

USAID Business Enabling Project in Serbia
Scope of Work for Consultant
Technical Assistance to the Ministry of Finance and Economy

About the Project

The Serbia Business Enabling Project (“BEP”) is a five-year USAID-funded project awarded to Cardno Emerging Markets USA, Ltd. to assist the Government of Serbia (GoS) to strengthen the business environment, fiscal and macroeconomic management, financial market development, and business education throughout the country. It provides long-term technical assistance and other financial support to help advance legal and regulatory reforms, build institutional and professional capacity, and other activities as may be requested by the GoS. The project is organized around three components, each implemented by a resident team of Serbian and international professionals: Component 1 – Business Regulation and Economic Governance; Component 2 – Macroeconomic Policy and Public Financial Management; Component 3 – Financial Markets Development.

BEP Component 3, Financial Markets Development, helps Serbian financial markets increase the competitiveness and affordability of financial services, and develop risk management instruments. This includes technical assistance to help counterparts draft or/and implement new legislation, strengthen their institutional capacity, and help to influence policies that will shape the evolution of the financial sector and its role in economic development.

The main counterpart for this assignment will be the Ministry of Finance and Economy (MoFE).

Background to the Scope of Work

This assignment will be part of the BEP’s Component 3, Financial Market Development that aims to help Serbian financial markets to improve environment for SMEs’ borrowing. The assignment will help implement activities under Component 3, Objective 4 (Improving access to finance for small and medium enterprises and entrepreneurs), Task 2 (Strengthen the Government’s capacity approach, and coordination for improving access to finance).

Global financial crisis has shown that the countries did not have adequate means to deal with the failure of institutions in the financial sector. That was especially evident in the banking sector which, because of its significant economic role and its sensitivity to systemic crisis, differs from other areas of financial system. If a large bank fails, cessation of its critical functions leads to major consequences for the financial system, which forced the countries, in order to ensure financial stability, to provide support for their banks when business problems arise. These measures created a big problem - the costs of this support fell at the expense of public funds, which soon proved to be the wrong approach.

European Union has begun the process of formulating the framework for crisis management which should provide countries the opportunity to deal with the failure of financial institutions in an efficient manner in order to minimize the effect of failure to the financial system and avoid the costs for the tax payers. The main goals to be achieved through the establishment of the framework that comprise: a) prevention and preparation; b) rapid intervention; c) reduction of moral hazard; d) legal certainty; e) reduction of competition disorders.

As the problems that the Republic of Serbia faces in the financial market are identical to those EU has recognized and tends to resolve, and in order to comply with EU legislation, it is necessary for further legal reform of the financial system to incorporate solutions of European Union legislator.

The fact that 94% of financial market in Serbia is banking sector and its stability is key prerequisite for preservation of stability of financial market and further development of our country.

The Republic of Serbia tends to undertake all necessary and available measures in order to restore and preserve the stability of financial market. Hence, the MoFE requested the USAID BEP's support to create a new legal framework that will provide the ability to effectively cope with the collapse of financial institutions.

In an effort to attend modern legal tendencies in this area, it is also necessary to collaborate with different international financial institutions and their experts, but special emphasis is placed on monitoring and harmonization with EU legislation in this particular domain.

Objective

The main objective of this assignment is to provide technical assistance to the MoFE in order to introduce and implement the mechanism for early detection and rapid intervention to resolve troubled banks issues without using budget funds. In addition, this should ensure that the financial system remains as stable as possible, to strengthen confidence in the banking system and to increase the responsibility of all participants in the financial markets.

Task

The consultant will provide advisory support to the MoFE, as well as support in outlining, drafting, reviewing and finalizing the financial laws and bylaws covered by the task areas listed below.

The assistance should cover following topics:

- Revival of the Financial Stability Cooperation Agreement and establishment of a simple warning system;

- Improvement troubled bank resolution legislation using all models developed by BIS and other European and global practice in EU and US;
- Reform of deposit insurance system to minimize moral hazard.

