

ANNEX II: TERMS OF REFERENCE

“Provision of Services for External Procurement Expert”

1. BACKGROUND INFORMATION

1.1. Partner country

The Republic of Serbia

1.2. Contracting authority

Development Agency of Serbia

1.3. Country background and current situation in the sector

Low competitiveness of Serbian enterprises is a result of challenges of the business environment faced by private sector. The Government has taken a comprehensive approach in addressing these challenges, aiming to reduce administrative costs by 15-20% until 2020. This resulted in a significantly improved ranking in the Doing Business Report, from 91st in 2014 to 48th place in 2018. More than 100 administrative fees have been abolished and it was made easier to deal with construction permits. Starting a business has been made simpler, the reliability of the land administration system was strengthened and enforcing contracts was made easier. The tax administration reform is on-going, but the companies are still faced with problems of discretionary judgment and legal interpretation of the tax administration in many cases thus creating legal uncertainty and possible economic damage for enterprises.

However, the burden of government regulation is still significant, placing Serbia on 113th place in that area in the recent Global Competitiveness Report 2018-2019. Serbian companies still perceive business environment as cumbersome and non-transparent, with administrative procedures and requirements particularly time-consuming and costly. A significant progress in decreasing informal economy has been made, but its size remains considerable. The share of non-registered businesses is still significant, while the payments in cash and employment of informal employees make the major part of unfair competition. The para-fiscal charges continue to pose an undue burden on economic operators, VAT calculation and payment method creates continuous financial strain on businesses, while closing the company remains long and costly. Collection of claims remains one of the main issues for Serbian enterprises. The situation is particularly worrisome for micro companies- it takes those 117 days to collect the debts and 322 to settle obligations. The court settlements in enforcing the Law on Payment Deadlines in Commercial Transactions are lengthy, thus deter the companies from starting proceedings. Consequently, the companies struggle to meet their day-to-day obligations, and cannot focus on further investments into their core business.

One of the elements of the business environment seriously affecting the competitiveness of Serbian enterprises is limited access to affordable finance. Over 69% of companies interviewed in USAID's Serbia Business Survey 2017 reported that they did not borrow to finance operations and growth. According to the same Survey, 84% of SMEs are financed from their own sources. The situation is particularly worrisome for small companies. The financing gap based on the potential demand from, for example, micro enterprises in Serbia, is estimated between 938 – 1,036 EUR million. The micro-financing and venture capital investment are impeded by lack of legal framework, and the unfavourable offer of loans by the banking sector is caused by high requirements for collateral, low credit rating and limited transparency of financial statements of the loan applicants. Lack of affordable financing is preventing Serbian enterprises to modernize their production and to invest in innovation and commercialisation, resulting in low productivity with only 9.2 % of manufacturing having high and medium high-technology products. This affects SMEs and particularly small companies with, for example, companies in the field of textiles, on average, using 35 years old machinery, followed by companies from the machine industry with equipment that is 34.5 years old . Equipment, tools and other productive resources are the most obsolete in the region of southern Serbia (41 years) and the least obsolete in the region of Bačka (18.5 years) and in Belgrade (20.5 years). Consequently, SMEs have less chance

of producing high quality products able to compete on international markets on the basis of quality, quantity and unit costs.

The Competitiveness sector as a whole received EUR 1.782 billion of budget funds in the 2015-2018 period, which amounts to average of 5.78% of the total budgetary funds allocated to all sectors. In regard to the origin of resources, the Competitiveness sector was predominantly funded by allocation of the internal (national) resources. The funding from the internal resources amounted to 1.318 EUR billion, relative to 200 EUR million funding from the external resources. In the structure of external funding, international loans generally dominated over international donations and EU assistance. The disbursement rate of the loans is 71%, which is the second highest disbursement rate among all other sectors. The largest amount of funds was allocated to Entrepreneurship and Competitiveness, and Research and Development and Innovation. Over the four years, 78% of total funds for the sector were allocated for these areas, showing the Government's strategic commitment towards private sector support and the knowledge-based economy. In the 2015-2018, EUR 70 million were allocated for that purpose. In 2019-2021, it is planned that the sector receives EUR 1.376 billion of total allocations for all sectors. In the forthcoming three years, 9% (or 57 EUR million) of the internal resources allocation for the Entrepreneurship and Competitiveness will be directed for the development of entrepreneurship. It will include support to SMEs to purchase equipment, invest in business operations and increase competitiveness of their products and services.

Serbia needs to push for higher profitability and productivity gains and higher investment rates among its SMEs through continuing creation of business-friendly environment, by simplifying and strengthening business operations and improving the quality of services. However, the enabling environment for businesses does not encompass only regulatory and administrative reforms. As part of the comprehensive approach, Serbia needs to continue to improve access to finance to SMEs and diversify existing funding mechanisms.

