



Ref : .....

Date: .....

Res: .....

الرقم: ١١٤٨

التاريخ: ٢٠١٣ / ٨ / ١٩

المرفات: ٢-١

المحترمون

المحترمون

المحترمون

الإخوة / الوزراء

الإخوة / المحافظون

الإخوة / رؤساء الهيئات والمؤسسات والمصالح والجامعات الحكومية

تحية طيبة وبعد،

الموضوع / تعميم رقم (6) لعام 2013م

استناداً إلى قرار مجلس الوزراء رقم (139) بتاريخ 2013/6/18م لسنة 2013م والخاص برفع السقوف المالية للجان المناقصات للمشاريع الممولة دولياً، تهب الهيئة العليا بكافة الجهات التي ينطبق عليها القرار اتخاذ كافة الإجراءات التي تضمن سلامة تطبيق القرار آنف الذكر واتخاذ الاجراءات التالية:

- 1) تشكيل لجان المناقصات في الوحدات التنفيذية برئاسة الوزير / المحافظ المعني بالإشراف على الوحدة / المشروع.
- 2) إعداد خطة المشتريات لكافة المناقصات الممولة من القرض/ المنحة التي تقوم الوحدة بإدارتها مع الأخذ بعين الاعتبار تضمين الخطة الأعمال الاستشارية الخاصة بالتعاقد مع استشاري لأعمال المراجعة الفنية للمناقصات والمشاريع التي تقل قيمتها عن السقف المالي الجديد للجنة العليا للمناقصات.
- 3) يمكن الاستفادة من نموذج الشروط المرجعية المرفقة بالتعميم لإعداد الشروط المرجعية ووثائق الدعوة للأعمال الاستشارية الخاصة بالمراجعة الفنية مع الأخذ بعين الاعتبار خصوصية واحتياج كل وحدة، والإسراع في اعتماد تلك الوثائق من قبل الممول.
- 4) البدء في عملية رفع قدرات الكوادر العاملة في مجال المشتريات لضمان التطبيق السليم للإجراءات المحددة في القانون ولائحته التنفيذية والأدلة الإرشادية للمولين، بالاستفادة من مخصصات التدريب ضمن مخصصات القرض/ المنحة أو بالتنسيق مع اللجنة العليا للمناقصات والمزايدات ووزارة التخطيط والتعاون الدولي.





Ref : .....

Date: .....

Res.: .....

الرقم: ١١٤٨

التاريخ: ٢٠١٢/٨/١٩

المرفقات: ٢-٢

5) موافاة الهيئة العليا بنسخة من كافة الوثائق المتصلة بالإجراءات المحددة أعلاه أولاً بأول. وعليه نأمل التقيد بالإجراءات المحددة أعلاه والتي تضمنها قرار مجلس الوزراء المشار إليه لضمان تسريع الإجراءات في استيعاب القروض والمنح الخارجية مع ضمان سلامة الإجراءات وشفافيتها، وعلى لجان المناقصات في الوحدات المعنية التأكد من التقيد بهذه الإجراءات وعليها تقع مسؤولية أي إخلال في تطبيق الإجراءات المحددة في القرار وهذا التعميم.

وتقبلوا تحياتنا،،،

م. عبد الملك أحمد العرشي  
رئيس الهيئة العليا  
للرقابة على المناقصات والمزايدات



نسخة مع التحيية لـ:

المحترم - دولة الأخ/ رئيس مجلس الوزراء  
المحترم - الأخ/ مدير مكتب رئاسة الجمهورية  
المحترم - الأخ/ رئيس اللجنة العليا للمناقصات



قرار مجلس الوزراء رقم (١٣٩) لعام ٢٠١٣ م  
بشأن

الموافقة على تعديل اللائحة التنفيذية للقانون رقم (٢٣)  
لسنة ٢٠٠٧ م الخاص بالمناقصات والمزايدات والمخازن الحكومية

اطلع مجلس الوزراء على المذكرة المقدمة من رئيس الهيئة العليا للرقابة على المناقصات والمزايدات برقم (٩٧٨) وتاريخ ٢٠١٣/٦/١٦ م بشأن مشروع تعديل اللائحة التنفيذية للقانون رقم (٢٣) لسنة ٢٠٠٧ م الخاص بالمناقصات والمزايدات ، وأقر الآتي :-

١ - الموافقة على تعديل الفقرة (أ) من المادة (٥٧) والبندين (٢،١) من الفقرة (ب) من المادة (٧٨) ، والبند (١) من الفقرة (ب) من المادة (٧٩) من اللائحة التنفيذية للقانون رقم (٢٣) لسنة ٢٠٠٧ م الخاص بالمناقصات والمزايدات والمخازن الحكومية (المرفقة بهذا القرار).

