Arithmetical Errors

- 4.5.1 Admissible Tenders shall be checked for arithmetical errors by the Evaluation Committee. Errors shall be corrected as follows:

- a) Where there is a discrepancy between amounts in figures and in words, the amount in words shall prevail;
- b) Where there is a discrepancy between a unit rates/price and the total amount derived from the multiplication of the unit rates/price and the quantity, the unit rates/price as quoted shall prevail.

4.5.2 The amount stated in the Tender shall be adjusted by the Evaluation Committee in the event of error, and the tenderer shall be bound by that adjusted amount. In this regard, the Evaluation Committee shall seek prior approval of the Departmental Tenders Committee to communicate the revised rates/prices to the tenderer. If the tenderer does not accept the adjustment, his/her Tender shall be rejected and his/her tender guarantee forfeited (if any).

4.5.3 When analysing the Tender, the Evaluation Committee shall determine the final Tender rates/prices after adjusting it on the basis of clause 4.5.1.

5.0 CONTRACT AWARD

5.1 Criteria for Award

5.1.1 The sole award criterion shall be the rates. The contract shall be awarded to the cheapest priced Tender satisfying the administrative and technical criteria.

5.2 Right of the Contracting Authority to accept or reject any Tender

5.2.1 The Contracting Authority reserves the right to accept or reject any Tender and/or to cancel the whole Tender procedure and reject all Tenders. In such an event, the Contracting Authority reserves the right to initiate a new invitation to Tender.

5.2.2 In the event of a Tender procedure's cancellation, tenderers shall be notified by the Contracting Authority. If the Tender procedure is cancelled before the opening of any envelope of any Tender, the sealed envelopes will be returned, unopened to the tenderers.

5.2.3 Cancellation may occur where:

- a) the Tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile Tender has been received or there has been no response at all;
- b) the economic or technical parameters of the project have been fundamentally altered;
- c) exceptional circumstances or force majeure render normal performance of the project impossible;
- d) all technically compliant Tenders exceed the financial resources available;
- e) there have been irregularities in the procedure, in particular where these have prevented fair competition.

5.2.4 In no circumstances shall the Contracting Authority be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a Tender, even if the Contracting Authority has been advised of the possibility of damages. The publication of a contract notice does not commit the Contracting Authority to implement the programme or project announced.

5.3 Notification of Award of Contract

5.3.1 Prior to the expiration of the period of validity of Tenders, the Contracting Authority shall notify the successful tenderer, in writing, that his/her Tender has been recommended for award by the Evaluation Committee, pending any appeal being lodged in terms of Part II, Regulation 21 of the Public Contracts Regulations, a copy of which is reproduced hereunder .

5.3.2 Unsuccessful bidders shall be notified with the outcome of the evaluation process, and shall be provided with the following information:

- a) the criteria for award;
- b) the name of the successful tenderer;
- c) the recommended price of the successful bidder;
- d) the deadline for filing a notice of objection (appeal);
- e) the deposit required if lodging an appeal.

5.3.3 The recommendations for award shall be published on the notice board of the Contracts and Procurement Section. It shall be the obligation of the Tenderer to periodically check that such recommendations have been so published.

5.4 Contract Signing and Performance Guarantee

5.4.1 After the lapse of the appeals period, and pending that no objections have been received and/or upheld, the successful tenderer may be invited to clarify certain contractual questions raised therein. Such clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of any such clarifications will be set out in a Memorandum of Understanding, to be signed by both parties and incorporated into the contract.

5.4.2 At any time prior to the award of the tender, the Company reserves the right to request the tenderer to provide a certificate issued by the Employment and Training Corporation, indicating the number and details of employees duly registered with Corporation. In those cases where tenderers intend to sub-contract the works, they shall produce an original or authenticated certificate from ETC which indicates the respective registration number of the nominated subcontractors. The certificate shall be required for the sole purpose of confirming that the tenderer possesses, or has available, adequate human resources to perform the contract to a timely and successful completion. **Any tenderer who fails to provide the requested certificate/s when requested to do so, shall be disqualified from further consideration towards the award of the contract.**

5.4.3 Within 5 working days from receipt of letter of intent, from the Contracting Authority, the successful tender shall call at the Contracts and Procurement Section to sign and date the

contract. The Contract would not be signed unless the successful tenderer furnishes personally the performance guarantee (where applicable). On signing of the Contract by the Contracting Authority the successful tenderer will become the Contractor and the contract will enter into force.

- 5.4.4 Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer may be requested to provide the documentary proof or statements required to show that it does not fall into any of the exclusion situations listed in Clause 7 of the Tender Form. The above mentioned documents must be submitted by every member of a Joint Venture/Consortium (if applicable).
- 5.4.5 If the selected tenderer fails to sign and return the contract, other required documentation, and any guarantees required within the prescribed 5 working days' period, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's right to seize the guarantee (Bid Bond) if applicable, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

The tenderer whose tender has been evaluated as second cheapest / Second most advantageous may be recommended for award, and so on and so forth.

- 5.4.6 Only the signed contract will constitute an official commitment on the part of the Contracting Authority, and activities may not begin until the contract has been signed by the Contracting Authority and the successful tenderer.
- 5.4.7 Tender guarantees (bid bonds) provided by tenderers who have not been selected shall be released within 30 calendar days from the signing of the contract. The tender guarantee of the successful tenderer shall be released on the signing of the contract, and on submission of a valid performance guarantee.
- 5.4.8 The performance guarantee referred to in the General Conditions is set at 10% of the amount of the contract and must be presented in the form attached to this tender document. The performance guarantee shall be released within 30 days of the signing of the Contractor's Performance Report by the Officer in charge of the contract, unless the Special Conditions provide otherwise.

Reproduction of Regulation 21, Part II of the Public Procurement Regulations 2010

Right of Recourse

21. (1) Where the estimated value of the public contract exceeds twelve thousand euro (€12,000) and is issued by an authority listed in Schedule 1, any tenderer or candidate concerned shall have a right to make a complaint to the Review Board in accordance with this regulation.

