

## I. INTRODUCTION

The purpose of USAID/Ukraine and Belarus Trade, Investment and Business Acceleration Project (TIBA) is to assist Ukraine in its efforts to integrate into the global economy by increasing trade and investment. The project will focus on improving Ukraine's and Belarus' business environment.

## II. BACKGROUND

### II. (a) UKRAINE

During the past five years Ukraine's economy has demonstrated significant GDP growth based on implementation of some economic reforms and favorable markets for its exports<sup>1</sup>. However, in comparison with those countries that recently acceded to the European Union, and those countries that are about to accede, Ukraine is lagging in three economic areas that are key to bringing Ukraine closer to its goal of EU integration: foreign direct investment, the size of the small- and medium-sized enterprise sector, and the volume of external trade.<sup>2</sup>

The specific challenges facing Ukraine to increase its trade volumes and increase the contribution of its SME sectors are:

- Delays in Accession to WTO;
- Lack of capacity to implement its WTO accession commitments (e.g. SPS Law and TBT) to enter into the global trading network and increase the number of markets for Ukrainian goods;
- Many sectors and businesses are not competitive enough in the global markets to take advantage of WTO Membership;
- A non-transparent and burdensome regulatory business environment that deters foreign investors and diminishes the competitiveness of Ukrainian entrepreneurs.

When USAID/Ukraine's current strategic plan was developed in 2002, direct assistance to the Government of Ukraine (GOU) was limited. Most new activities were designed to work outside the direct influence of the national government. However, since the Orange Revolution, a new dialogue between the GOU and USAID has developed and genuine requests for assistance have become the norm. Although progress has been limited, there have been some noteworthy accomplishments. During the past two years the GOU has achieved the following milestones with assistance from USAID: preparatory work for WTO Accession; significant inroads into reforming the regulatory business environment; and, movement towards a more liberal view on foreign direct investment.

USAID anticipates that direct collaboration with the GOU will continue to be fruitful and that Ukraine remains committed to continue on its course towards *integration into the global economy*.

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<sup>1</sup> In 2005 Ukraine's GDP equaled 2.4 (Ref.: ICPS), inflation rate - 10.3; cumulative FDI is \$320 per capita (Ukrainian State Committee on Statistics); Trade and Foreign Exchange System Indicator has been improved from 3 to 3+, the Banking Reform and Interest Rate Liberalization Indicator improved from 2+ to 3- (EBRD).

<sup>2</sup> Report: USAID Economic Sector FSA Assistance, benchmarking for 2005-2009: exports/imports of merchandises/services -- from 11 percent of GDP in 2004 to 12 percent of GDP; FDI per capita --from \$177 in 2004 to \$487; SME's share of employment -- from 19.7 percent in 2005 to 44 percent.

With this in mind, USAID has designed TIBA to provide support to address weaknesses inhibiting Ukraine from reaching that goal.

Trade. Ukraine's **trade volumes** remain relatively low due to a lack of diversification of trading partners, barriers to trade such as high tariffs at the borders, and Ukraine's inability to harmonize and conform to international product standards to open up new markets, especially in Europe and the Americas.

Since 1994 the Government of Ukraine has been striving to acquire membership in the World Trade Organization. Membership in the WTO is expected to lift Ukraine's overall economic performance and significantly benefit the metallurgical, chemical, textile<sup>3</sup>, and leather industries, as well as other sectors of the economy.

USAID's assistance activities in 2003-2006 have enabled Ukraine to conform to numerous complicated WTO agreements and requirements by reforming its legislative and foreign trade regime, including Ukraine's governing policy, legal, regulatory, and institutional framework. Specifically, Ukraine has adopted over 30 laws and a dozen legal acts in five principal areas: sanitary and phyto-sanitary measures (SPS); the general framework governing foreign trade policies; technical barriers to trade (TBT); customs; and protection of intellectual property rights. However, a few remaining WTO-inconsistent policies need to be addressed regarding exports of some agricultural and metallurgical products, as well as those policies dealing with foreign banking in Ukraine, before it can complete the accession process.

Accession to WTO is well within Ukraine's reach. However, with the political crises underway at the time of the issuance of this RFP, it is impossible to predict when or if the Rada (parliament) will pass the remaining legislation required for accession. The Ministry of Economy and other relevant state bodies continue to rely heavily on the assistance provided by USAID to conclude working party proceedings and to prepare for the adoption of remaining reforms. Should Ukraine not have acceded to the WTO by the time the TIBA project is launched, the contractor will assist the GOU in completing its requirements for accession to the WTO.

Once Ukraine has acceded to the WTO, it faces a formidable in the implementation of the agreements and adopted laws and acts during the post accession timeframe, and the fulfillment of its extensive commitments<sup>4</sup>. This challenge will be faced by the national policy makers as well as the small and medium businesses and entrepreneurs who wish to export to WTO member countries.

*A major implementation challenge* is the SPS Agreement. It covers three key areas: food safety, plant health, and animal health, related respectively to the sanitary, phyto-sanitary and veterinary sectors. The lack of compliance of SPS measures with the SPS Agreement has been a main obstacle for Ukraine's accession to the WTO. Even though the SPS Agreement has been passed, without proper implementation, it can be a serious impediment to trade in agricultural, fisheries and food products in the WTO post-accession period. The elimination of SPS measures which are inconsistent with the WTO SPS Agreement and respective international organizations such as

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<sup>3</sup> Output in the metallurgy, chemical and textile industries is expected to increase by 34 percent, 28 percent and 22 percent within one year according to Ukraine's Institute for Economic Research and Policy Consulting.

<sup>4</sup> One reason why Moldova has not benefited from WTO membership is limited implementation of WTO standards.