٢ - على رئيس الهيئة العليا للمناقصات والمزايدات بالتنسيق مع وزير الشؤون القانونية متابعة استكمال الإجراءات القانونية اللازمة.

٣ - يعمل بهذا القرار من تاريخ ٢٠١٣/٦/١٨ م.

٤ - ينفذ القرار بالوسائل الإدارية المناسبة .

المتفقون		المتنعون	المتحفظون
مشارك	رئيسي	لا يوجد	لا يوجد
وزير الشؤون القانونية	رئيس الهيئة العليا للرقابة على المناقصات والمزايدات رئيس اللجنة العليا للمناقصات والمزايدات		/

مدة القرار : دائم

مضمون القرار : اقتصادي/ مناقصات - تعديل اللائحة التنفيذية للقانون رقم (٢٣) لسنة ٢٠٠٧ م بشأن المناقصات والمزايدات والمخازن الحكومية.

شكل القرار : لائحة

جهة التنفيذ : مشترك.

# **SAMPLE TOR (SHOULD BE MODIFIED AS PER PIU NEEDS)**

## **Terms of Reference**

### Technical Audit

#### **1. BACKGROUND:**

The poor condition of the rural transport network in Yemen constitutes a major hurdle against poverty reduction efforts, and contributes deeply to the impedance of economic growth. Rural life development depends to a great deal on having minimum access to locations of basic social and economic activities. Between 1992 and 1998, Yemen's rate of poverty almost doubled, growing from 19% to about 33%. A number of key factors have been identified as contributing to poverty conditions, including high population growth, illiteracy, poor health, low employment and insufficient infrastructure and inadequate access to social services. In 1995, there was about 64,500 km of roads, 4,800 km of them paved (about 7.5%). Many areas are inaccessible to vehicles leaving a large sector of the population suffering from accessibility problems to the basic services they need. In 1996, there were 229,000 passenger cars, a ratio of 31 people per car. In remote areas, people rely principally on horses, donkeys, and camels for transport.

The Rural Access Program initiated by the World Bank aims at improving the livelihood, and reducing the isolation of the rural population in Yemen. The project is split into three distinct phases:

**Phase I:** involves pilot implementation of physical interventions and create an adequate institutional and participatory framework for planning, prioritization and maintenance of the intermediate road network;

**Phase II:** will focus on the improvement and maintenance of the intermediary road network as well as village access roads and capacity building at the Governorate level;

**Phase III:** will expand the physical rural access improvements to cover areas not yet covered under Phase II.

The current study involves services under phase II of RAP, which will focus on the improvement and maintenance of the intermediary road network as well as village access roads and capacity building at the Governorate level.

In compliance with the Credit Agreement with IDA, the Government of the Republic of Yemen, represented by the Central Management Office of the Ministry of Public Works and Urban Development, will ensure regular technical audits on the Rural Access Project (RAP), implemented by an independent auditor.

## 2. **OBJECTIVE OF THE SERVICES:**

The objective of the Technical Audits is to enable the Government and IDA/Financer to critically assess the effectiveness, finance and transparency of investments, which are implemented through the RAP. The technical audit focuses on the components of the project for which the RAPCMO is the manager. The detailed duties of the consultants are presented in the following section

## 3. **DETAILED DUTIES OF THE TECHNICAL AUDIT:**

3.1 The technical audit will be comprehensive, and include an analysis of the entire implementation process of the selected components of the project (both completed and in process). This will include examination of the quality of designs and studies; quality of works; procurement of goods and consulting services; conformance with quality norms and conformance with performance criteria as described in the Procedures Manual, relevant procurement law/regulations/financer's guidelines, and the other relevant project documents.

The technical auditor will visit the project site every 9-12 months, one of which should be no more than two months after the closure of the annual fiscal budget. He will carry out the following tasks:

### 3.1. General Management:

- Verify that all investments have been implemented in conformance with the conditions spelled out in the Development Credit Agreement, and respecting the eligibility criteria.
- Assess the work load of the RAPCMO and its capability to execute the project.
- Examine the division of tasks among the various actors involved in project execution and assess their management capacity.
- Verify the program schedule, and accomplishments vs. planned work of each actor.
- Evaluate the system for contract management, including: the quality of information furnished by the system, possibilities for cost savings and accounting information.