(2) (a) The contracting authority shall be obliged to issue a notice and affix an advertisement, in a prominent place at its premises, indicating the awarded public contract, the financial aspect of the award and the name of the successful tenderer. The contracting authority shall, by electronic means or by fax, inform the tenderer or candidate concerned of the publication of the award. The contracting authority shall be precluded from concluding the contract during the period allowed for the submission of appeals.

(b) The award process shall be completely suspended if an appeal is eventually submitted.

(3) Any tenderer or candidate concerned who is aggrieved by the award indicated by the contract authority may, within five working days from the publication of the notice, file a letter of objection, together with a deposit, with the contracting authority, clearly setting forth any reason for his complaint. The deposit to be paid in respect of tenders valued at less than forty-seven thousand euro (€47,000) shall be four hundred euro (€400), while those between forty-seven thousand euro (€47,000) and one hundred and twenty thousand euro (€120,000) shall be 0.5% of the estimated value of the tender, with a minimum deposit of four hundred euro (€400). The letter by the complaining tenderer shall be affixed on the notice board of the contracting authority and shall be brought to the attention of the recommended tenderer.

(4) After the expiry of the period allowed for the submission of a complaint, the contracting authority shall deliver the letter of complaint, the deposit receipt and all documents relating to the public contract in question to the Review Board who shall examine the matter in a fair and equitable manner. In its deliberation the Review Board shall have the authority to obtain, in any manner it deems appropriate, any other information not already provided by the contracting authority. The Review Board shall determine the complaint by upholding or rejecting it. The written decision of the Review Board shall be affixed on the notice board of the contracting authority and copies thereof shall be forwarded to the Director of Contracts and all the parties involved.

(5) The tenderer or candidate concerned who is not satisfied with the decision granted by the Review Board may refer the matter to the Court of Appeal (Inferior Jurisdiction) in terms of article 41(6) of the Code of Organization and Civil Procedure within a period of sixty days. Such recourse however may not delay the Head of the contracting authority from implementing the Review Board's decision.

6.0 GENERAL CONDITIONS

- 6.1.1 The full set of General Conditions for Supply / Works / Services Contracts (Version 1.01 dated 15 March 2010 and Version 1.02 dated 2nd June 2010) can be viewed/downloaded from:

www.contracts.gov.mt/conditions

- 6.1.2 It is hereby construed that the tenderers have availed themselves of these general conditions, and have read and accepted in full and without reservation the conditions outlined therein, and are therefore waiving any standard terms and conditions which they may have.

These general conditions will form an integral part of the contract that will be signed with the successful tenderer/s in so far as these general conditions are not in conflict with the tender document. In the event of any conflict between the tender document and the General Conditions for Service Contracts the provisions of the tender document shall apply.

- 6.1.3 Any reference made in the General Conditions for Service Contract to “Volume 1 Section 4.10 (Organisation & Methodology)” shall be considered as reference to “Part 2 – Organisation & Methodology”.
- 6.1.4 Any reference made in the General Conditions for Service Contract to “Volume 3 Section 1 (Terms of Reference)” shall be considered as reference to “Part 1 – 8.0 Tender Specifications and Conditions” of the tender document

7.0 CONTRACT SPECIAL CONDITIONS

7.1 General

- 7.1.1 This Agreement shall be read, governed and construed in accordance with the Laws of Malta and any controversy in relation thereto shall be submitted to final and binding arbitration in terms of Part IV of the Arbitration Act (Chapter 387 of the Laws of Malta)
- 7.1.2 Any dispute, controversy or claim arising out of or relating to this contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the rules of the Malta Arbitration Centre as at present in force. Any reference in the attached General Conditions to other arbitration procedures shall not apply.
- 7.1.3 The acceptance of the Tender under this contract shall not hinder the Contracting Authority from procuring works/supplies/services (as applicable) similar in nature to those requested by this Tender, but which fall outside the scope of this Tender in terms of quantity, quality and/or specifications, from any other source if and whenever is considered necessary. In these circumstances, the Contractor shall not claim any right whatsoever to be assigned such similar works/supplies/services.
- 7.1.4 The Contractor cannot, directly or indirectly, subcontract or handover any part of this contract without the prior approval of the Contracting Authority, after a written request to

this effect by the Contractor.

- 7.1.5 The Contractor shall assume full responsibility and accountability, according to the current legislation, concerning the Health and Safety of his/her employees and/or his/her sub-contractors, including any third parties involved in the execution of this tender.
- 7.1.6 The Contractor shall be bound to conform with the Occupational Health and Safety Authority Act 2000 (Cap 424 of the Laws of Malta) and to all regulations/legal notice that form part of his/her Act; as well as any other national and European Union legislation, regulations, standards, and/or codes of practices in effect during the execution of the contract, regarding Health-and-Safety issues, as they apply for the Contractor's particular operating situation and nature of work activities.
- 7.1.7 The successful Contractor shall provide all health and safety related equipment as required by the Maltese legislation, good practice, as may be required by the Company and as may be further detailed in this Contract.
- 7.1.8 The Contractor shall allocate all necessary resources to safeguard the health and safety of operatives, including those of subcontractors, and of any persons whom the Works may affect. The Contractor shall undertake to perform all necessary risk assessments, H&S procedures and maintain all relevant supporting records as required by Maltese legislation, good practice and as may be required by the Contracting Authority. This also includes the provision by the Contractor of all necessary personal protective equipment, mainly personnel on site are to wear safety boots, gloves, masks and all the necessary safety clothing to protect themselves, vaccinations and medical check-ups (if required) to all his/her employees, including those of subcontractors, employed on site or who are employed to execute the services requested in this Contract. The Contracting Authority reserves the right to carry out inspections in this respect and if the Contractor is found non-compliant then the Contracting Authority shall ask the Contractor to abide with H&S regulations with immediate effect. Subsequent notifications may imply that the Contractor is disqualified from the tender following which the Contracting Authority will seek the services requested from the next cheapest Tenderer.
- 7.1.9 The contractor shall be solely responsible for the safe operation of the plant and equipment employed on site in connection with the works, including the safety of the operators. All equipment shall conform to all safety regulations and legislation in force and / or recognised standards/codes of practice, while all the operators shall be in possession of all the necessary recognised permits, qualification and skill required to carry out such duties.
- 7.1.10 The Contracting Authority reserves the right to inspect all the equipment that shall be required by the Contractor to provide the services requested in this Tender Document.
- 7.1.11 A daily penalty of Two Hundred Fifty Euro (€250) shall be charged to the Contractor if he/she fails to satisfactorily provide the requested services as stipulated in this Tender Document, and/or the service is found to be seriously lacking in quantity, quality or efficiency and/or the Contractor breaches any of the conditions stipulated in this Tender document. In such case, the Contracting Authority shall issue Notification Warning letters or Default Notices, notifying the Contractor of his/her breach of contract and requesting immediate remedial action by the Contractor who shall remedy the failure within three working days from the notification, or else, as may be otherwise required by the Contracting Authority. Moreover, the Contracting Authority reserves the right to engage other contractors to execute the contract and any extra expenses incurred, further to the contract rates, shall be borne by the contractor. During the period the daily penalty is being

