



USAID
FROM THE AMERICAN PEOPLE

Projekat za bolje uslove poslovanja
Business Enabling Project

**USAID Business Enabling Project in Serbia
Contract No. 169-C-00-11-00001-00
Scope of Work for
Lead Construction Permitting Legal Consultant**

I. BASIC INFORMATION

Background

USAID's Business Enabling Project, implemented by Cardno Emerging Markets USA, is a five year initiative launched in January 2011. The purpose of the Project is to help the Government of Serbia improve the competitiveness of the Serbian economy and its private sector businesses. The Project will provide technical assistance, training, and other support to improve the business enabling environment, maintain macroeconomic stability, and further develop financial markets. The Project is demand driven: all activities are based on the priorities of the private sector and Government. The Project's activities are described in more detail on the Project's website: www.bep.rs.

The Business Enabling Project's Component 1, Business Regulation and Economic Governance, has a goal to streamline laws, regulations, and institutions, to improve regulators' capacity to implement laws and improve analysis and public-private dialogue.

The project's approach to achieving reforms is to help the Government work closely with the private sector and outside experts to make reforms that improve business competitiveness. The steps in this collaborative reform process include:

- Determine priorities by engaging with businesses, including surveys of businesses, and using regulatory impact assessment and other tools to measure the benefits of reforms
- Build demand for reforms through outreach and education
- Partner with the Government to plan and implement various priority reforms
- Build Government and private sector capacity to properly implement and sustain reforms
- Help the Government and private sector to monitor reform efforts.

These activities will reduce the time and money spent by Serbian businesses to comply with laws and regulations and will help the Government to be more efficient. The activities will also enable businesses to attract necessary investment at an appropriate cost. As result, Serbian businesses will be able to aggressively compete in the global economy. This will lead to export-led economic growth and increased employment.

Streamlining of Construction Permitting

Reforms of procedures in the construction field introduced by legislation adopted in 2009, and then in 2011 again, proved to be short-lived and not fully implemented. The current system continues to be characterized by a low quality and high costs of public services. Considering that World Bank's Doing Business 2013 reports that an investor in Serbia has to go through 18 procedures and spend in average

269 days¹ to obtain a construction permit, ranking Serbia at 179th place out of 185 economies on the ease of dealing with construction permits, it is not surprising that this procedure is often used in Serbia as an example of public administration inefficiency. USAID BEP Business Survey 2012 similarly found that, despite certain improvements, 92 percent of respondents who require construction permits found obtaining one highly problematic and riddled with difficulties.

To address deficiencies of the existing system, USAID BEP has performed in-depth diagnostics of the system and has proposed very concrete measures to improve relevant processes. The result of this engagement is "**The Assessment of Constraints to Construction Permits in Serbia**" (May 2012), which gave by far the most comprehensive diagnosis of problems with construction permits in Serbia and offered a number of concrete recommendations.

USAID BEP also initiated an intensive media campaign on the need to reform construction permits. This campaign reached millions of citizens of Serbia, in addition to policy makers, business representatives, experts and other stakeholders. Finally, responding to the positive feedback on the findings and recommendations from the Assessment, USAID BEP produced in January 2013 - "**A Roadmap for the Government of Serbia to Streamline Construction Permits**", comprising a set of recommendations for improvements of the constructions permits with a roadmap for their implementation.

Based on extensive research and interviews with investors, public officials, researchers and consultants, USAID BEP believes that Serbia's top political authorities must commit to undertake the following steps in order to fully reform the area of construction permits:

- 1) dismantle permitting monopolies within different public enterprises and other entities;
- 2) pass and implement a set of laws governing planning and construction and several other related areas (sectorial laws) that will remove all existing contradictions in the legal framework and provide for reformed permitting procedure, and
- 3) mandate the use of an IT platform that will systematically track performance of the public sector in construction permits, allowing for timely interventions to remove possible bottlenecks and expedite processes.

As a result of USAID BEP's involvement in the construction permits area, stakeholders have asked BEP to help develop a reformed framework for construction permits. USAID BEP will respond to this request by facilitating stakeholders' dialogue on recommendations for improvement of construction permits and providing technical assistance to improve the legal framework for construction permits. In that sense, USAID BEP has awarded a grant to a qualified organization (the "Grantee") that has prepared an unambiguous **Concept** of an improved construction permits system, including a description of a reformed institutional setup, legal responsibilities and process flows. In the next step, the Grantee should develop proposal of the new legal framework for implementation of that Concept.

To support this activity, USAID BEP intends to engage local legal specialist (Consultant) with significant expertise and experience in the construction permitting and related areas and with knowledge of legislative drafting to inform the work of the Grantee and of the GoS working group responsible for development of the drafts of relevant laws and bylaws. The Consultant will be providing consultancy

¹ BEP research indicate that there are as many as 20 administrative decisions preceding the issuance of each construction permit, around 70 instances of contacts between an investor and various institutions and 12-14 institutions that can slow down the procedure or halt it altogether.

in all stages of the drafting process and will act as an ultimate drafter of legal acts. The Consultant will also be responsible for preparation of instructive materials for implementation of the new legal framework.