Codex Alimentarius, IPPC, and OIE<sup>5</sup>, is one of the major tasks looming for the GOU<sup>6</sup>. In order to benefit from membership in the WTO, it is important that farmers, food processors, and other plant, food, and animal-related businesses meet the WTO SPS standards. One of the foci of TIBA will be to work with these industries to bring their production process in line with global standards.

*A second challenge* to the GOU is implementation of the Technical Barriers to Trade (TBT) Agreement. Over 16,000 outdated standards need to be revised and replaced in accordance with international technical rules and regulations<sup>7</sup>. In addition, Ukraine is lacking a law on market oversight, a sustained process of standards harmonization, informational services and facilities for issuing standards and publications, and testing equipment for conformity and risk assessment.

*A third challenge* is the reform of the GOU's procurement practices. The most recent amendments made to Ukraine's Procurement Law have complicated the law's institutional framework and added to the already corrupt and non-transparent practices in government procurements. Although not a mandatory commitment to accede to the WTO, the GOU has committed to commence ascension negotiations with the Government Procurement Agreement (GPA) following WTO ascension. Joining the GPA will strengthen transparency and procedural aspects in government procurement, as well as the institutional framework.

Improving the Business Environment. Ukraine's SME sector contribution to GDP and employment lags far behind nearby countries that have acceded or will accede to the EU. This is due in large part to the regulatory obstacles that SME's face in Ukraine. Despite the fact that 'guillotine' implementation to reduce the regulatory burden cut over 5,000 regulations in 2005, numerous regulatory obstacles still exist. In practice, businesses are burdened by over-regulation and taxation. Avoidance of the official rules is still a good way to make money, specifically in trade.

Assistance will continue to be needed in the area of regulatory reform beyond USAID's current assistance project (BIZPRO), which is scheduled to end in December of 2006. Specifically, the Regulatory Policy Law is still mostly un-implemented throughout Ukraine and needs to be amended to allow better implementation of regulatory policy nationwide. This includes institutionalizing Regulatory Impact Analysis (RIA), an internationally recognized method for designing and adopting new, business-friendly regulations through public/private interaction. In addition, the quick deregulation performed thus far with USAID assistance has reduced outdated and non-transparent general regulations at the national levels. But a huge number of sector-specific and regional regulations remain that undermine the business environment (e.g. construction industry, land market, communication technology).

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<sup>5</sup> Codex Alimentarius Commission (Codex), joint FAO/World Health Organization Program based on international agreement on minimum food standards, was founded in 1963; Office International des Epizooties (OIE), The World Organization for Animal Health (in English), established in 1924; International Plant Protection Convention (IPPC), created in 1952, revised and amended in 1997

<sup>6</sup> 'Ukrainian Breeze Ready to Blow into the EU market', USAID Insight, Issue # 1, page 4, January, 2006

<sup>7</sup> According to WTO requirements and Ukrainian Law on Standardization the DerzhSpozhyvStandart Committee has developed State Program on Standards Revision that was adopted by COM in 2005. The purpose of the program is to harmonize current standard's system with international standards procedures. The program is to be financed by state budget UAH 4-8 million annually

### Millennium Challenge Threshold Proposal – Streamlining and Enforcing Regulations.

Ukraine's Millennium Challenge Proposal identifies five major components that need to be addressed in the next two-year period to improve Ukraine's efforts to fight corruption and make Ukraine eligible to receive MCC Compact Status. These components are: Civil Society Monitoring and Advocacy, Judicial Reform, Government of Ukraine Monitoring and Enforcing Ethical and Administrative Standards, Streamlining and Enforcing Regulations, and Combating Corruption in Higher Education.

The component "Streamlining and Enforcing Regulations" fits neatly in USAID's overall assistance efforts to improve Ukraine's business environment. Specifically, Ukraine's MCC proposal targets implementation of the Permit System Law with respect to construction practices, including: issuing of construction permits, delivery of municipal services, and land and property ownership. This work is already underway. For the past year, three of USAID's implementers (Bizpro, ULTI, and MDI) have worked closely with the Ministry of Architecture, Construction and the Environment, to streamline regulations in these areas. Some progress has been made already in terms of identifying outdated or conflicting regulations and drafting amendments to legislation. However, much work still needs to be done. Through their MCC Threshold Proposal, the GOU has made continued work in these areas a priority.

The Government of Ukraine believes that complicated and confusing systems providing construction permits, delivery of municipal services, and access to land are sources of significant corruption. Both private individuals and legal entities must complete an enormous number of steps to start any construction activity. The processes are neither transparent, nor defined in time, and there is clear evidence of corruption at all steps. Individual legal rights to property are often overridden by the administrative authority of the state to control land transactions. Furthermore, an individual needs state approval for any changes he wishes to make to his property. The Government has multiple self-regulating agencies with overlapping authority that are involved in state approval for ownership and usage of property. This has contributed to numerous flagrant examples of corruption, including the privatization of beachfronts; the obstruction of public access to the Black Sea; and illegal land distribution in national parks and urban protected zones. Moreover, land regulations, construction permits, and related inspections are among the most burdensome and corrupt regulatory practices in Ukraine. Individual property owners usually have to pay significant amounts of money to obtain construction permits or approvals for changes in land usage. Reducing the number of steps and providing for less interaction with numerous Government officials will reduce the opportunities for corruption.<sup>8</sup>

## II. (b) BELARUS

After 15 years of independence, the economy of Belarus remains unreformed, state-dominated, and over-regulated. The Government of Belarus (GOB) actively resorts to price controls, production quotas, and actively promotes import substitution. State enterprises, even ill-performing, enjoy direct subsidies, loans from the state budget, tax exemptions, etc. Despite this the Belarusian economy has almost doubled over the past decade. In 2005 real GDP grew by 9.2%; average inflation fell to a record post-independence low of 10%<sup>9</sup>. However, the growth is

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<sup>9</sup> EIU-Belarus Country Report, March 2006

dependent on external factors such as high world energy prices, subsidized Russian energy imports, and a booming Russian market, and is not sustainable. Although the GOB has made some micro-level reforms in the budget process and energy efficiency, it has not undertaken any structural reforms, including major privatization. Indeed, the GOB's increasing misuse of the "golden share" has resulted in the de facto re-nationalization of many enterprises and the nationalization of some which were never government-owned.