applied, the Contracting Authority reserves the right to terminate the contract and award the contract to other bidders competing in the same tender. Moreover, in such event, the bank guarantee shall be forfeited.

7.1.12 Should the abovementioned Clause (7.1.11) be applied, the final sum due to the contractor shall be determined upon the expiry of the notice period indicated and any penalties or extra costs shall be deducted accordingly.

7.1.13 The Contractor shall follow and execute all legitimate directives and instructions issued by the Contracting Authority. The procurement detailed in this tender is authorised by the Contracting Authority as represented on site by the designated Officer in charge of the Contract, who shall verify that all the conditions stipulated in this tender are adhered to. All works to be carried out by the contractor shall always be under the direction and supervision of the Officer in charge of the Contract, who may be assisted by a technical officer or employee of the Contracting Authority.

7.2 Selection Criteria – Minimum Requirements

7.2.1 The contract performance requires, as a minimum:

- 1 Lead Financial Assessor (Team Leader)
- 1 Engineering Assessor – Water
- Administrative support.

7.2.2 The Consultant shall take reasonable steps to avoid changes to the Team. Prior approval of the Authority will be required for all changes to the Assessment Team.

7.2.3 The appointed Consultant, Team Leader and each member of the Assessment Team:

- (i) shall be completely independent of Water Services Corporation and any subsidiary company of the WSC;
- (ii) must not be engaged in consultancy studies or other service contracts associated in any way with the preparation of any works or services to the Water Services Corporation during the period covered by this contract, other than as an auditor.

7.2.4 If the Consultant or any member of the Assessment Team identifies a potential conflict of interest associated with the work, he shall raise the issue with the Contracting Authority for guidance and resolution.

7.2.5 In order to be considered eligible for the award of the contract, tenderers must provide evidence that they meet or exceed certain minimum qualification criteria and experience described hereunder.

7.2.6 In the case of a joint venture, the joint venture as a whole must satisfy the minimum qualifications required below.

7.2.7 Tenderer's technical capacity, qualification and experience.

(An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the

contracting authority that it will have at its disposal the resources necessary for the execution of the contract, for example, by producing an undertaking by those entities to place the necessary resources at the disposal of the economic operator)

7.2.7.1 The Consultant shall nominate named individuals as Team Leader and Engineering Assessor. Each member of the Assessment Team must be appropriately qualified and be competent for their role and in all respects be acceptable to the Authority.

7.2.7.2 Tenderers shall submit a list of the key experts and other staff proposed for the execution of the contract. The Evaluation Committee reserves the right to request the tenderers to substantiate their claims in respect to the staff proposed by requesting CVs of key staff and signed Declarations of Exclusivity and Availability during the evaluation stage. Detailed CVs must be presented only for the key experts indicated below.

7.2.7.3 The technical capability must be compliant to the requirements specified below, both for the 'Consultant' as a whole and also more specifically for the experts that are being proposed. Proposals that do not provide the evidence and proof that their consultants satisfy these requirements shall not be considered further as they shall be deemed to be administratively non-compliant.

7.2.7.4 The Key Experts that **have** to be provided by the contract must have:

- Relevant professional qualifications and skills as specified in 7.2.7.5;
- General Professional Experience as specified in 7.2.7.5;
- Specific Professional Experience as specified in 7.2.7.5;
- Ability to manage and deliver reports in a timely fashion.

7.2.7.5 The profiles, positions and responsibilities of the Assessment Team required for this contract are as follows:

7.2.7.5.1 **Key Expert 1: Lead Financial Assessor (Team Leader)**

The Tenderer is to nominate a Lead Financial Assessor (Team Leader) to coordinate the tasks specified in this tender. The Lead Financial Assessor should have adequate seniority and project management capability and demonstrable experience of managing similar assignments. The Lead Financial Assessor will be responsible for conducting the contract together with the other nominated experts forming part of the Assessment Team. The Lead Assessor has the following responsibilities:

- (a) lead the Consultancy team and co-ordinate inputs from the other experts nominated with the Consultancy team in submission of the deliverables required by the tender;
- (b) liaise with the contracting Authority and Water Services Corporation in the execution of the contract;
- (c) liaise and co-ordinate consultations with other competent authorities and other stakeholders as may be necessary in the execution of the contract;
- (d) provide technical input in the review and assessment of financial information and regulatory accounts submitted by the Water Services Corporation as part of its licence obligations;

- (e) provide technical input in review and assessment of the financial performance and proposed projections submitted by the Water Services Corporation as part of its licence obligations;

The Lead Financial Assessor shall have the following professional qualifications, skills and experience:

Professional Qualifications and skills

- (i) university first degree or equivalent qualification in accountancy;
- (ii) professional qualifications to practice accountancy and auditing in Malta
- (iii) familiar with the requirements of national and EU directives and regulations in the field of accountancy and auditing and in the regulation of utilities;
- (iv) computer literacy (MS office and MS Project);
- (v) good analytical, communication and writing skills;
- (vi) fluency in English (written and spoken)

General Professional Experience

- (i) at least 10 years of general professional experience;
- (ii) responsibility for managing at least 10 financial audits of medium to large sized companies. (References to be included.)
- (iii) responsibility for managing at least 2 projects each with a minimum project value €100,000). (References to be included.)

Specific Professional Experience

- (i) at least 10 years experience in team leadership, project management and similar assignments (References to be included.).
- (ii) the preparation and co-ordination of financial audits;
- (iii) financial analysis of utility, communications, airline or other similar regulated industries.