The sector strategy covering the Action relevant to the Terms of reference is **Strategy to support the Development of SMEs, Entrepreneurship and Competitiveness (2015-2020) (SME Strategy): Pillar 1:** Improvement of business environment Dimension 1: Establishment of stimulating regulatory framework in accordance with demands and abilities of SMEs **Pillar 2:** Improvement of access to sources of funding Dimension 3: Improvement of the ability of SMEs to access various sources of funding; **Pillar 4:** Enhancing the sustainability and competitiveness of SMEs Dimension 1: Improvement the efficiency of the institutional support to business operations and development of SMEs and entrepreneurship Dimension 3: Improvement the functionality of the national innovation system.

1.4. Related programmes and other donor activities

This Action is part of the Country Action Programme for the Republic Serbia for the year 2019-EU Support to Competitiveness, Research and Development and Innovation. Jointly with other actions from the Country Action Programme it will contribute to its overall objective to increase the competitiveness of the Serbian economy. Specifically, it addresses the need to strengthen the private sector's impact on the economy by increasing its business efficiency and their share in turnover, GDP and profitability. Through providing financial support for purchasing of new equipment, the Serbian companies will be more competitive and that leads to an increase in competitiveness of the Serbian economy. Regardless COVID-19 related support instruments, there are several national and regional EU funded project and initiatives which are relevant for improving access to finance for SMEs and with whom the proposed Action have supplementary scope and development approach. The Western Balkan Enterprise Development and Innovation Facility (WB EDIF) is improving access to finance for SMEs through its Equity (ENEF and ENIF), Lending (Regional Competitiveness Programme) and Guarantee instruments (GF I, GF II and „EU for Serbia –financing for SMEs”). Total funding for Serbia so far is more than EUR 205 mil and more than 1 200 SMEs benefited from the interventions. Nevertheless, instruments of this platform mostly support loans for working capital, equity investments or loans for upgrading production processes to EU standards in the fields of environmental protection, product safety and quality and

occupational health and safety. Some instruments from WB EDIF have been extended at national level in Serbia: through “EU for Serbia – Finance for SME” (IPA 16) - 20 mil EUR for favourable loans for SMEs is allocated, while “EBRD SME Competitiveness Support Programme” got additional 10 million EUR funding for Serbia from the IPA 18 allocation. Important positive influence in terms of boosting banks credit activity towards SME sector have guarantee schemes financed from EU programs, i.e. COSME, EaSI and InnovFin. As already stated, the Action represents scaling up of well-established national PEP which has been developed with the support from USAID BEP program, while MIS software has been acquired with support from German bilateral co-operation.

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:

Action “IPA 2019 – Direct Grant to the Development Agency (Action) of Serbia – Scaled up and technologically improved production capacity solutions among micro and small enterprises and entrepreneurs” shall contribute to increased competitiveness of the Serbian economy by supporting investment of micro, small and medium enterprises in modernization of production equipment and expansion of production.

The specific objective of the Action is to increase business efficiency of Serbian SMEs. In addition, action will strengthen capacities of national institutions to run complex development programs in future, funded from national or EU funds and provide inputs for adjustment of portfolio of support programs towards post-Covid recovery and longer - term development needs.

2.2. Purpose

The purposes of this contract are as follows:

- To contribute to successful achievement of the purpose of the Action, which is to provide scaling up of very successful national program Programme for purchase of equipment PEP. Trough providing financial support for purchasing of new equipment, the Serbian SMEs will expand and technologically improve production capacity which would lead to an increase in competitiveness of Serbian SMEs and consequently economy as whole;
- To provide Contracting Authority, with technical assistance, expertise and consulting related to implementation of secondary procurement procedures designed under the Action;

2.3. Results to be achieved by the contractor

- The Contractor shall provide full support to the Contracting Authority to achieve results of successful implementation of Action, in the scope of procurement of goods and services.
- Provided technical assistance to Contracting Authority in relation to implementation of secondary procurement procedures, designed under the Action
- Procurement procedures envisaged by the Action implemented in line with the Action contracting documents, implementation plans and relevant applicable rules and procedures

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project

- The Government maintains consistent policy and commitment to the EU accession;

- Existence of sufficient and efficient absorption capacities for EU funds within contracting authority administration and relevant stakeholders;
- Timely and efficient cooperation of all involved stakeholders and experts;
- Relevant legislation remains unchanged.

3.2. Risks

- Global trends in changes related to interest rate;
- Lack of interest of sub beneficiaries in post COVID period;
- Lack of interest of the financial intermediaries in post COVID period;
- Elections at the republic level may delay the implementation of the activities under Action.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Project description

Development Agency of Serbia (RAS) and Ministry of Economy have been awarded direct grant from IPA 2019 Programme, “IPA 2019 – Direct Grant to the Development Agency of Serbia – Scaled up and technologically improved production capacity solutions among micro and small enterprises and entrepreneurs” in 2021. The duration of implementation of Action (i.e. grant) is foreseen to be 48 months.