Major challenges facing future Belarusian economic growth include, but are not limited to:

- Unreformed inefficient state subsidized and controlled economy (80% share of GDP)
- Weak legislation and institutional capacity, high regulatory and administrative barriers for business and unequal conditions for state and private enterprises
- Heavy concentration of economy: few modernized exporter-taxpayer companies and a large number of loss-making firms
- Weak GOB commitment to market reform and weak economy reliance on small business
- Underdeveloped financial sector
- Macroeconomic constraints.

#### Improving the business environment

The role and place of the private sector in the country, in particular, SMEs is quite modest at present with a share of SMEs in GDP at the level of 8%. The number of SMEs in Belarus, at 3 per 1,000 population, is half what it is in Russia or Ukraine. On the one hand, the private sector operates in a rather difficult business environment labeled by IFC as "unfavorable." The number of inspections exceeds that in other CIS countries, and government price controls and the complexity of the tax code are also a problem. Access to finance has also been identified by the private sector among the most pressing problems. On the other hand, private sector is lacking knowledge and skills to run businesses efficiently and defend corporate interests. Despite this, it is surviving and developing, led by vocal and active members of the Belarusian society and employing as much as 25% of active workforce (about one million people). Business and professional associations, in tandem with expert groups, advocate for interests of private economic initiative and professional communities defending interest of their members, improving legislation and regulations, and promoting high professional standards. Not without difficulties, but these civic groups achieve important results in their respective areas.

Also because of such efforts, the attitudes of GOB towards private sector and SMEs are changing which is indicated by gradual improvements in legislation, increased cooperation of state bodies and public structures through joint committees on specific issues, as well as increased role given/assigned to private sector and SMEs in the high-profile public statements and programmatic documents of the GOB. The change also stems from the GOB's growing understanding of the benefits of private economic initiative caused, among other factors, by the internal and external economic pressures. This change is indicated by a number of signs, including the following:

- Council of Ministers in February 2006 approved the Program of State Support to SMEs (access to credit, simplified taxation, development of information resources, etc.).

- A specific section was dedicated to SMEs in the 5-year Program of the Social and Economic Development projecting the share of SMEs in GDP by 2010 at 20-22% in contrast to meager 8,5% in 2005.
- One-stop shop principle for SME registration started working on June 1, 2006.
- A new draft law on SMEs is expected to be reviewed by the Parliament this year. Although not expected to be a breakthrough, the law would force other important documents to be improved or developed.
- Local business associations indicated improvements in the dialogue with the GOB and state structures over the past two years. There are active inter-sectoral partnerships bringing together the GOB and entrepreneurs (e.g., Council on Enterprise Development, Foreign Investment Advisory Council, etc.).
- People working in SMEs are working in a rather difficult environment but, nonetheless, survive and develop: even marginal improvements in the operational environment could lead to significant shifts in the work patterns – excessive labor at state enterprises amounts to 30% -- these people could be productive in the private sector.
- Problems of economically depressed areas and ‘mono-towns’ where all economic activities are concentrated in one non-viable state enterprise require the creation of SMEs to employ the population and generate income. In many small towns SMEs’ contribution to local budgets are already significant (up to 50% taking personal income and other taxes into account, 25-30% as a country average).
- Other donors have been implementing and/or are planning economic activities in Belarus (IFC, EBRD, UNDP, and OSCE). For example, IFC-supported One-stop Shop registration procedure, aimed at simplifying the registration of private businesses. The government eliminated 14 out of 15 administrative and regulatory obstacles to access of small business to credit; and after this the number of loans increased dramatically.
- EBRD microcredit programs showed remarkable results driven by the high demand for finance by SMEs and improved technical capacity of lenders. Such services as financing of working capital, investment loans, financial leasing, overdraft, and factoring offered by the banks to SMEs are expanding.
- The existing USG economic activities in Belarus show tangible results and are well received by the local stakeholders (however, they are not actively labeled/branded).

Despite some positive signs, no major economic reform is expected in the near future.

### **III. THE ROLE OF GOVERNMENT COUNTERPARTS, OTHER DONORS, AND STAKEHOLDERS**

#### **III. (a) UKRAINE**

The project will have multiple counterparts in Ukraine's private and public sectors, as well as self-regulatory organizations. The Trade, Investment and Business Acceleration Project will collaborate with other international institutions and donor partners in complementary areas of technical assistance.

Concerning WTO assistance, other donors' current and future activities include modernizing and bringing into conformity the legal framework for WTO accession and negotiating with WTO-committee members on bilateral market access for goods and services. The World Bank plans limited assistance in replacing and harmonizing obsolete standards through its Development Program Adjustment Loan (DPAL) in the fall of 2006. The EU plans to continue to modernize Ukraine's customs operations in accordance with EU Directives. Additionally, the EU is seeking to increase trade volumes with Ukraine by 20 percent in five years through negotiating a Free Trade Agreement (FTA). In the past, the EU was successful in establishing the European Business Association (EBA), which continuously analyzes problems faced by foreign and Ukrainian investors in their day-to-day business activities<sup>10</sup>. Assistance of the UK Department for International Development (DFID) since 2002 has been primarily focused on support of bilateral trade negotiations.