7.2.7.5.2

Key Expert 2: Engineering Assessor - Water

This Expert should have adequate seniority and demonstrable experience in projects relevant to the water sector. The Engineering Assessor – Water shall have the following responsibilities:

- (i) provide technical input on the review and assessment of operational and technical information submitted out by the Water Services Corporation as part of its licence obligations;
- (ii) provide technical input in the review and assessment of the operational performance and the proposed projections submitted by the Water Services Corporation as part of its licence obligations;
- (iii) provide technical input to the analysis and assessment of unbilled water components supplied by the Water Services Corporation.

This key expert shall have the following professional qualifications, skills and experience:

Professional Qualifications and skills

- (i) relevant university first degree in engineering, science or related degree;
- (ii) be familiar with the requirements of national and EU directives and regulations in the water sector;
- (iii) computer literacy (MS office);
- (iv) good analytical, communication and writing skills;
- (v) fluency in English (written and spoken)

General Professional Experience

- (i) at least 5 years general professional experience;
- (ii) significant participation in at least 2 projects (with a total project cost of more than €100,000) and which were related to the water sector. (References to be included.)

Specific Professional Experience

- (i) at least 5 years experience in the technical, operational, or regulatory aspects of water utilities (References to be included.)

7.2.7.6 Other Experts: The Consultant shall select and hire other experts as required according to the profiles identified in the Organisation & Methodology and these Terms of Reference. For the purposes of this contract, international experts are considered to be those whose permanent residence is outside the beneficiary country while local experts are considered to be those whose permanent residence is in the beneficiary country.

7.2.7.7 All experts must be independent and free from conflicts of interest in the responsibilities accorded to them.

7.2.7.8 The selection procedures used by the Consultant to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel shall be recorded. The selection of experts shall be subject to approval by the Contracting Authority.

Note that civil servants and other staff of the Public Service cannot be recruited as experts. See sub-article 9.5 of the General Conditions.

7.2.7.9 Supporting Staff and Backstopping: The tenderer shall indicate in his tender offer the support administrative staff available and that will be involved in the contract, their degree and level of participation and the area of contribution and participation.

7.2.7.10 Tenderers shall submit evidence of relevant experience in carrying out services of a similar nature over the past 5 years including the nature and value, as well as contracts in hand and contractually committed.

7.2.7.11 The minimum value of projects of a similar nature completed shall be not less than €100,000 per annum.

7.2.7.12 The minimum number of projects of a similar scope/nature completed in the last 5 years must be at least 3 in number.

- 7.2.7.13 In so listing the end clients, the tenderer is giving his consent to the Evaluation Committee, so that the latter may, if it deems necessary, contact the relevant clients, with a view to obtain from them an opinion on the works provided to them, by the tenderer.

7.3 Ethics Clauses

- 7.3.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Authority or the Contracts Committee during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties.
- 7.3.2 Without the Authority's prior written authorisation, the Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment for projects or activities arising from or related to the Consultancy services being provided. This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.
- 7.3.3 When putting forward a candidacy or tender, the candidate or tenderer must declare that he is affected by no potential conflict of interest, and that he has no particular link with other tenderers or parties involved in the project.
- 7.3.4 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He must refrain from making public statements about the project or services without the Contracting Authority's prior approval. He may not commit the Contracting Authority in any way without its prior written consent.
- 7.3.5 For the duration of the contract, the Contractor and his staff must respect human rights and undertake not to offend the political, cultural and religious morals of Malta.
- 7.3.6 The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 7.3.7 The Contractor and his staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.
- 7.3.8 The contract governs the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 7.3.9 The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 7.3.10 The tender(s) concerned will be rejected or the contract terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not

stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

7.4 Data Protection and Freedom of Information

- 7.4.1 Any personal data submitted in the framework of the procurement procedure and/or subsequently included in the contract shall be processed pursuant to the Data Protection Act (2001). It shall be processed solely for the purposes of the performance, management and follow-up of the procurement procedure and/or subsequent contract by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with National and/or Community law.
- 7.4.2 The provisions of this contract are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Cap. 496 of the Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relations to any provisions of this contract which have not yet been made public, shall consult the contractor in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

7.5 Gender Equality

- 7.5.1 In carrying out his/her obligations in pursuance of this contract, the tenderer shall ensure the application of the principle of gender equality and shall thus 'inter alia' refrain from discriminating on the grounds of gender, marital status or family responsibilities. Tenderers are to ensure that these principles are manifest in the organogram of the company where the principles aforementioned, including the selection criteria for access to all jobs or posts, at all levels of the occupation hierarchy are amply proven. In this document words importing one gender shall also include the other gender.

8.0 TENDER SPECIFICATIONS AND CONDITIONS

8.1 Contract Objective

- 8.1.1 This Tender is for Consultancy services to the Malta Resources Authority for Financial and Engineering Assessments of the Water Services Corporation.
- 8.1.2 The Malta Resources Authority (MRA) is the regulator for energy, water and minerals resources. The functions of the MRA are established in Articles 4 (1) and 4 (2) of the MRA Act. These include *inter alia*:
- (a) to regulate, monitor and keep under review all practices, operations and activities relating energy, water and mineral resources;
 - (b) to grant any licence, permit or other authorisation, for the carrying out of any operation or activity energy, water and mineral resources;
 - (d) to ensure fair competition in all such practices, operations and activities;

- 8.1.3 In exercise of its powers conferred to it under the Malta Resources Authority Act (Cap. 423), in particular Article 26 thereof and LN 525 of 2004, the Malta Resources Authority issues licences to Water Services Corporation for the supply of water through the public water distribution network and to provide sewerage services using the public sewage collection system.
- 8.1.4 The Authority intends to appoint suitably qualified and experienced independent financial and engineering assessors to carry out the following activities and undertakings on its behalf:
- i. report, assess, compile information, provide information, express an opinion on and execute any other related tasks as required by the Authority to enable the Authority to execute its functions under the MRA Act (Cap. 423);
 - ii. review, scrutinise and assess information submitted including annual licence monitoring reports;
 - iii. report their opinion and assess compliance to established licence conditions;
 - iv. carry out engineering and financial assignments for the purpose of compiling and verifying information on the Licensee's performance;
 - v. develop engineering and, or financial reporting requirements and formats to form part of the licence or amendments thereto.
- 8.1.5 The Consultant's role is to assist the Authority to fulfil its statutory duties. The Consultant's primary duty of care is to the Malta Resources Authority. The Consultant also has a duty of care to the Water Services Corporation.