The consultant will be expected to perform the following tasks during the period of assignment:

Task 1: Assessment of relevant legal framework in the financial sector in the Republic of Serbia

The consultant will review and assess relevant current legal framework in the financial sector in the Republic of Serbia in order to prioritize the pieces of legislation to be amended in align with the specified objectives and establish timeline for each of the legislative acts to be amended.

Task 2: Provide the concrete suggestions for amendments and drafting of amendments to prioritized pieces of legislation

The consultant will provide the concrete suggestions for amendments to existing financial laws and draft new legislation in order to provide legal and jurisprudential support for implementation of new solutions in legislation of the Republic of Serbia. This will include amendments drafted for financial laws and by-laws: Law on Take-Over of Assets and Liabilities of Certain Banks for the Purpose of Preservation of Stability of Financial System of the Republic of Serbia ("Official Gazette of the Republic of Serbia" No. 102/2012); Law on the Bankruptcy and Liquidation of Banks and Insurance Companies („Official Gazette of the Republic of Serbia" No. 61/2005, 116/2008 and 91/2010); Deposit Insurance Agency Law (“Official Gazette of the Republic of Serbia" No. 61/2005,116/2008 and 91/2010); Deposit Insurance Law (“Official Gazette of the Republic of Serbia" No. 61/2005,116/2008 and 91/2010); Law on Banks („Official Gazette of the Republic of Serbia" No. 107/2005 and 91/2010), as well as relevant decisions of Serbian Government in the domain of financial system. Amendments of the listed laws and/or enactment of new legislation should be prepared in close co-operation with the National Bank of Serbia (NBS) and Deposit Insurance Agency (DIA).

The MoFE will work closely with the advisor and as a result new questions may arise. It will be important that these additional issues are thoroughly described and addressed to the extent possible with the time allocated for this assignment.

Task 3: MoFE Consultation and Clarifications

Once the assessment and first draft of reports has been prepared, the Consultant will present it to the MoFE and USAID BEP staff. According to the feedback, the consultant will provide clarifications or further details on the recommendations as may be needed to help the MoFE, NBS and DIA to understand the proposed outline.

Task 4: Revised Findings and Finalization

In the final phase the consultant will undertake a final review of selected areas if needed, update the assessment findings, and prepare a final set of recommendations.

The consultant will be available for a final consultation session with the MoFE.

Period of Performance

The period of performance of this SoW is July 25 to October 1, 2013. The maximum number of days under this LOE cannot exceed 40 days.

Deliverables

In addition to the advisory inputs, specific work product to be developed by Consultant includes:

- 1) Providing advisory support to the MoFE throughout the process of finalizing and drafting necessary regulation
- 2) Report on the prioritized acts to be amended with their respective timelines and methods for organizing the work on drafting amendments and/or drafting the legislative acts the enactment of which is considered as necessary;
- 3) Final report on the amended acts and/or the legislation the enactment of which is necessary
- 4) Written draft amendments

To apply:

1. Requirements for eligible candidates:

a) Qualifications and skills

- A bachelor degree (where a university degree has been awarded on completion of three years study in university or equivalent institution) in law;
- Previous experience in drafting of laws related to financial services and restructuring/insolvency/reorganization matters;
- Perfect knowledge of written and spoken English.

b) General professional experience

- Minimum 10 years professional experience in drafting or amending legislation in the area of financial law.

c) Specific professional experience

- Minimum 5 years professional experience in writing of financial regulations, particularly those related to the banking system, preferably in the Republic of Serbia;
- Previous experience in financial system of the Republic of Serbia, preferably the following laws: Law on the Bankruptcy and Liquidation of Banks and Insurance Companies, Deposit Insurance Agency Law, Deposit Insurance Law, Law on Take-Over of Assets and Liabilities of Certain Banks for the Purpose of Preservation of Stability of Financial System of the Republic of Serbia and Law on Banks;
- Previous experience in work with state authorities (ministries, agencies, National Bank of Serbia and other regulatory authorities).

2. Applications including CV clearly showing required background and relevant work experience should be sent by e-mail to: info@bep.rs, by July 23, 2013. Only short listed candidates will be contacted.