In the sphere of regulatory reform, The International Finance Corporation (IFC), in collaboration with USAID, is providing assistance to the GOU in implementation of the Permit System Law. USAID and IFC have adopted an agreement of collaboration to enhance regulatory reform efforts and to avoid duplication of efforts.

### Government Counterparts

The Ministry of Economy has been USAID's main counterpart for WTO Accession. USAID has received requests from the Ministry to assist in WTO Post-Accession Implementation.

Coordination with the Ministry of Agricultural Policy will be important for implementation of the SPS Law and deregulation within the agricultural sector.

Ministry of Architecture, Construction and Environment – This Ministry will continue to be a key counterpart for USAID, particularly in implementing the Permit System Law with regards to the construction industry, communal services, and land market reform (key tasks set forth by the Millennium Challenge TCP).

The Ministry of Justice will play a major role in TIBA's activities concerning land market reform.

The State Committee for Regulatory Policy and Entrepreneurship (SCRPE) is a key USAID counterpart in regulatory reform efforts.

### III. (b) BELARUS

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<sup>10</sup> GOU Millennium Challenge Corporation Threshold Country Plan, May 2006

<sup>10</sup> Report: 'Barriers to Investment in Ukraine', European Business Association, February, 2005

The project will cooperate with relevant counterparts in Belarus' private and public sectors, as well as self-regulatory organizations. The project will collaborate with other international institutions and donor partners in complementary areas of technical assistance. Currently, several international organizations are active in Belarus. IFC implements the "Belarus Business Enabling Environment" project following already completed "Business Associations Capacity Building" and "SME Development" projects. The World Bank's Mission in Belarus conducts in-depth analyses of the Belarusian economy and business environment.

EBRD instituted in 2004 the Belarus MSE/SME Finance Framework (the Framework) in the amount of USD 25 million to provide credit lines to eligible private partner banks (PBs) for on-lending to private MSEs and SMEs, in order to support the creation and sustainability of micro and small enterprises in Belarus. The EBRD credit lines have been accompanied by technical assistance to partner banks in order to strengthen their credit procedures, audit functions, improve client focus as well as to train loan officers and trainers within the partner banks.

UNDP implemented projects aimed to improve the business environment by fostering a dialogue between GOB and the private sector on removal of administrative barriers and supporting pilot entrepreneurial initiatives.

OSCE Office in Belarus has supported and promoted the organization of a numbers of seminars for development of SMEs. Currently under development by OSCE are projects in the areas of combating money laundering, promoting regional and global co-operation and adherence to international conventions, as well as good governance and anti-corruption.

There are a number of relatively small bilateral technical assistance initiatives implemented by foreing and Belarusian counterparts.

USAID projects in Belarus have actively involved local independent organizations as both implementers and recipients of assistance in the sphere of promoting dialogue and research on economic and business topics, and microlending. This cooperation has proven successful.<sup>11</sup>

### Government Counterparts

The nature of USG-GOB relationship remains difficult. In 2005, Belarus created an increasingly hostile environment for the provision of USG assistance. In wake of the presidential election in March 2006 the GOB particularly sharpened its anti-Western propaganda campaign in the state media. The GOB has specifically targeted USG and its partners, especially those providing assistance to civil society. In 2005 and 2006 the GOB denied re-registration to several US NGOs implementing in country USAID-funded civil society projects. Other donors, including UNDP and OSCE, report major problems and delays in registering assistance projects, even in purely non-political fields.<sup>12</sup>

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<sup>11</sup> See USAID/Belarus web-site at <http://belarus.usaid.gov>

<sup>12</sup> See "U.S. Government Assistance to and Cooperative Activities with Eurasia FY2005" at <http://www.state.gov/p/eur/rls/rpt/63173.htm>



Current cooperation between USAID/Belarus and GOB has not gone beyond rare formal meetings during assessment or fact finding USAID missions where GOB middle-management officials have shown an understanding of USAID mandate and programs in adjacent regions. However, the USG programs in Belarus are implemented quite successfully through the indigenous organizations. GOB officials and state enterprise representatives have benefited from the technical assistance attending seminars on economic policy and business training.

#### **IV. STRATEGIC FIT OF USAID STRATEGY AND RESULTS FRAMEWORK**

##### **IV. (a) UKRAINE**

TIBA will play an essential role in achieving USAID's Strategic Goal of **“increased social and economic well-being for all Ukrainians within a framework of democratic governance.”**

The Mission's current Results Framework can be found in Attachment A. TIBA will contribute to two of the Mission's five strategic objectives:

- Strategic Objective (SO) 1 - Improved Investment Climate. Achievement of this SO is dependent upon: Establishment of a legal foundation that clearly delineates the “rules of the game.”
- Strategic Objective (SO) 2 – Accelerated Growth of SMEs and Agriculture. Achievement of this SO is dependent upon: a) a legal and regulatory environment that supports growth and b) increased access to land and credit.

The proposed project will continue to provide technical assistance to the Government of Ukraine, regulatory administrators, and the private sector, through supporting trade in goods and services in accordance with WTO rules and implementing regulatory reform to establish a business-friendly legal environment that encourages SME growth and attracts investment.

The beneficiaries of this project are Ukrainian entrepreneurs, in particular SMEs. Large enterprises, in general, are not as affected by Ukraine's over-regulated economy because they have the resources to overcome the regulatory hurdles that exist and to conform their businesses to international standards.

The project will focus the majority of its resources on WTO accession and post-accession implementation and regulatory reform activities. Investment in Ukraine should increase because of these activities, however, certain activities (cited below) can be implemented which would accelerate investment. Level of effort between the three components of (1) WTO Accession and Post-Accession - 30%, (2) Improvement of Business Climate – 20%, and (3) MCC Component - approximately 50%.