8.2 Contract Term and Frequency of Use

8.2.1 The Contract shall be operative for a period of twelve (12) calendar months. The commencement of this contract shall be upon the issuance of the '**Order to Start Works**', issued by the Contracting Authority.

8.2.2 The delivery periods for submission of deliverables specified in the Workpackages shall be as specified in the Tender document.

8.3 Submission of Literature

8.3.1. Tenderers are required to submit the information specified in clause 3.1.5 in line with tender requirements.

8.3.2. Tenderers are also required to submit literature showing evidence of relevant experience as specified in Section 7.2 of the tender

8.4 Services Required

8.4.1 The overall objectives of the project of which this contract will be a part are as follows:

- (i) to assist the Authority to regulate Water Services Corporation in accordance with its statutory obligations;
- (ii) to assist towards improvement in performance of Water Services Corporation including reduction of costs and added value in services provided to its customers.

8.4.2 The objectives of the licences issued by the Authority to Water Services Corporation are :

- (i) to monitor the Licensee's performance and compliance to licence conditions;
- (ii) to measure and compare the Licensee's costs and outputs to industry standards;
- (iii) to form a basis for greater consumer protection;
- (iv) to establish a basis for setting performance targets for Licensee to achieve higher quality objectives and determination of tariff reviews.

8.4.3 The objectives of this contract are as follows:

- (i) to review and assess information submitted by Water Services Corporation;
- (ii) to improve methodologies, underlying assumptions, identify any weakness and increase reliability of the information submitted as part of the Licence obligations

8.4.4 The Consultant shall provide the following deliverables:

- (i) Review and assessment reports on information submissions of the WSC as specified and in accordance with requirements of Workpackages 1;
- (ii) Review and assessment reports on "Unbilled Water supplied by the Water Services Corporation" as specified and in accordance with requirements of Workpackage 2;
- (iii) Any further explanations or clarifications as the Authority may reasonably require following receipt of submissions and Consultant's reports.

8.5 Specifications

The Contractor shall carry out the following activities and assignments:

8.5.1 Workpackage 1: - Review and Assessment of Information provided by Water Services Corporation – Licence Monitoring Reports

8.5.1.1 Assessment of Information - WSC

The Consultant is required to hold early discussions with the WSC in order to understand how the WSC intends to meet the Authority's requirements.

The Consultant's assessment should be directed at those areas of the WSC's future expenditure proposals or annual reports where expenditure is projected to be, or has been, high.

The Consultant shall review and assess information submitted by the WSC as part of its licence obligations in particular shall assess information submitted in connection with the following key outputs and performance indicators:

	Key Outputs and Performance Indicators	Unit
A	Operational Outputs	
1	Total potable water supplied	m ³
2	Total wastewater collected	m ³
3	Total no. of active accounts	no.
4	Percentage population served - sewerage service connection	%
5	Total operating expenditure - water supply	€
6	Total capital expenditure - water supply	€
7	Total operating expenditure - sewerage services	€
8	Total capital expenditure - sewerage services	€
9	Total income	€
10	Total potable water billed	m ³
B	Performance Indicators	
B1	Operational Efficiency	
11	Estimated leakage	m ³
12	Energy consumption of water supply (production + distribution)	kWh/m ³
B2	Water Quality Outputs	
13	% tests at consumer taps complying with micro-biological standards (Water Intended for Human Consumption Regulations)	%
14	% tests at consumer taps complying with chemical and indicator parameters (Water Intended for Human Consumption Regulations)	%
15	Percentage wastewater treated - secondary treatment	%
B3	Reliability of Supply and Service Quality Outputs	
16	Percentage households receiving low water pressure	%
17	Total number of supply interruptions greater than 12 hours	households days / annum
18	Percentage complaints not dealt with within 20 days	%
19	Total complaints (written / phone / personal visit)	no.

B4	Financial Outputs	
20	Unit operational cost - potable water supply (excluding cost of power)	€ / m ³
21	Total unit operational cost - potable water supply	€ / m ³
22	Unit operational cost - sewage collection and treatment (excluding cost of power)	€ / m ³
23	Total unit operational cost - sewage collection and treatment	€ / m ³
24	Percentage unaccounted for water	%

The Consultant's reports to Authority shall be free standing, i.e. the reader should be able to understand the work carried out by the Consultant and his findings without direct reference to other documents.

The Consultant shall, following order to start works, carry out an assessment of the information submitted by the Water Services Corporation as part of its licence obligations in particular the information specified in the Licence Monitoring Annual Reports (Schedule 4 of Licence issued to Water Services Corporation).

In this Workpackage the Consultant shall:

1. with respect to the key outputs and performance indicators listed above:
 - (i) Review, assess, report, comment and submit reasoned opinions on:
 - a. the methodologies adopted by the WSC to collate and submit information specified;
 - b. the quality assurance procedures and, underlying assumptions, exclusions, policies and obligations the underpin WSC's submissions in the Licence Monitoring Annual Reports;
 - c. any weaknesses and propose any amendments as necessary to such methodologies, quality assurance procedures and assumptions, exclusions, and policies used and, or adopted by the WSC in its licence reporting obligations;
 - d. any areas of concern or challenge identified by the Consultant and how these have been resolved and, or any significant areas where agreement cannot be reached with the WSC.
 - (ii) Assess and confirm or otherwise whether WSC's submissions are prepared in accordance with the licence obligations and conditions, best practice and any guidance issued by Authority;
 - (iii) Assess, confirm or otherwise and report on the WSC's quantification of efficiency improvements in its projections. This applies to both operating costs and capital costs.
 - (iv) Report on the quality assurance procedures adopted by the Consultant in his reviews and assessments including summary of meetings held, inspections and investigations carried out and followed.

