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FS SHARE
FINANCIAL SECTOR KNOWLEDGE SHARING

FS SERIES #7: ENHANCING THE LEASING ENABLING ENVIRONMENT

MODEL SCOPE OF WORK

MARCH 2010

This document was produced for review by the United States Agency for International Development. It was prepared by Chemonics International Inc. for the Financial Sector Knowledge Sharing Project, delivery order number EEM-E-03-05-00006-00.

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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ACRONYMS

DCA	Development Credit Authority
DFID	U.K. Department for International Development
EGAT	Bureau for Economic Growth Agriculture and Trade
FS Share	Financial Sector Knowledge Sharing Project
IFC	International Finance Corporation
MFI	microfinance institution
MSE	micro and small enterprises
SME	small- and medium-sized enterprise
SOW	scope of work
VAT	value-added tax

INTRODUCTION

In 2008, USAID’s Bureau for Economic Growth Agriculture and Trade (EGAT) created the Financial Sector Knowledge Sharing Project (FS Share). This project was designed specifically to collaborate with USAID missions to develop effective and efficient financial-sector programs that increase access to financial services and develop well-functioning markets globally. USAID awarded Chemonics International Inc. the FS Share delivery order under the Financial Sector Blanket Purchase Agreement. FS Share has a three-year period of performance, July 2008-July 2011.

Through the FS Share task order, USAID EGAT and Chemonics proactively collaborate with missions to identify financial-sector priorities and develop strategies and programs for growing the financial sector. FS Share identifies financial-sector best practices and aggregates them through model scopes of work, primers, diagnostic tools, best-practice case analyses, and other tools. These deliverables are disseminated to USAID missions for use in financial-sector programs. FS Share can also assist with implementation and connect mission staff to external resources on best practices. In response to mission demand, FS Share delivers presentations and other knowledge-sharing endeavors.

Objective of This FS Series

The objective of this FS Series, “Enhancing the Leasing Enabling Environment,” is to provide U.S. government program designers with a basis of technical understanding of lease financing as a sustainable approach to increasing access to financial services and practical tools to integrate best practices and lessons learned into effective economic growth programming. The FS Series includes a primer, a diagnostic checklist, and a model scope of work. The primer introduces, defines, and provides an overview and case examples of introducing and implementing leasing in emerging economies. **This is the model scope of work.**

This FS Series was developed by Roger Bird on behalf of the QED Group and reviewed by FS Share on behalf of Chemonics International.

FS Share Rapid Response Hotline

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MODEL SCOPES OF WORK

Short-Term Technical Assistance SOW Assessment and Recommendation

As noted in the primer and case studies, the complexity of leasing and sensitivity to reforms that could actually limit the growth of leasing require careful strategic planning. This section provides a two-step approach and, therefore, two model SOWs. The first provides USAID with a comprehensive “Assessment and Recommendation on Leasing.” This model SOW is a short-term technical assistance consultancy that first determines the status or current position of leasing in the financial sector.

Used in conjunction with the leasing diagnostic checklist in Annex A, the second model SOW builds on the results of the assessment and provides USAID with targeted interventions for needed reform and development. This approach will help ensure that the relevant issues for leasing programming are covered.

1. Objective

The objective of this model scope of work (SOW) is to provide USAID with a comprehensive assessment and recommendation report of the four major areas affecting the development of leasing: legal, tax (direct and indirect), accounting, and licensing/supervision.

[There may be other objectives in which the mission is interested, such as creating market demand for credit or equipment, or a financial-sector assessment that includes the viability of leasing. In most cases, however, any demand-type assessment will reveal the need for increasing access to credit for SMEs and the agricultural sector.]

[The leasing assessment and report will identify areas that require intervention in order to meet demand (whether leasing exists or not). Other market information may be needed to determine the viability of leasing interventions. Legal, tax, accounting, and regulatory considerations are often the most challenging to align.]

2. Background and Rationale

Leasing is a proven tool for financing rapid economic development. It has a significant role to play in stimulating economic development, increasing production, and jobs creation in [country]. However, the current tax and commercial law environments make it difficult for leasing to make its greatest possible contribution to the country’s economic growth.