##### Linkage to Other USAID Projects

*Agricultural Policy, Legal and Regulatory Reform Project (APLRRP)*

USAID Agricultural Policy, Legal and Regulatory Reform project which began in October of

2005 has been able in a short time to develop policy recommendations in the areas of agricultural taxation, subsidies, restructuring of regulatory agencies and privatization of government enterprises that compete with private sector companies.

TIBA's objectives will play an important and complementary role to APLRRP, especially concerning Ukraine's WTO commitment to implement the SPS Law and deregulation in the agricultural sector. As an example, APLRRP developed and had adopted by the Cabinet of Ministers a standards-setting procedure which incorporates international best practices. TIBA will provide assistance to the GOU to implement the standards-setting procedure and ensure that Ukraine will tackle adjustment of over 10,000 agricultural standards in the same manner as its trading partners.

#### *Commercial Law Reform Project*

The Commercial Law Project is aimed at establishing structures for property transfer and ownership, market entry and exit and market competition, and also focuses on developing legislation that deals with taxation, banking, capital markets and labor.

Objectives include:

- Assistance in drafting and implementing legislation that will improve the infrastructure for a stable investment environment;
- Helping reduce obstacles to developing private enterprises, complex business registration, licensing, and certification requirements.

USAID Commercial Law activities focus on assisting Ukraine in developing commercial systems and practices to create the legal basis for a market economy. Technical assistance concentrates on substantive areas of commerce such as: collateral law, bankruptcy, and mortgage, as well as the enforcement of contracts and judicial decisions.

#### IV. (b) BELARUS

At present, USAID/Belarus does not have a separate SO in the area of economic growth and implements its projects either through centrally-funded activities or tying the local economic growth activities to the sole SO 2.1. "Increased Citizen Participation in Democratic Practices" and its respective IRs: "IR 2.1.3. Enhanced Public Access to Objective and Substantive Information" and IR 2.1.1. "Increased Effectiveness of Democratically-Oriented NGOs." However, USAID/Belarus activities in this areas also contribute to the US Embassy Mission Performance Plan through the performance goal "EP.01 Belarus' implementation of macroeconomic and market reforms encourages expansion of the private sector and foreign investment and results in more stable, long-term growth to raise overall standards of living."

#### Linkage to other USAID projects

The project will build on the results of the BEEP/BIZPRO project in Belarus and seek cooperation with other current and future project in the economic area in Belarus. BEEP, launched in April 2005 and projected to end in December 2006, provides unbiased economic

information through economic education and business training. As a catalyst for dialogue among government officials, business, academia and civil society on various facets of regional economic development, integration and economic reform, USAID hopes to increase the stakeholders' understanding of the benefits of reform and build support for a reform agenda. The project launched a CAP/CIPA world-class, IFAC compliant, Russian language professional accountancy certification program. The project also provided technical assistance to a partner local private economic research institution and a public association of accountants and auditors.

USAID, through the EBRD Microlending Program, supported EBRD's efforts to increase technical capacity of its partner banks to issue micro-loans to SMEs from April to September 2005. Two EBRD partner banks have been able to develop their regional microlending network through establishment of specialized microlending units within existing bank branch offices. There is currently no USAID project with EBRD, however, cooperation with this institution on financial sector and other initiatives will be beneficial.

The project will also cooperate, where feasible, with the Agribusiness Volunteer Project (AVP) implemented by CNFA focusing on increasing incomes of farmers by improving the performance of privatized collective farms and farmers' groups throughout Belarus. TIBA will build on the Eurasia Foundation programs supporting business education and local economic development initiatives.

Finally, the project will benefit from cooperation with other USAID economic activities implemented by the USAID Regional Mission.

## **V. CRITICAL ASSUMPTIONS**

### **V. (a) UKRAINE**

Ukraine, like other transition states, has a positive legacy of a well-educated population and reasonable economic base, and a negative legacy of authoritarian, self-serving elites. Ukrainian economic development, as in most transition countries, requires above all else that the local elites desist from administering the economy. Fortunately, Ukraine's Orange Revolution, the emergence of a new generation of citizens, and five years of economic growth should allow the country to make substantial progress toward completing the transition to a market economy.

Within this context, TIBA faces significant opportunities and challenges. TIBA's central components, Accession to the WTO and GOU; private enterprise compliance with WTO requirements; deepening regulatory reform; and creating an enabling environment for increased domestic and foreign investment, require strengthening changes unleashed by the Orange Revolution. The challenge in this context is providing appropriate support for the pro-market elements in the Orange coalition's political elite, while at the same time forging links between business, government organizations and the society at large to make market reform the priority.

TIBA's major strength will be its relationship with Ukraine's SME community, which although small by Eastern European standards, plays a significant role. A measure of that role was SME support for ousting the former regime. It provided food and shelter at its expense to the

demonstrators during the Orange Revolution for almost two months, as well as took part in the demonstrations. Although difficult to mobilize, this community has shown itself capable of rallying together for change.

TIBA's second strength is that deepening reform will require the project to dedicate significant resources to working with government organizations such as the State Committee for Policy Reform and Entrepreneurship (SCRPE). Organizations such as this are relatively independent of policy makers and for the most part, as a result of age attrition, have begun to accept new, forward-looking personnel. USAID has demonstrated success in working with Ukrainian government agencies, and there is every reason to believe that TIBA will be as successful.

TIBA's third strength is that its objectives do not require development of new ideas or radically new policies. Instead, for TIBA to succeed requires adoption of proven policies already implemented throughout the world. Ukrainian acquisition of these market policies will require TIBA to undertake significant public outreach activities.