USAID BEP expects the new legal framework for construction permits to be adopted by the end of 2013. Mere adoption of the set of reformed laws will remove many of the impediments to more efficient construction permits. Other improvements will materialize after new institutions and mechanisms are implemented, such as one-stop-shops at local government level. Public authorities, with help from USAID BEP and other donor programs, will need to build capacities of relevant institutions, explaining changes in the procedures to investors and general public and fine-tuning procedures during months and years following adoption of the reformed laws and bylaws. As a result of this process, we expect the duration of procedures to be reduced to 35 days, to have one institution in charge, two administrative decisions that precede the issuance of a construction permit, and substantial reduction in the number of contacts between investors and various institutions.

Scope of Work

This assignment will be part of the BEP project's Component 1: Business Regulation and Economic Governance activities, and is incorporated in BEP's Objective 1: Improve and streamline business regulation – Task 4: Streamline Construction Permitting.

Tasks

1. Participate in discussions on the new legal framework on construction permits organized by or involving USAID BEP;
2. Provide legal consultancy to the Working Group on Drafting New Law on Planning and Constructions established by the Ministry of Constructions and Urbanism (the Working Group) in the form of legal briefs and in other forms as requested by USAID BEP;
3. Complete final drafts of the following laws and bylaws, insuring their constitutionality, mutual harmonization and harmonization with rest of the Serbia's legal system and providing for their optimal implementation:
 - a. The new Law on Planning and Constructions based on inputs received from the USAID BEP and the Working Group;
 - b. Sectoral laws relevant for the reform of construction permitting based on inputs received from the USAID BEP and the Working Group, including, but not limited to the Law on Waters, Law on Forests, Law on Public Roads, Law on Railways, Law on State Survey and Cadaster, Law on Energy, Emergency Situations Law, Energy Efficiency Law, Law on Trade;
 - c. By-laws relevant for the reform of construction permitting based on inputs received from the USAID BEP and the Working Group, including, but not limited to the Rulebook on the Content of Planning Documentation, Rulebook on the Method of Providing for the Public Insight in the Process of Adoption of Planning Documents, Rulebook on Risk Based Classification of Construction projects, Rulebook on the Content of Republic-wide Conditions for Constructing, Rulebook on the Content of Elaborate for Construction Designing, Rulebook on Procedures for Handling Construction Permits Applications, Rulebook on Mandatory Publications of Acts Related with Planning and Construction, Rulebook on the Use of ICT in Construction Permits, Rulebook on Method of Accreditation of Local Governments for Assuming New Responsibilities in the Process of

Construction permitting, Decree on the Recognition of Foreign Documents and Marks of Conformity, environmental regulations etc.

4. Participate in the public presentations and discussion on the proposed legal framework for reformed construction permitting and in other outreach activities and provide expert assistance in incorporating the inputs obtained during public discussion in the proposed texts of laws and by-laws;
5. Provide expert assistance in preparing justifications of the proposed laws and by-laws and in responding to comments received by the other State bodies and in processing amendments submitted in the Parliamentary procedure.
6. Provide expert assistance in preparing instructions for implementation of critical elements of new legal framework for construction permits.

Depending on the prior agreement with USAID BEP, the Consultant might be involved in one, several or all tasks described above.

Level of Effort

Consultant will have up to 45 days of engagement for completion of the tasks.

This number of days is indicative in terms of upper ceiling. Actual number of days will depend on the tasks in which the Consultant was involved and the level of involvement, and will be agreed in advance for each deliverable separately.

Period of Performance

Period of performance of this SoW is from August 26, 2013, to January 31, 2014. Maximum number of days under this SoW cannot exceed 45 days.

Deliverables

Specific work products to be developed by Consultant include:

- 1) Legal briefs and other forms of consultancy on construction permitting issues as requested by USAID BEP;
- 2) Final drafts of the laws and bylaws as defined in the point 3. of the Tasks section of this Scope of Work;
- 3) Public presentations of the proposed legal framework for reformed construction permitting;
- 4) Inputs obtained from other public bodies and during public discussion incorporated in the proposed texts of laws and by-laws;
- 5) Justifications of the proposed laws and by-laws;
- 6) Amendments submitted in the Parliamentary procedure processed;
- 7) Instructions for implementation of critical elements of new legal framework for construction permits.

Consultant will furnish drafts of deliverables to the USAID BEP not later than 5 (five) working days before expiry of the agreed deadline for submission. USAID BEP will provide its comments in written not later than 3 (three) working days after receiving the draft report and consultant will submit the final report, taking into considerations comments received, within next 5 (five) working days.

All materials must be prepared in English unless expressly authorized otherwise in writing by the Cardno Emerging Markets representative.

To Apply

1. Requirements for eligible candidates:

a. Proven legal expertise in the area of real estate and commercial laws, and experience in the legislative drafting is required. Legal experience in construction permitting and related areas would be considered an advantage.

b. Excellent writing, regulatory drafting and good presentational skills.

2. Applications including CV clearly showing required technical background and relevant work experience should be sent by e-mail to: info@bep.rs, by July 24, 2013. Only short-listed candidates will be contacted.