[Insert paragraphs citing USAID mission strategy, programming, and other concerns that place the content of the SOW in a broader context and highlight specific expectations of the scope]

[The background should include an overview of what is known about leasing in the country and describe why the mission is considering leasing interventions. For example: [Country] needs a

new leasing law. The existing law on leasing and the relevant civil code provisions are overlapping, conflicting, ambiguous, and inadequate. The current law also limits its application to a specific type of lease product, which will by itself constrain and impair the growth, development, and innovations of the new leasing industry in [Country]. The mission is considering technical assistance that will increase access to credit.

3. Tasks and Activities

The consultant is expected to bring to bear his/her experience, judgment, and industry knowledge in legal, tax, accounting, and licensing and supervision of leasing to complete the following tasks and activities:

1. Review the current lease law [if one exists], civil code [commercial or contract law], tax code, banking and non-bank financial regulations, local accounting standards and any other relevant laws, codes, or, based on his/her experience, other related documents that relate to lease financing in [country].
2. Conduct desk research for relevant reports, assessments, articles, or other papers about [country] as it relates to leasing as a means to increase access to credit for SMEs and the agricultural sector.
3. Conduct round-table workshops or other forums with private- and public-sector stakeholders (local input) to determine current interest in leasing, market barriers, or other special issues that should be incorporated into any proposed law or amendment to existing laws, codes, or regulations. The results will be incorporated in a draft proposed law or amendments to laws, regulations, or codes.
4. Prepare a written report on the strengths and weaknesses of the legal environment for leasing in [country]. The report should include comments for each article to demonstrate its purpose and how it meets the objective of assisting leasing companies in stimulating economic growth.
5. Prepare a written report that assesses the viability of developing modern leasing in [country]. The report/assessment will include, but not be limited to:
 - Strengths and weaknesses of the current law on leasing [if one exists; if one does not exist, then the strengths and weaknesses of the civil code] and the ability for modern leasing to develop within the current legal and regulatory environment
 - Strengths and weaknesses of the current tax code
 - Current accounting standards as they relate to leasing
 - Licensing and supervisory requirements for a non-bank financial institution and register a leasing
 - A review of collateral registry laws and how leasing is treated
 - A review of judicial proceedings against defaulted borrowers and a creditor's (lessor's) rights
 - A review of bankruptcy laws and how leasing is treated

- A summary of conclusions and opportunities for high-impact USAID interventions to meet the stated objectives
6. Prepare, and include in the report as an annex(es), the following:
- A recommended law on leasing (or amendments thereof)
 - Recommended changes to the tax code
 - Recommended changes to any licensing or regulations
- Recommendations should be prepared in the form of specific proposed regulations or articles; they should provide commentary for each article to demonstrate its purpose, with the objective of changes (e.g., promote leasing, stimulate economic growth).
7. Create a presentation about the assessment report for USAID and stakeholders; present the strengths and weaknesses in the current legal, tax (direct and indirect), accounting, and licensing and regulatory operating environment in [country]. Include recommended next steps for USAID or other parties, as appropriate. This presentation will be a discussion guide to educate the leasing industry, government officials, and other stakeholders on the advantages of leasing, recommended changes for [country], and why these changes are important to further develop leasing as a viable financial product for economic growth.

4. Deliverables

1. A summary of round-table decisions, workshops, or other forums with private- and public-sector stakeholders
2. A comprehensive assessment and recommendation report of the four major areas impacting the development of leasing: legal, tax (direct and indirect), accounting, and licensing and supervision
3. A presentation of the assessment report and recommended next steps

5. Period of Performance and Level of Effort (LOE)

This consultancy will be carried out between [date] and [date]. A total of 20 days LOE are provided.

6. Places of Work

The work performed under this SOW will be in [city, country]. If needed, up to three (3) days of the allotted LOE may be performed at the consultant's home office for initial review of laws, reports, and other desk research to prepare for the in-field work.

Model Long-Term Technical Assistance SOW Targeted Leasing Interventions

1. Objective

The objective of this SOW is to increase access to credit for SMEs by developing leasing in [country] into a robust and viable sector accessible to SMEs [agriculture, rural, micro-enterprises etc].

The following are targeted objectives that support increasing access to credit.