- Examine the filing system and documentation, particularly in respect of contract and accounting document management.
- Evaluate the performance of the RAPCMO in respect of performance indicators, and verify that the indicators presented by the RAPCMO are verifiable.
- Examine the progress of the recommended actions agreed during the preceding technical audit.

### **3.2. Procurement:**

- Carry out a comprehensive review of all procurement processes, including: pre-qualification (if applicable); launching of bid announcement (and the request for proposals in the case of consulting services); evaluation of bids for studies and works (small, medium, large); equipment procurement; and supervision services. Prepare a summary table of this review, which shows the extent to which these activities are in conformance with procurement law/bye law and regulations.
- Confirm that the procedures being used conform to the Project Procedures Manual and the World Bank Guidelines, as well as the articles of the Credit Agreement (notably the utilization of standard bidding and request for proposal documents and application of the appropriate contracting methods). Evaluate the effectiveness of the RAPCMO in respect of: timing of the various steps in the procurement process, in comparison to the stated objectives.
- Examine the reports on contract award, including reports on bid opening, evaluation of offers and selection, and their conformance with the specified methods. Examine the bid documents for works and goods, and examine the invitation letters for consulting services. Identify cases of non-conformance.
- Verify the process of notification and contract signature, the conformance of signed contracts with the standard contract contained in the bidding documents, as well as the time period for execution previewed, in comparison with the awarded bidders' offer.

### **3.3 Technical and Design Studies, Consultant Services and Training:**

- Verify the quality of the technical studies, ensuring that the supervision process at the RAP-CMO will guaranty quality of studies accorded to consulting companies. Verify the quality of the consulting firms retained and the criteria for their selection.
- Verify the consistency of the technical studies and assess the appropriateness and cost-effectiveness of the technical solutions proposed by the consultants.
- Verify the conformance and the quality of the design and technical studies prepared by consultants, including: Preliminary Design, Detailed Design, Execution Design and bidding documents. Verify that the bidding documents are complete and conform to the Procedures Manual and World Bank Guidelines and that the evaluation criteria are appropriate and clear.
- If there is a pre-selection for consultants (to establish the short list, whether for firms or individuals), analyze the method of pre-selection and its conformance with criteria defined in the Procedures Manual.
- Verify that the training services were carried out in conformance with stated objectives (particular in respect of the numbers trained), and whether the quality of the training is judged satisfactory by the beneficiaries. Verification may be through evaluation sheets on a sample of trainees or by direct consultation with beneficiaries.

### **3.4 Works Execution:**

#### **Step 1 :**

- Provide a simplified and quantified description of the audited infrastructure.
- Verify the conformance of the work and their costs with the planned program in the Credit Agreement.
- Assess the quality of the works, the conformance with the work plan and project objectives, and whether the contract terms are respected by parties. The works quality should be determined through visual examination, measurements and laboratory tests if necessary.

- Verify the unit prices of the invoices, in comparison with the contracts, as well as the actual works implemented.
- Verify the organization of the work sites, the conduct of work site meetings (examine the minutes and work site reports).
- Verify good record keeping of: work site notebooks, work site reports, work orders, justification of eventual amendments, as well as minutes of preliminary and final works acceptance.
- Verify the necessary expertise have been sought and utilized in good time to resolve problems of technical issues.

**Step 2:**

- Verify the timing of works execution of completed and ongoing works, in relation to the contractual timing.
- Prepare a summary table for each contract analyzed; indicating the type of works, the total cost, the category of contractor and the delays, if any.
- In the case of delays observed at the work site, analyze the measures taken to make up time, as well as the application of penalties.
- Analyze if necessary any cost overruns, by type of work, amount of contract, contractor category, taking into account the total budget estimated by the Resident Engineer.

**3.5. Goods Procurement:**

- Verify that the goods were delivered in conformance with quantities and norms established in the technical specification, and at the price indicated in the contract.
- Verify the reception certificate if applicable.