For trade and investment activities, USAID must follow ADS 225 – “Program Principles for Trade and Investment Activities and the Impact on U.S. Jobs and Workers’ Rights.” This chapter contains program design and implementation procedures to ensure that USAID-funded “trade and investment” activities do not

1. Provide for incentives and other assistance for U.S. companies to relocate abroad if it is likely to result in the loss of U.S. jobs; or
2. Contribute to violations of internationally recognized workers’ rights defined in 19 U.S.C. 2467(4).

After analyzing ADS 225, most activities proposed in TIBA fall under permitted activities (ADS 225.3.1.4), including:

- Legal, regulatory, and judicial reform projects, including those explicitly aimed at improving the climate for commercial activities within the country;
- Dissemination and analysis of information regarding the general economic and business climate in a country;
- Enhancing the competitiveness of local producers;
- Strengthening business associations and free trade associations;
- Trade capacity building technical assistance to speed the integration of developing countries into the global economy, which may include accession to the World Trade Organization, and compliance with preferential and international trade agreements;
- Trade facilitation (including customs reform) technical assistance to reduce transactions costs and to remove regulatory and physical barriers to trade;

No activities proposed in TIBA fall under “Prohibited Activities” in ADS 225.3.1.5.

## V. (b) BELARUS

Despite the general lack of political will for market reform, some objective developments in the country as well as the global economy and the region will drive Belarus to reform its economy,

and there have been some measures taken in that direction already. With this continued moderately positive attitude, the government agencies and structures will continue to express interest and participate in the dialogue with economic research community and private business.

Success of the project may also depend on ability and willingness of local stakeholders to actively participate in the project on both the demand and supply sides of assistance. Currently, there is a pool of local institutions indicating such ability and willingness. For example, several progressive economic think tanks have joined forces with the business community to push for market liberalization. This coalition has adopted a “*National Business Agenda for Belarus 2006-2007: Business for Partnership and Responsibility*.” The overall objective of the National Agenda is to improve the business environment. The leaders of the business communities and the economic institutions have asked USAID for support in helping it fulfill the objectives of the National Business Agenda. TIBA is also well positioned to provide the technical assistance requested by the coalition of business associations and expect results in terms of their capacity building: advocacy, membership growth, and increased capacity for member services.

The project may be implemented successfully if GOB retains at least the current level of acceptance of USG-funded projects in Belarus and allows local stakeholders to operate in the current format. If the GOB acceptance of the foreign and specifically, US technical assistance improves, the project will have even better chances to achieve its objectives in Belarus and expand further.

USAID and the Contractor will monitor implementation of the activities to ensure compliance with relevant ADS regulations.

## **VI. PROPOSAL OUTLINE AND GUIDANCE**

### **(a) Technical Proposal Page limits:**

- A. Challenges and Solutions: 10 page limit.
- B. Statement of work: 15 page limit
- C. Performance Monitoring Plan: 5 page limit;
- D. Technical Management and Key Personnel: 10 page limit.

### **(b) Cost Proposal:**

A. Page limit: None

B. Relative proportionality of components within Project:

- Component I - 30%;
- Component II – 20%;
- Component III - 50%

C. As a general guide when preparing cost proposal documentation, please be advised that USAID anticipates receiving approximately US\$ 8 - 11 million to fund this activity. It is a representation of the relative magnitude but should not be used as a target.

D. Estimated budget for equipment for Component III: \$380,000.

### **(c) Past Performance:**

Page limit: None.

### **(d) Additional information for technical proposal preparation.**

The contractor's knowledge of the current and projected economic and political situation and the status, challenges, and opportunities related to Trade, Investment and Business Activities in Ukraine without the context of Mission Strategy and Intermediate Results should be reflected in Challenges and Solutions (Item A under the technical proposal).

The sequencing of assistance should be carefully considered, especially as it pertains to program areas that are dependent on the passage of legislation. In addition, capacity building of USAID counterparts is a priority of this project. Both sequencing and capacity building should be well detailed in the proposal. For example, WTO Post-Accession tasks will not be implemented until Ukraine has acceded to the WTO.

Implementation of Component III, MCC Threshold Program – Streamlining and Enforcing Regulations is conditioned upon USAID signing an MCC Threshold Agreement with the Government of Ukraine.

In prepare the tasks, approach, and results consideration should be given to, but not limited to, the following issues within each component:

#### Component I, WTO Accession and Post-Accession

- (1) GOU capacity to develop and implement a sound foreign trade policy;
- (2) legal and regulatory framework for foreign trade;
- (3) GOU capacity to set standards for new goods and services;
- (4) GOU procurement practices;
- (5) TBT standards and SBS Measures;
- (6) public awareness of and other WTO commitments;
- (7) private sector compliance with national and international standards and measures;
- (8) participation of SMEs in foreign trade;

An Illustrative Task: Provide assistance to the technical regulation centers and/or laboratories, e.g. ISONET WTO Information Center and Inquiry Point to ensure implementation of the TBT Agreement (Article 3).

#### Component II, Improvement of Business Environment

- (1) GOU and GOB capacity to develop and implement sound business development policies;
- (2) opportunities for private sector participation in enhancing/improving the business environment;
- (3) legal and regulatory framework for business development;
- (4) public awareness of business development opportunities;
- (5) business development support services and regulatory work performed by the GOU and GOB authorities;
- (6) participation of SMEs in domestic trade and investments;
- (7) the capacity of independent local stakeholders (business associations, training providers, think tanks, independent research institutions);
- (8) economic education and policy dialogue in Belarus;
- (9) business training and education support in Belarus.