1. [In some cases, introducing and] establishing leasing as a new financial service.
 - Equalizing tax treatment of leasing with bank loans
 - Expanding leasing capital
 - Expanding public awareness of equipment leasing's value and use
2. Transforming current leasing practices into modern, best practices.
 - Modernizing the legal and regulatory environment
 - Increasing the use of leasing as a source of financing
 - Developing new lease products that serve SMEs [agricultural sector]
 - Increasing knowledge of leasing personnel to build a national cadre of leasing specialists
3. Expanding leasing through vendor supply-chain financing.
 - Developing vendor/lessor relationships.
 - Introducing vendor repurchase agreements
 - Lowering finance transactional costs
 - Expanding availability of equipment repair and service centers

2. Background and Rationale

One of the factors hindering economic growth in [country] is the fact that productive equipment used by SMEs and agribusinesses is old and worn out. Replacement of these assets is primarily financed from retained earnings because banks are not fulfilling their role as financial intermediaries. In [country], financial services provided to SMEs, and agricultural and rural enterprises are minimal due to: the financial sector's illiquidity; banks' excessive collateral requirements; a lack of borrower credit histories; a lack of available long-term credit; and a generally poorly developed banking system [etc].

By providing accessible leasing products to SMEs and the agricultural sector, several positive consequences will follow if the aforementioned objectives are fulfilled [state the expected results].

[The background should include an overview of what is known about leasing in the country and describe the expected results. Insert paragraph(s) citing USAID mission strategy, current related programming, and other concerns that place the content of this SOW in a broader context and highlight its specific expectations.]

3. Tasks and Activities

The long-term leasing specialist is expected to bring to bear his/her experience, judgment, and industry knowledge of developing leasing to complete the following tasks and activities:

1. Review the “Assessment and Recommendation Report”
 - a. This report, provided under the previous short-term technical assistance, is the foundation for planned interventions. Once the document is reviewed, it should be widely distributed among stakeholders.
2. Stakeholders’ consensus-building
 - a. Develop a local leasing advocacy team (a voluntary group of up to six people). Ideally, this will include champions of leasing from the financial sector, legal (law and tax drafting), business associations (leasing, chambers, accountants, and equipment vendors), ministries (Ministries of Finance, Agriculture, Economic Development, the tax office, the central bank, etc.), donor agencies, and other parties with common leasing objectives.

The facilitator of this advocacy group would best sit with the country’s leasing association (if one exists). The purpose or objective of the advocacy team is to promote the development of modern leasing.

The role of the advocacy group, under the direction of the long-term leasing specialist, is to:

- i. Develop a final lease law or needed amendments if a law exists (written by host-country nationals). The development of a lease law will include a review of collateral registry laws (how leasing is treated), a review of judicial proceeding against defaulted borrowers, and creditor (lessor) rights; a review of bankruptcy laws (how leasing is treated) and any recommend improvements to further the development of leasing.
- ii. Prepare tax amendments that, at a minimum, allow leasing to compete equally with bank loans or, at best, provide a temporary exemption of taxes that will promote the rapid development of the leasing sector with new equipment and technology, greater foreign investments, and increased employment.
- iii. Review local and international accounting standards as they relate to leasing and make recommendations that will improve the reporting accuracy of businesses financial positions.
- iv. Review any licensing and supervisory requirements for non-bank financial institutions and how leasing companies are registered. Prepare recommendations to improve transparency and streamline the licensing process.
- v. Publicly vet any proposed legislative changes. Present and advocate recommendations (new laws or amendments) to Parliament. Use the vetting forum as part of a public awareness campaign to improve the enabling environment and increase awareness and understanding of leasing.

3. Leasing capacity-building

Capacity- building is critical objective of the long-term leasing specialist SOW. Leasing companies need modern management techniques and best practices to develop their businesses and their (leasing) industry. In addition, new leasing companies should be encouraged to enter the market and nurtured through technical assistance on managing and growing a sustainable (leasing) business. Technical assistance would provide guidance and support for existing and new leasing companies to establish best practice lease operations, and policies and procedures. Assistance should include activities such as formulating sound credit underwriting standards, developing leasing manuals, policies and procedures, providing guidance in developing long-term financing products (e.g., terms, conditions, and pricing), and instruction on understanding equipment risks.