2. review, assess, report, comment and submit reasoned opinions on any allocation of forecast expenditure and assumptions about transfer prices between:
 - (i) Licensed business and non-licensed business as defined in the licence issued to the WSC;
 - (ii) Licensed activities and non-licensed activities as defined in the licence issued to the WSC;
 - (iii) water and sewerage services output categories.

Deliverables:

- (1) Review and assess information submitted by WSC in the licence monitoring reports as specified.
- (2) Reports on the results of the reviews and assessments carried out as specified.
- (3) The Consultant shall provide further explanations or clarification as the Authority may reasonably require following receipt of the submissions and the Consultant's reports.

8.5.2 Workpackage 2: Review and Assessment of Unbilled Water Supplied by Water Services Corporation

In this workpackage, the Consultant shall:

- (i) Review, assess, report, comment and submit reasoned opinions on:
 - (a) documentation compiled by the Water Services Corporation on its current and historical (past 3 year) performance related to unbilled water (i.e. leakages, theft, under registered metered water, under estimated water, other billed water) supplied by WSC;
 - (b) the operations of the WSC with respect to all components of unbilled water carried out by the WSC;
 - (c) the methodologies adopted by the WSC in reducing unbilled water components and its reporting to the Authority in this sector;
 - (d) any areas of concern, gaps or challenges in the WSC's reporting methodologies, information submissions and operational aspects with respect to unbilled water components;
- (ii) submit recommendations and proposals for any measures, actions or directions necessary to improve unbilled water components performance indicators to best practice and comparative international benchmarks.

Deliverables:

- (1) Review, assess and report on unbilled water supplied by the Water Services Corporation as specified.
- (2) The Consultant shall provide further explanations or clarification as the Authority may reasonably require following receipt of the submissions and the Consultant's report.

PART 2:

TENDER FORM

(A separate, distinct Tender Form must be submitted for EACH OPTION – if applicable - submitted)

Place and Date:

Publication reference: **MRA / 74/ 10**

Name & address of Contracting Authority: **Malta Resources Authority**
Millennia 2nd Floor
Aldo Moro Road
Marsa

Contract for Consultancy Services to the Malta Resources Authority for financial and engineering assessments of Water Services Corporation – MRA/74/10

A TENDER SUBMITTED BY

	Name(s) of tenderer(s)	Nationality
Leader		
Partner 2*		
Etc ... *		

* add/delete additional lines for partners as appropriate. Note that a sub-Contractor is not considered to be a partner for the purposes of this tender procedure. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as 'leader' (and all other lines should be deleted)

B CONTACT PERSON (for this tender)

Name	
Address	
Telephone	(____) _____
Mobile	(____) _____
Fax	
E-mail	

C TENDERER'S DECLARATION(S)

To be completed and signed by the tenderer (including each partner in a consortium).

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

- 1 We have examined, and accept in full and in its entirety, the content of this tender document (including subsequent Clarifications Notes issued by the Contracting Authority) for invitation to tender No **MRA/74/10** of **4th February 2011**. We hereby accept the contents thereto in their entirety, without reservation or restriction. We also understand that any disagreement, contradiction, alteration or deviation shall lead to our tender offer not being considered any further.

- 2 We offer to provide, in accordance with the terms of the tender document and the conditions and time limits laid down, without reserve or restriction, the following services:

Workpackage No 1:[.....]
[description of services]

Workpackage No 2 : [.....]
[description of services]

- 3 The rates/prices of our tender (exclusive of VAT but inclusive of duties, other taxes and any discounts) is:

Workpackage No 1: [.....]

Workpackage No 2: [.....]

- 4 This tender is valid for a period of 3 months from the final date for submission of tenders.

- 5 We are making this application in our own right and [**as partner in the consortium** led by < name of the leader / ourselves >] for this tender. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, each member, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance]. We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure.
- 6 We are not bankrupt or under an administration appointed by the Court, or under proceedings leading to a declaration of bankruptcy. We also declare that we have not been convicted criminally, or found guilty of professional misconduct. Furthermore, we are up-to-date in the payment of social security contributions and other taxes.
- 7 We accept that we shall be excluded from participation in the award of this tender if compliance certificates in respect of declarations made under Clause 7 of this declaration are not submitted by the indicated dates.
- 8 We have no potential conflict of interests or any relation with other candidates or other parties in the tender procedure at the time of the submission of this application. We have no interest of any nature whatsoever in any other tender in this procedure. We recognise that our tender may be excluded if we propose key experts who have been involved in preparing this project or engage such personnel as advisers in the preparation of our tender.
- 9 We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any false, inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the Government of Malta and the European Communities.
- 10 I acknowledge that the Contracting Authority shall request rectifications in respect of incomplete/non-submitted information pertinent to the documentation listed in clause 2.1.3. We understand that such rectification/s must be submitted within two (2) working days, and will be subject to a non-refundable administrative penalty of €50, and that failure to comply shall result in our offer not being considered any further.
- 11 We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to cancel or award only part of the contract. It will incur no liability towards us should it do so.

Name and Surname: _____

I.D. / Passport Number: _____

Signature of tenderer: _____

Duly authorised to sign this
tender on behalf of: _____

Company/Lead Partner VAT No: _____
(if applicable)

Stamp of the firm/Company: _____

Place and date: _____

PROOF OF PURCHASE (receipt)

I confirm that the tender document was purchased by on our
Insert name of purchaser

exclusive behalf, on via as
Insert date of purchase Authority's website/Cash Office

attested by the receipt attached herewith.

(Please attach a copy of the purchase receipt, which demonstrates that the tender document was purchased before the closing time and date of this call for tenders.)

Signature:
(the person or persons authorised to sign on behalf of the tenderer)

Date:

TENDERER'S DETAILS

Name of Tenderer/Joint Venture/Consortium	..........
Address	..........
Manufacturer⁰	.....
Country of Origin	.....
VAT Registration Number (if applicable)	.....
Name of Contact Person	.....
I.D. / Passport Number	.....
Signature	.....
Date	.....

DATA ON JOINT VENTURE/CONSORTIUM (if applicable)

4.4.1	Name	.....
4.4.2	Managing Board's Contact Details	Address: Telephone: Fax: Email:
4.4.3	Agency in the state of the Contracting Authority, if any <i>(in the case of a Joint Venture/ Consortium with a foreign lead partner)</i>	Address: Telephone: Fax: Email:
4.4.4	Names of Partners	(i) (ii) (iii) (iv)
4.4.5	Name of Lead Partner	.....