An Illustrative Task: Assist the Government of Ukraine to continue implementation of the Regulatory Policy Law, including training for regulatory administrators at the national and regional levels

#### Component III, MCC Threshold Program – Streamlining and Enforcing Regulations

- 1) legal and regulatory framework for property transactions;

- 2) transfer of all soil and water environmental protection functions to the Ministry of Environment
- 3) public inventory of land owner and user rights, access to utilities, and construction permits;
- 4) costs of obtaining land owner and user rights, access to utilities, and construction permits;
- 5) procedures for resolving standards issues;
- 6) public awareness of corruption costs related to granting land owner and user rights, access to utilities, and construction permits;
- 7) public tolerance of corruption related to granting land owner and user rights, access to utilities, and construction permits.

An Illustrative Task: reform of the Permit System for Construction, Municipal Services and Streamlining Land Usage and Property Ownership Rights

Offeror Developed Statement of Work (SOW).

The Contractor should develop a SOW that explains its approach, tasks and results that will achieve each of the project objectives. The contractor may propose as many tasks and results it deems appropriate, within the two year timeframe, to achieve the objectives. In preparing the SOW, the contractor should follow the following format:

**STATEMENT OF WORK**

**Component I. WTO Accession and Post-Accession**

**Objective 1: Ukraine Accedes to World Trade Organization**

Approach to fulfilling objective

Task 1

Result (s) for Task 1

**Objective 2: Government of Ukraine Fulfills WTO Commitments**

Approach to fulfilling objective

Task 1

Result(s) for Task 1

**Objective 3: Ukraine's Businesses Benefit from Ukraine's Accession in WTO**

Approach to fulfilling objective

Task 1

Result(s) for Task 1

**Component II: Improvement of Business Environment**

**Objective 1: Reduce the cost of doing business in Ukraine**

Approach to fulfilling objective

Task 1

Result (s) for Task 1



**Objective 2: Increase the private sector's share of the economy in Belarus**

Approach to fulfilling objective

Task 1

Result (s) for Task 1

**Component III: MCC Threshold Program Component 4 – Streamlining and Enforcing Regulations-Ukraine**

**Objective 1 : Reduce corruption related to granting land owner and user rights, access to utilities, and construction permits**

Approach for fulfilling objective

Task 1

Result(s) for Task 1

**What Success Looks Like: A Summary of Results and Impact**

**(e) Project Performance Monitoring Plan**

In order to measure progress towards USAID's Mission-level Intermediate Results and Strategic Objectives associated with creating an improved business climate and encourage SME growth, the Contractor will develop a project-level Performance Monitoring Plan (PMP) to be submitted with the initial proposal. While developing the PMP, the contractor may propose its own expected results and performance indicators to measure the project's performance within the project components.

The PMP will have the following suggested structure:

- List of key project objectives, expected results and project outputs (output is a count of services delivered or items produced) as well as brief description of the linkages between the project outputs and its expected results.
- Definition and detailed description of the performance indicators to be tracked including:
  - Unit of measure and desegregations, if possible;
  - Justification/management utility;
  - Baselines/Targets;
  - Frequency and schedule for data collection;
  - Individual responsibility for data collection and availability of data at USAID; and,
  - Detailed plans for data analysis, review and reporting.

The performance indicators should flow logically from the project objectives and expected results outlined in the Statement of Work. The indicators will be required to meet the following quality standards: direct, objective, practical, and adequate. Collected data should meet reasonable standards of validity, reliability, timeliness, precision and integrity, be useful in managing for results and credible for reporting.

The Contractor and USAID will mutually agree upon the final choice of performance indicators to ensure the adequacy of outputs and their effectiveness in achieving intended results, and plan evaluations and/or studies/assessments.

During the life of this activity, USAID may elect to organize an independent, formative or summary evaluation of the project and its results, which can be expected to provide additional, mid-course guidance regarding the goals, priorities, and methods of supporting improvements in the project's implementation. The contractor shall cooperate fully with USAID and the evaluation team to ensure that the evaluation's methodological standards meet the guiding principles of the American Evaluation Association (1995).

**(f) Note on Millennium Challenge Reporting**

The contractor shall be required to track and report separately on activities implemented under Component 3, both in terms of project implementation and financial accounting. The contractor will submit to USAID Quarterly Reports specifically related to progress concerning the Millennium Challenge Threshold activities within 30 days after the end of each quarter. Quarterly Reports will discuss progress within the reported period as well as cumulative progress in the context of the agreed upon accomplishments and indicators. In addition, they will comment on existing and potential problems in the project implementation and variance from the Annual Work Plan and PMP.

At a minimum, Quarterly Reports will include the following information:

- Brief outline of project purpose and approach;
- Brief description of significant events during the reported period;
- Status of activities of each task as defined in the Work Plan;
- Status of overall project progress per performance indicators as defined in the PMP;
- List of reports/deliverables completed in the reporting period;
- Performance problems during the reporting period and variance from the Annual Work Plan and PMP;
- A detailed financial report of expenditures and the following quarterly budget; and,
- List of major activities planned for next quarter.

## VII. EVALUATION CRITERIA

### Factor 1 - Technical Proposal Evaluation Criteria

#### **Challenges and Solutions to Project Objectives: 150 points**

- (i) The Government will evaluate the offeror's understanding of Ukraine's current and projected economic and political environment and the status, challenges, risk and opportunities related to the development of the Trade, Investment, and Business Acceleration (TIBA) Project within the context of the Mission Strategy and IRs:
- (ii) The Government will evaluate the offeror's flexibility to adapt to the changing political and economic situation in Ukraine/Belarus.

#### **Statement of Work: 400 points**

- (i) Approach: The Government will evaluate the offeror's responsiveness, technical quality, ambitiousness, creativity, and realism/feasibility of **approach** to fulfilling each of the project objectives.
- (ii) Tasks: The Government will evaluate the offeror's technical quality ambitiousness, creativity, and realism/feasibility of fulfilling the **tasks** proposed to fulfill the stated project objectives.
- (iii) Results: The Government will evaluate the offeror's technical quality ambitiousness, creativity, and realism/feasibility of achieving the **results** leading the achievement of the overall stated objectives

#### **Performance Monitoring Plan (PMP): 100 points**

The Government will evaluate the quality and realism of the Performance Monitoring Plan (PMP).

