



USAID
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Projekat za bolje uslove poslovanja
Business Enabling Project

Construction Permitting Legal Specialist (Consultant)

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 provides 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, provides assistance 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

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.

as an example of public administration inefficiency. USAID BEP's Business Survey 2012 similarly found that, despite certain improvements, 92 percent of respondents who require construction permits found that the process to obtain one is highly problematic and riddled with difficulties.

To address the 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 is awarding a grant to a qualified organization (the "Grantee") to prepare an unambiguous concept of an improved construction permits system, including a description of a reformed institutional setup, legal responsibilities and process flows, and a legal framework for implementation of that concept.

To support this activity, USAID BEP intends to engage a local legal specialist (Consultant) with significant expertise and experience in construction permitting and related areas to inform the work of the Grantee with relevant expertise and experiences. The Consultant will act as a sounding board and corrective factor for key reform proposals that will be discussed during the work on development of the new legal framework for construction permitting, and will also provide expert input for implementation of specific segments incorporated in the construction permitting reform.

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 on the 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. Assist development of the Concept of reformed construction permitting framework to be prepared by Grantee;
2. Participate in the public presentation of the Concept and in outreach activities;
3. Assist and comment on specific issues during the regulatory drafting as deemed necessary by the USAID BEP and/or Grantee;
4. Participate in the public presentation of the draft legislation, observe stakeholder dialogue on the draft legislation and participate in discussion of potential revisions to the draft legislation;
5. Provide expert advice for development and regulation of the specific segments of the construction permitting reform in order to facilitate its future implementation.

Level of Effort

Consultant will have up to 35 (thirty-five) days of engagement for completion of the tasks.

Period of Performance

Period of performance of this SoW is from April 15, 2013, to December 31, 2013.

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 adequate technical background and relevant work experience should be sent by e-mail to: info@bep.rs, by April 9, 2013. Only short-listed candidates will be contacted.