4.4.6	Agreement governing the formation of the Joint Venture/Consortium <i>(Enclose Joint Venture/ Consortium Agreement)</i>	
	Place of Signature:	Date of Signature:
4.4.7	Proposed proportion of responsibilities between partners (in %) with indication of the type of the works to be performed by each* * The Company acting as the lead partner in a joint venture/consortium, they must have the ability to carry out at least 50% of the contract works by its own means. If a Company is another partner in a joint venture/consortium (i.e. not the lead partner) it must have the ability to carry out at least 10% of the contract works by its own means	
 -% -%
 -% -%

Signature:

(the person or persons authorised to sign on behalf of the tenderer)

Date:

SUBCONTRACTING (if applicable)

If the tenderer plans to sub-contract part of the works, he/she must provide the following details:

Service/s intended to be sub-contracted	Name and details of sub-contractors	Value of sub-contracting as percentage of the total cost	Experience in similar services (details to be specified)

Signature:

(the person or persons authorised to sign on behalf of the tenderer)

Date:

STATEMENT ON CONDITIONS OF EMPLOYMENT

It is hereby declared that all employees engaged on this contract shall enjoy working conditions such as wages, salaries, vacation and sick leave, maternity and parental leave as provided for in the relative Employment Legislation. Furthermore, we shall comply with Chapter 424 of the Laws of Malta (Occupational Health and Safety Authority Act) as well as any other national legislation, regulations, standards and/or codes of practice or any amendment thereto in effect during the execution of the contract.

In the event that it is proved otherwise during the execution of the contract it is hereby being consented that the contract is terminated with immediate effect and that no claim for damages or compensation be raised by us.

Signature:

(the person or persons authorised to sign on behalf of the tenderer)

Date:

OVERVIEW OF TENDERER'S PERSONNEL

	Description	Notes	Number
A	<i>Managerial</i>		
	Director/s and Management	None specifically requested for this tender, however it is assumed that the tenderer would have an established internal management structure	
B	<i>Administrative</i>		
	Administrative Staff	None specifically requested, however the tenderer should ensure adequate administrative support for the execution of the contract and is free to list Administrative Staff as may be appropriate.	
C	<i>Key Experts</i>		
	<i>Key Expert 1</i>	Lead Assessor – Team Leader – refer Section 7.2 – Special Conditions	
	<i>Key Expert 2</i>	Engineering Assessor – Water – refer Section 7.2 – Special Conditions	
D	<i>Other Experts</i>	None specifically requested, but the tenderer is free to propose additional expert/s for the areas covered in this tender as stipulated in section 7.2.- Special Conditions	
		
		
		
		
	<i>TOTAL</i>		

Signature:

(the person or persons authorised to sign on behalf of the tenderer)

Date:

KEY EXPERTS

The Evaluation Committee reserves the right to request the tenderers to substantiate their claims in respect to the staff proposed by requesting CVs of Key Experts during the evaluation stage.

Name of Expert	Proposed Position	Nationality	Age	Educational Background	Specialist Area of Knowledge	Years of Experience	Languages and Degree of Fluency (VG; G; W)

Signature:

(the person or persons authorised to sign on behalf of the tenderer)

Date:

ORGANISATION AND METHDOLOGY

To be completed by the tenderer

1. RATIONALE

- Any comments on the Terms of Reference of importance for the successful execution of activities, in particular its objectives and expected results, thus demonstrating the degree of understanding of the contract. **Any comments contradicting the Terms of reference or falling outside their scope will not form part of the final contract**
- An opinion on the key issues related to the achievement of the contract objectives and expected results
- An explanation of the risks and assumptions affecting the execution of the contract.

2. STRATEGY

- An outline of the approach proposed for contract implementation including an Review and Assessment plan for each Workpackage which shall cover the following:
 - i. A method statement.
 - ii. The key questions being addressed in the review and assessment.
 - iii. The proposed schedule of the assessments.
 - iv. The personnel involved.
- A list of the proposed activities considered to be necessary to achieve the contract objectives.
- The related inputs and outputs.
- In the case of a tender being submitted by a consortium, a description of the input from each of the consortium partners and the distribution and interaction of tasks and responsibilities between them.
- A description of the support facilities (back-stopping) that the team of experts will have from the contractor during the execution of the contract.
- A description of sub-contracting arrangements foreseen, if any and within the limit indicated in clause 3 of the Instructions to tenderers, with a clear indication of the tasks that will be entrusted to a sub-contractor and a statement by the tenderer guaranteeing the eligibility of any sub-contractor.

3. TIMETABLE OF ACTIVITIES

- The timing, sequence and duration of the proposed activities, taking into account mobilisation time
- The identification and timing of major milestones in execution of the contract, including an indication of how the achievement of these would be reflected in any reports, particularly those stipulated in the Terms of reference.

SPECIFICATIONS FORM

(To be completed by the Tenderer or an Authorised Representative)

Tender reference	Tender - Minimum Requirements	Specifications of proposal offered by Tenderer	Confirmation whether tenderer's proposal meets tender's minimum requirements – <i>Mark Y (Yes) or N (No) as applicable</i>
7.2.7.5.1	Lead Financial Assessor (Team Leader)		
	<i>Professional qualifications and skills:</i>		
	(i) university first degree or equivalent qualification in accountancy;		
	(ii) professional qualifications to practice accountancy and auditing in Malta		
	(iii) familiar with the requirements of national and EU directives and regulations in the field of accountancy and auditing and in the regulation of utilities;		
	(iv) computer literacy (MS office and MS Project);		
	(v) good analytical, communication and writing skills;		
	(vi) fluency in English (written and spoken)		
	<i>General Professional Experience</i>		
	(i) at least 10 years of general professional experience;		
	(ii) responsibility for managing at least 10 financial audits of medium to large sized companies. (References to be included.)		
(iii) responsibility for managing at least 2 projects each with a minimum project value €100,000). (References to be included.)			