The following is an illustrative list of tasks for capacity-building:

- a. *Increasing lease capital.* Assist leasing companies to increase their capital through the introduction of international funding sources, local borrowing, or capital markets (e.g. bonds).
- b. *Product development.* Leasing is a new approach to financing and must be promoted as such. As a more flexible form of financing, SME equipment financing requires appropriate lease products. The long-term Leasing Consultant will work with the leasing industry [specific company or companies] and develop modern lease products that are beyond existing lease purchase products.
- c. *Technical Training.* Training comes in many forms and can include:
 - i. *Teaming.* A teaming approach to technical assistance imbeds an international expert in the leasing company for four to eight weeks (preferably in two separate consultancies). Teaming provides management support for corporate governance, business planning, lease operations, marketing, credit risks, and portfolio management.
 - ii. *Formalized training.* Credit analysis (particularly agricultural analysis), accounting, asset/liability management, and portfolio risk. These courses can be brought to [country] or select personnel can be sent abroad, depending on the course and how it is offered.
 - iii. *International hosting.* Internationally recognized leasing companies will often host several [country's] leasing company managers for up to two weeks. This unique opportunity provides firsthand experience on how successful leasing companies are organized, what leasing products are available, how to develop and market new businesses, etc. [this approach has demonstrated success]
 - iv. *Monitoring.* Field training on how to manage the leased equipment, monitor borrowers, and conduct equipment inspections.
 - v. *Leasing Conferences.* Support the attendance of [country] at international or regional leasing conferences and/or support the leasing industry to host an

international conference to bring in and examine other country's practices and perspectives.

- d. *Develop a leasing association.* A leasing association is a united front for the industry and a powerful body for legislative reform advocacy and public awareness. The long-term leasing consultant will provide technical assistance to support [country's] leasing association in its transparency, sustainability, public awareness, and legislative reform activities.

4. Public outreach

- a. *Leasing product awareness.* Conduct round-table discussions, workshops, or other forums with international trainers for private- and public-sector stakeholders. [These forums provide an opportunity to create a deeper understanding of the value of leasing and identify other issues or market barriers that are relevant and should be incorporated into any proposed law or amendment to existing laws, codes, or regulations.]
- b. *Train the trainers.* Assist [and possibly provide seed capital] to develop a leasing company's borrower outreach program. The long-term leasing specialist will provide technical assistance to the leasing companies to develop borrower outreach programs [e.g., "Increasing Borrower Awareness of Leasing" and "How to Apply/Qualify for Credit"] and design a training of trainer's workshop to expand the program regionally.
- c. *Foster understanding.* Leasing is often misunderstood and it is the responsibility of the leasing companies (industry) to take a proactive role in promoting leasing products and ensuring that borrowers understand, value, and know-how to use of these products.

5. Promotion of modern leasing

The overarching objective of leasing development is to mature the leasing industry so it best utilizes modern lease financing products. Leasing companies are often reluctant to enter new markets (agriculture) or introduce new products. The long-term leasing specialist will cultivate DCA support to expand leasing beyond lease purchase products.

6. Vendor leasing programs

Equipment vendors are a valuable source for the promotion of value chain financing alternatives because they can lower the transactional costs of leasing and further penetrate key markets. Equipment vendors can also provide equipment repairs and service centers in rural areas, offer maintenance service agreements to the lessor, provide a secondary marketing vehicle for selling returned equipment, and, in some cases, share risk with the leasing company. The long-term leasing specialist will develop [x number] of vendor leasing programs in [country].

4. Deliverables

- Increased access to SME [agricultural enterprises or other specific market segments] equipment and machinery lease financing by [x%] (cumulative of new leases over existing total industry portfolio)
- New leasing companies established [x number]
- New leasing products adopted [x number]
- New and/or amended lease law, civil code, accounting standards, licensing or supervisory regulations; advocate their adoption
- Established sustainable leasing association
- Established outreach program for borrowers by [x] number of leasing companies
- Growth of national leasing industry by [x%]

5. Period of Performance and Level of Effort (LOE)

This consultancy will be carried out over a three-year period, with possible [x]-year extensions. In addition to necessary local staff, an international expert with leasing operational experience will be a full-time resident advisor and utilize a cadre of leasing specialty experts (local or international) to implement this SOW.

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