The overall objective of the Action (grant) is to contribute to increased competitiveness of the Serbian economy by supporting investment of micro, small and medium enterprises in modernization of production equipment and expansion of production facilities. The specific objective of the Action is to increase business efficiency of Serbian SMEs. In addition, action will strengthen capacities of national institutions to run complex development programs in future, funded from national or EU funds and provide inputs for adjustment of portfolio of support programs towards post-Covid recovery and longer - term development needs.

Purpose of the Action is to provide scaling up of very successful national program Programme for purchase of equipment PEP, which has been implemented in partnership with commercial banks and leasing companies for several previous years. Action will enable more favorable financing terms for SME investment loans, in terms of lower interest rates offered by the banks and elimination of hard collateral (i.e. mortgage), as requested collateral. Hence, it will support recovery of investments in SME sector after COVID-19 slow-down of the project. Through providing financial support for purchasing of new equipment, the Serbian SMEs will expand and technologically improve production capacity which would lead to an increase in competitiveness of Serbian SMEs and consequently economy as whole.

Action shall be implemented through three main Components: Component 0 – Management of the Action; Component 1 – Implementation of PEP; Component 2 – Implementation of TA support.

Under Component 0, activity of procurement of services and supplies is identified, which shall cover procurement necessary for implementation of the Action. Development Agency of Serbia needs assistance and external expertise in implementing secondary procurement activities under the implementation of Action, which shall be performed through services of External Procurement Expert.

4.1.2. Geographical area to be covered

The contract shall be implemented in the Republic of Serbia.

4.1.3. Target groups

Key target group of this Action and contract is Serbian private micro, small and medium enterprises, including sole traders and co-operatives, engaged in manufacturing, construction and engineering.

4.2. Specific work

4.2.1. General tasks and responsibilities

External Procurement expert will work closely with RAS Procurement unit and Project manager, and support them in implementation of secondary procurement activities according/in conformity to PRAG guidelines (Procurement and Grants for European Union external actions - A Practical Guide) under the implementation of Action (i.e. direct grant). External Procurement expert will conduct support to RAS with reference to all procurement activities identified under the Component 2 of the Action.

4.2.2. Specific tasks and responsibilities of the External Procurement expert shall be:

- Performing all activities related to implementation of procedures for secondary procurement under grant contract according/in conformity to PRAG Guidelines, ensuring full compliance with EC (European Commission) procurement guidelines;
- Ensuring implementation of procurement procedures in line with adopted Procurement Plan;
- Advise RAS Procurement Unit and Project manager on issues related to preparation and/or implementation and/or update of Procurement Plan in accordance with the Action requirements;
- Advise Project manager on all relevant procurement issues in accordance with the Action requirements;
- Provide input into the Procurement Plan on the progress of execution of the procurement procedures and proposing actions in order to ensure that the relevant procedures are timely and properly applied;
- Support and coordinate the preparation of technical specifications for procurement of supplies , ensuring compliance with PRAG guidelines;
- Prepare and coordinate the preparation, as applicable, of ToR-s related to procurement of service contracts, ensuring compliance with PRAG guidelines;
- Compile full tender dossiers for secondary procurement in line with PRAG guidelines;
- Ensure smooth implementation of procurement process: tender launch/publication, publication of tendering-related documents (prior information notices, contract notices, shortlist notices, Q&A, full tenders, corrigenda, etc.);
- Draft and facilitate provision of additional information during the tendering procedure (questions and answers related to tender dossiers –Q&A);
- Facilitate information meetings/site visits ref. open tenders, if applicable;
- Prepare corrigenda to the tender documents;
- Organize and implement the process of evaluation of tenders and contracting;
- Analyze and prepare responses to the complaints from the tenderers regarding the tendering process;
- Establish and maintain procurement information databases, procurement files and records;
- Ensure that all supporting procurement related documents are available for audit and review purposes;
- Ensure that procurement related data is communicated to the management on regular basis, specifically reporting to Project manager related to all procurement activities;
- Provide information on procurement processes necessary for regular and ad-hoc project-level status reports for internal and external distribution;

- Perform other duties as required by superiors;
- Support and advise Project manager and RAS staff related to monitoring of the implementation of contracts and support them in verifications of project outputs, results and expenditure under the contracts, as applicable;
- Support and advise Project manager and RAS staff in processing modifications to the contracts and preparing the contract addenda, as applicable;
- Liaising regularly with relevant internal and external stakeholders regarding procurement implementation, including participation at the relevant project meetings, as applicable;
- Ensure compliance of services and outputs provided with the latest Communication and Visibility Manual for EU External Action (see https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en).