Tender reference	Tender - Minimum Requirements	Specifications of proposal offered by Tenderer	Confirmation whether tenderer's proposal meets tender's minimum requirements – Mark Y (Yes) or N (No) as applicable
	<i>Specific Professional Experience</i>		
	(i) at least 10 years experience in team leadership, project management and similar assignments (References to be included.).		
	(ii) the preparation and co-ordination of financial audits;		
	(iii) financial analysis of utility, communications, airline or other similar regulated industries.		
7.2.5.2	Engineering Assessor (Water) <i>Professional Qualifications and skills</i> (i) relevant university first degree in engineering, science or related degree; (ii) be familiar with the requirements of national and EU directives and regulations in the water sector; (iii) computer literacy (MS office); (iv) good analytical, communication and writing skills; (v) fluency in English (written and spoken) <i>General Professional Experience</i> (i) at least 5 years general professional experience; (ii) significant participation in at least 2 projects (with a total project cost of more than €100,000) and which were related to the water sector. (References to be included.)		

Tender reference	Tender - Minimum Requirements	Specifications of proposal offered by Tenderer	Confirmation whether tenderer's proposal meets tender's minimum requirements – <i>Mark Y (Yes) or N (No) as applicable</i>
	<p><i>Specific Professional Experience</i></p> <p>(i) at least 5 years experience in the technical, operational, or regulatory aspects of water utilities (References to be included.)</p>		
7.2.7.10 –	Tenderer's Experience:		
7.2.12	<p>Projects of similar scope / nature completed within last 5 years,</p> <p>Minimum number = 3;</p> <p>Minimum value of each project € 100,000</p>		

Name of Tenderer: _____

Date: _____

I.D. No.: _____

Signature: _____

SCHEDULE OF PRICES & RATES

This form must be filled in and submitted with the tender document. Failure to fill in the form, or a form with incomplete information, or form containing ambiguous financial information (e.g. rates, totals etc) shall disqualify the tendered submission.

(To be completed by the Tenderer or an Authorised Representative)

Global price for the Provision of Consultancy Services to the Malta Resources

Authority for Financial and Engineering Assessments of the Water Services

Corporation as outlined in the Tender Document, Advert Number MRA/74/10

Description	Price inclusive of all taxes but excluding VAT Amount in Euro (€)	VAT Amount in Euro (€)	Total inclusive of VAT Amount in Euro (€)
Consultancy Services to the Malta Resources Authority for Financial and Engineering Assessments of Water Services Corporation	€..... Amount in Words:	€..... Amount in Words:	€..... Amount in Words:

FINANCIAL BID BREAKDOWN

Work Package	Description of Service	Price inclusive of all taxes but excluding VAT Amount in Euro (€)	VAT Amount in Euro (€)	Total inclusive of VAT Amount in Euro (€)
1	Review and assessment of Information provided by Water Services Corporation – Licence Monitoring Reports as specified and inclusive of submission of deliverables specified			
2	Review and assessment of unbilled, water supplied by WSC as specified and inclusive of submission of deliverables specified			
	GRAND TOTAL			

Tenderer's Declaration:

I hereby bind myself to deliver the items tendered for within _____ from date of Order to Start Works.

Name of Tenderer: _____ **Date:** _____

I.D. No.: _____ **Signature:** _____

SPECIMEN PERFORMANCE GUARANTEE

(LETTERHEAD OF THE REGISTERED FINANCIAL INSTITUTION PROVIDING THE GUARANTEE)

Chief Executive Officer
Malta Resources Authority
Millennia
Aldo Moro Road
Marsa MRS 9065
Malta

[Date]

Dear Sir,

Our Guarantee Number for €.....

Account: **[Account Holder's Name]**

In connection with the contract entered into between yourself on behalf of the Director of Contracts and **[Name and Address of Contractor]** hereinafter referred to as "the Contractor" as per the latter's tender and your acceptance under **MRA/74/10**, whereby the contractor undertook the **Consultancy Services to the Malta Resources Authority for financial and engineering assessments of the Water Services Corporation** in accordance with Article 7.8 of the General Conditions for Service Contracts forming part of the contract documents, we hereby guarantee to pay you on demand a maximum sum of **€[amount in works and numbers]** in case the obligations of the above-mentioned contract are not duly performed by the Contractor.

This guarantee will become payable on your first demand and it shall not be incumbent upon us to verify whether such demand is justified.

For avoidance of doubt it is hereby declared that although this instrument gives rise to legal relations between the guarantor and the beneficiary, it is hereby specifically declared for all intents and purposes of law that this guarantee does not exempt the above-mentioned Contractor from any obligations, acts of performance or undertaking assumed under the tender documents as ratified in the contract.

Any payments due to the contractor in respect of the obligations entered into under the contract above referred to shall be made through this Bank.

This guarantee expires on the **[expiry date]** and unless it is extended by us or returned to us for cancellation before that date any demand made by you for payment must be received in writing not later than the aforementioned expiry date.

This document should be returned to us on utilization or expiry or in the event of the guarantee being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this guarantee shall be null and void, whether returned to us or not, and our liability hereunder shall terminate.

This guarantee is personal to you, and is not transferable or assignable.

Yours Faithfully,

.....
[Signatory on behalf of Guarantor]

TENDER SUBMISSION CHECKLIST

The Tenderer is requested to tick in the boxes below to cross check that all documentation required in the Tender Document are completely filled-in and submitted with his/her Tender submission.

- SCHEDULE OF RATES & PRICES
- TENDERER'S DETAILS FORM
- TENDER FORM
- PROOF OF PURCHASE
- DATA ON JOINT VENTURE/ CONSORTIUM FORM (IF APPLICABLE)
- SUB-CONTRACTING FORM (IF APPLICABLE)
- STATEMENT ON CONDITIONS OF EMPLOYMENT FORM
- OVERVIEW OF TENDERER'S PERSONNEL
- KEY EXPERTS
- ORGANISATION AND METHODOLOGY
- SPECIFICATIONS FORM
- CVs AND REFERENCES
- ALL ADDENDA IS ATTACHED WITH THE SUBMISSION (IF ANY)
- NO ALTERATIONS TO THE DOCUMENT HAVE BEEN MADE

Name of Tenderer: _____ Date: _____

I.D. No.: _____ Signature: _____