#### **Technical Management and Key Personnel 350 points**

- (i) The Government will evaluate the quality and responsiveness of the proposed Management Structure
- (ii) The Government will evaluate the responsiveness and realism of the proposed staffing plan, including qualifications and professional experience of long-term key personnel and their experience in effectively managing programs in developing country context.
- (ii) Gender Consideration – The Government will evaluate the offerors approach to gender analysis and gender considerations in project implementation.

### FACTOR 2 - PAST PERFORMANCE

Past performance will be assessed to determine the extent to which previous objectives have been achieved by the offeror and any significant subcontractors and/or teaming partners on related efforts that are comparable and relevant.

In conducting the evaluation for this factor, the Government reserves the right to use all information available at the time of the evaluation, whether provided in the offeror's proposal, found in the NIH Past Performance Database, or obtained from other sources. For example, the Government may rely on information contained in its own records and that available through reference checks, Government audit agencies, and commercial sources.

### **FACTOR 3 - COST**

An analysis of the proposed cost/price will be conducted to determine the validity and the extent to which it reflects performance addressed in the technical proposal. An assessment will be made of the offeror's capability to accomplish the task order objectives within the estimated cost proposed. The cost proposal will be used as an aid to determine the offeror's understanding of Technical Requirements.

## **Attachment A: USAID/Ukraine Results Framework**

### SO 1 Improved Investment Climate

Indicator: *Economic Intelligence Unit* (EIU) Business Environment Rating

#### IR 1.1 Business Legal Environment Improved

Indicator: Efficiency of Legal Framework

### SO 2: Accelerated Growth of SMEs and Agriculture

Indicator 1: Share of registered private SMEs (including agribusinesses) employment in total employment

Indicator 2: Private SMEs (including agribusinesses) production as a share of total GDP

#### Intermediate Result 2.1: Legal & Regulatory Environment Supports Growth

Indicator 1: Efficiency of Legal Framework

#### Intermediate Result 2.2: Increased Access to Land and Credit

Indicator 1: Number of land titles issued to SMEs and agriculture

Indicator 2: Number of land transactions

Indicator 3: Number of loans less than \$250,000 made to SMEs and Ag enterprises

PERFORMANCE INDICATOR			BASELINE DATA		CALENDAR YEAR								
			Baseline Year	Baseline Value	Target 2003	Actual 2003	Target 2004	Actual 2004	Target 2005	Actual 2005	Target 2006	Actual 2006	Target 2007
Strategic Objective 1: Improved Investment Climate													
1. <i>Economic Intelligence Unit</i> (EIU) Business Environment Rating	Score, 10=high)	None	2002	4.52	Targets were not set as this indicator was introduced in 2004	4.56	4.73	4.73	4.8	4.92	4.9		
Intermediate Result 1.1: Business Legal Environment Improved													
1. Efficiency of Legal Framework component of <i>The Global Competitiveness Index</i> (by World Economic Forum)	Scores	None	2003	2.5		2.5	2.6	2.6	2.7	2.7	2.8		

Performance Data Table

SO 2: Accelerated growth of SMEs\* and agriculture

PERFORMANCE INDICATOR			BASELINE DATA		CALENDAR YEAR									
					2003		2004		2005		2006		2007	
Indicator	Unit of Measure	Disaggregation	Baseline Year	Baseline Value	Target 2003	Actual 2003	Target 2004	Actual 2004	Target 2005	Actual 2005	Target 2006	Actual 2006	Target 2007	Actual 2007
Strategic Objective 2: Accelerated growth of SMEs* and agriculture														
1. Registered private SMEs (including agribusiness) employment in total employment (CY) (%)	Percentage	National Level	2002	19.9%	*	19.4%	20.0%	19.7%	20.5%	Data expected 03/06	21.0%			
2. Private SMEs (including agribusinesses) production as a share of total GDP	Percentage	National Level	2002	21.3%	*	22.5%	23%	24.8%	24%	25% (estimation)	25%			
* No targets have been set as the indicator was introduced in 2004														
IR 2.1: Legal & regulatory environment supports growth														
1. Efficiency of Legal Framework component of <i>The Global Competitiveness Index</i> (by World Economic Forum)	Scores	None	2003	2.5		2.5	2.6	2.6	2.7	2.7	2.8			
IR 2.2: Increased access to land and credit														

PERFORMANCE INDICATOR			BASELINE DATA		CALENDAR YEAR									
					2003		2004		2005		2006		2007	
Indicator	Unit of Measure	Disaggregation	Baseline Year	Baseline Value	Target 2003	Actual 2003	Target 2004	Actual 2004	Target 2005	Actual 2005	Target 2006	Actual 2006	Target 2007	Actual 2007
1.Land titles issued to SMEs and agriculture	Number of land titles (thous.)	National level	2002	2,856	3,600	3,900	4,500	4,600	5,500	4,000	5,600		6,700	
2. Number of land transactions	Number of transactions (thous.)	Urban land	2002	5	6	8	8		10		12		15	
		Rural land												
		Leases	2002	5,500	5,500	5,500	6,000	6,000	5,750		5,500		5,000	
		Inheritances	2002	10	15	20	20	25	30		40		40	
		Gifts	2002	1	1.5	1.5	0 <sup>13</sup>	0						5
		Sales	2002	3	4	0	0	0			75		100	

<sup>13</sup> The GOU put a moratorium on gifting and selling agricultural land that will stay in effect until January 1, 2005.