4.3. Project management

4.3.1. Responsible body

Development Agency of Serbia

4.3.2. Management structure

Development Agency of Serbia (RAS) is the beneficiary of the direct grant and it is in charge of overall management and implementation of the entire Action. For the overall management of the Action, RAS will appoint high-rank official to act as Project manager. Project manager would rely on the support of 4 additional RAS officials tasked with project management activities, as well as the team of 5 individual experts. RAS Procurement unit and RAS Financial unit shall support the implementation of Action as well. Staff from IPA Unit of the MoE will also provide support to the Project manager.

Ministry of the Economy (MoE) is co-applicant and MoEs main responsibilities are preparation of the legal basis for PEP, launching Calls for Proposals (CfP) for selection of commercial banks and leasing companies, as well as a CfP to business entities for the award of grants, establishment and participation in Committee for selection of banks/ LCs and Grant Committee and oversees PEP implementation. MoE will ensure the national funding from the state budget, which is intended solely for PEP CfP in 2022. Commercial banks and leasing companies are involved in PEP implementation. They are receiving the applications for grants and requests for credit or financial leasing, performing administrative checks of the submitted grant application, approve credit or financial leasing requests and perform monitoring of sub-grant beneficiaries. Accredited regional development agencies provide technical assistance to RAS in the implementation of monitoring of earmarked funds used.

Project Steering Committee (PSC) will be established to perform overall monitoring and steering of the implementation of the Action. PSC meetings will be organized on quarterly basis.

Members of the PSC will be representatives of:

- Ministry of Economy
- RAS
- Ministry for European Integration
- The Delegation of the European Union to the Republic of Serbia
- Chamber of Commerce (as observers).

5. LOGISTICS AND TIMING

5.1. Location

Operational base of the project will be in Serbia, unless otherwise agreed due to extraordinary circumstances (i.e. COVID-19). The RAS office in Belgrade will be the main operational base of services required under this ToR. Home-based days may be considered for the implementation of activities, subject to prior approval of Project Manager. However, if necessary, for the completion of the assignment, other locations throughout Serbia may be considered.

5.2. Start date & period of implementation

The intended start date is October 2021 and the period of implementation of the contract will be 6 months from this date. Please see Articles 19.1 and 19.2 of the special conditions for the actual start date and period of implementation.

6. REQUIREMENTS

6.1. Staff

Note that civil servants and other staff of the public administration, of the partner country or of international/regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

6.1.1. Key experts

Key experts have a crucial role in implementing the contract. Experts shall work under the guidance and follow the instructions of the Project manager of the contracting authority. The expert shall collaborate with the RAS team, other experts involved and the representatives of the relevant beneficiary institutions.

These terms of reference contain the required key experts' profiles. The tenderer shall submit CVs and statements of exclusivity and availability for the following experts:

Expert 1: External Procurement Expert

Qualification and skills

- Possess relevant training experience or certificate in the field of public procurement;

Expert should possess the following skills:

General work experience:

- At least 10 years of general postgraduate work experience;

Specific work experience

- At least 5 years of progressively responsible experience in procurement planning and implementation;
- At least 3 years of experience in application of procurement procedures according to PRAG guidelines and/or IFI (international financial institution) guidelines;
- Experience in the usage of computers and office software packages (MS Word, Excel, etc.);

- Excellent knowledge of written and spoken English;

Asset

- Experience in governmental, non-governmental organisations, EU-funded or IFI funded projects shall be considered an asset;

All experts must be independent and free from conflicts of interest in the responsibilities they take on.

6.1.2. Time input

Expected time input of External Procurement Expert for provision of services required under this ToR is up to 66 working days. The Contractor will be reimbursed on the basis of timesheets approved by the Project manager.

6.2. Facilities to be provided by the contractor

The contractor must ensure that experts are adequately supported and equipped for performing the services under this ToR.

6.3. Equipment

No equipment is to be purchased on behalf of the contracting authority / partner country as part of this service contract or transferred to the contracting authority / partner country at the end of this contract. Any equipment related to this contract that is to be acquired by the partner country must be purchased by means of a separate supply tender procedure.

7. REPORTS

7.1. Reporting requirements

The expert shall provide the following reports by using the templates provided by contracting authority:

- **Brief Monthly/Mission Reports** with a description of activities and outputs provided, at the end of each mission/month under this assignment (experts who work less than a month shall complete a Monthly mission report at the end of each assignment whereas long-term expert shall complete Monthly mission report each month);
- **Final Mission Report**, no later than 2 weeks after completion of all tasks under this assignment. This report will include a description of all activities.

Reports shall include information on working hours spent for accomplishing task reported.

7.2. Submission & approval of reports

One copy of the reports referred to above must be submitted to the project manager of contracting authority identified in the contract. The reports must be written in English. The project manager of contracting authority is responsible for approving the reports.

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