**3.6. Works Supervision:**

- Confirm that the supervision process implemented by the consulting engineer and the supervision of the client permit works supervision in conformance with the applicable regulations.
- Confirm that all invoices, authorizations, justifications and variation orders, payment, reception certificates, etc., are available and properly filed. Confirm



that payments are made in conformance with the terms of the contract and within the agreed limits.

**At each of the above points of the audit, the Auditor will not only verify of observe the existence or non-existence of a problem, but will make recommendations which will permit RAPCMO to improve its procedures and achieve its desired performance.**

**4. NORMS:**

The audit will be carried out in conformance with the standard norms for consulting engineers and will include all verifications and controls that the auditor judges necessary to meet these standards.

**5. PROFILE OF THE CONSULTANT:**

The Auditor must be independent of RAPCMO and the financing agency.

Any firm or consultant who has a contract or who has worked directly with the MPWH during the last four year for studies or works supervision, is excluded from being a candidate for a technical audit of MPWUD.

The auditor will mobilize a team composed **of two experts** with recognized experience in:

Management of transport projects, technical design and studies for road works  
Procurement procedures for Yemeni Government, IDA, and other  
International/Regional Funding Institutions

**6. DOCUMENTS FOR THE AUDIT:**

RAPCMO will make available to the auditor all necessary documents and will assist the auditor in making appropriate appointments with all relevant government offices, institutions, contractors or service providers concerned with the technical audit.

**7. PRESENTATION OF REPORTS BY THE AUDITOR:**

**7.1 Report Submission:**

For each mission, a Preliminary Report will be submitted in **2 copies for High Authority for Tender Control (HATC) and 2 copies to the Financer**, and 3 copies RAPCMO, no later than 2 weeks following the end of the mission. Prior to submission, the principle conclusions of these reports will be presented to RAPCMO. The comments of the **RAPCMO, HATC, and the Financer** will be

transmitted to the auditor no later than 3 weeks after the date of submission of the Preliminary Report.

The auditor will transmit the Final Report to the **RAPCMO, HATC, and the Financer** 2 weeks after receiving the comments. Each of these reports will be transmitted in 6 copies to **RAPCMO, 2 copies for HATC, and 2 copies to the Financer.**

## 7.2 Report Contents:

The Technical Audit Report will include, but not be limited to:

- Summary of Principal Results of the Audit covering the subjects reviewed under item 3 above (observations and recommendations)
- Comments and observations on the contract management system, procedures for qualitative and quantitative supervision and control, the respect of procurement procedures, contract management and shortcomings, if any.
- Principal weaknesses observed during the course of the audit, their roots and the proposed measures to rectify them. A plan of action for remedial measures implementation and monitoring should be prepared.
- Any exogenous factors that impinge whatsoever on the implementation of the project (for example, qualifications of local contractors and consultants, IDA procedures, lack of counterpart funds, etc.)
- Any other issue judged pertinent by the auditor on any/all the subjects audited under item 3 above (quality of works, procedures for qualitative and quantitative supervision and control, technical issues, social and environmental issues, procurement procedures documents, contract management and shortcomings, technical prescriptions. .... etc.)

## 7.3 Structure of the Report:

The auditor will present his Preliminary Report with the following structure:

- Summary of Report, presenting the general conclusions of the audit.
- Chapter describing the methodology used by the auditor
- Specific Chapter for each component, comprising:
  - Method of audit/data collection/sampling
  - Results by domain

Specific recommendations and mode of implementation... Etc.

The **Final Report** will consist of the **Preliminary Report** incorporating comments by **RAPCMO, HATC, and the Financer**, and the remarks by the auditor on the Comments.

**8. Frequency of Interventions and Duration of the Assignment:**

- The audit missions will last on the average 2 weeks, and be carried out every 9-12 months.
- The total duration of the mission will cover a period of four years i.e.2007-2010.
- The final intervention of the consultant will result in a Final Report
- It is estimated that the completion of this mission will require about FOUR AUDITING MISSIONS, each mission will consist of 14 days in the field for each visit, plus 10 days for each expert at the auditor's home office for writing the reports.

**9. Payment Schedule :**

Payment to the consultant will be made on a Lump Sum bases for each **Auditing Mission** inclusive of all remuneration, reimbursable, preparation of reports and documents, and all the likes based on his quoted rates

- ....% of the total amount for the Auditing Mission upon submission of the Final Report, acceptable to the Client.
- .....% of the total amount for the auditing mission upon submission of the Final Report of the subsequent Auditing Mission, acceptable to the Client.