

ATTACHMENT I

STATEMENT OF WORK

Title: Business Enabling Environment Program (BEEP)

1. BACKGROUND

Kosovo's economic growth - about 4 per cent a year recently - has been insufficient to reduce its extraordinarily high 45 per cent unemployment rate. Many factors impede faster growth, some of which are beyond Kosovo's control. As a small country, for example, Kosovo is not attractive to investors looking for large markets. Its landlocked geography means that transport costs for many internationally traded goods will always be relatively high. Residual international perceptions of Kosovo as a country in conflict will also discourage at least some investors for some time to come.

Other impediments are being addressed but improvements will take time to affect growth and employment. These include an unreliable supply of energy, an education and training system that doesn't produce the skills needed for a growing modern economy, an overwhelmed and dysfunctional justice system, and weak road infrastructure that prevents goods from moving efficiently within the country and beyond.

With such high unemployment, Kosovo can't afford to wait for long term efforts to bear fruit. It must do more now to improve its growth prospects, particularly since spending by the large international military force in Kosovo accounts for a large percentage of GDP and will decline as the force is drawn down over the next few years. Kosovo must improve its economic policies and the elements of its economic governance that can increase economic growth quickly and sustain it in the years to come.

The policies and processes that shape the business enabling environment (BEE) are considered to be the biggest impediment to economic growth and job creation in Kosovo today. Kosovo's low ranking in the World Bank's Doing Business survey this year - 113 out of 183 countries covered - makes it clear that the environment for business is nowhere near a level that could make a dent in the unemployment rate, promote the growth needed to make up for the pending decline in foreign military presence, or make up for the natural disadvantages of Kosovo's small size and location. The extraordinarily large informal sector - estimated at anywhere between 35 and 90 per cent of the economy - is further evidence of the need to reform the policies, laws, regulations and administrative procedures that raise the costs and risks of doing business.

Given its natural disadvantages, Kosovo must not just improve its business environment; it must offer a better environment for business than its larger and better-situated neighbors. Given its small size and landlocked geography, it must eliminate impediments to trade with its neighbors and the region at the same time. Continuing regional and global competition will mean that improvements like these must not occur as a one-time event, but continue in an ongoing process into the future.

The devolution of central government powers to Kosovo's municipalities over the next several years presents not only a challenge but also an opportunity to improve the enabling environment for business. International experience shows that the procedures, attitudes and actions businesses face when they deal with government vary considerably within countries, even when the rules for the enabling environment are made at the national level and are the same on paper. Local authorities interpret and implement the rules differently. No less so in Kosovo, despite its small size. In 2005, when there were 30 municipalities, the World Bank commented that Kosovo already presented 30 different enabling environments for business.

Local differences in the enabling environment for business in Kosovo will diverge further as the 2008 Law on Local Self Government is implemented. The Law gives Kosovo's municipalities virtually full control over 18 government functions, delegates an additional six, and "enhances local competencies" in yet other areas of responsibility. Not all of these affect the environment for business, but many do.

How municipalities define and implement their growing responsibilities will largely determine the business environment of Kosovo as a whole. The Business Enabling Environment Program (BEEP), working at the national and municipal level, seeks to influence Kosovo's evolving environment for business in growth-friendly ways. It will:

- enhance the awareness and understanding by government, business and the legal community of the entire framework of commercial laws and regulation, introduce streamlined rules and regulations wherever possible, and assist national and local governments to increase the accessibility of BEE information through outreach to business and citizens;
- introduce transparent procedures for local government tenders;
- reduce the risks of lending by filling critical gaps in the financial sector;
- reduce barriers to trade by helping government and business understand their rights and obligations in international trade and assert Kosovo's trade interests effectively; and
- analyze key BEE issues and reform options for policy makers.

The program will introduce an index of the quality of the business environment at the municipal level, and employ it to monitor reform and encourage and assist municipalities to improve their performance. It will also actively facilitate dialog on business climate issues between Kosovo's private sector and government and strengthen the capacity of both sides to maintain the dialog in the future.

The Problem with Rules and Regulations

The basic framework of commercial law is in place in Kosovo, including company law, contract law and enforcement, real property law, law on secured transactions, accounting, banking, bankruptcy, competition, commercial dispute resolution, foreign direct investment, and international trade. Virtually all these laws benefited from international advice. They are generally sound and conducive to a liberal, open economic regime. Labor law, in addition, provides flexibility to employers and tariffs are generally low.

But laws have been put in place quickly and not everyone understands them, including the officials, legal authorities, and businesses most affected. Moreover, the regulations and procedures developed by ministries and local government to implement the commercial law framework are incomplete and have had much less international input. They are often unclear, inconsistent from one jurisdiction to another, and reflect inexperience, a lack of knowledge or, in some cases, a heritage of attitudes that don't view firms as assets to be facilitated but as sources of revenue to plunder. Kosovo's Doing Business scores illustrate the result: out of 183 countries in 2009, for example, Kosovo ranked 176 in Dealing with Construction Permits, 172 in Protecting Investors, 164 in Starting a Business, 157 in Enforcing Contracts, and 132 in Trading Across Borders. Devolution will bring changes and more variation. Variation is inherently problematic for business because it increases complexity and risk. Whether the changes constitute improvements or deterioration will depend, in part, on the success of the BEE Program.

Trade Constraints

Kosovo's economy is small and highly dependent on international trade. The \$18 trillion economy of the European Union (EU) is by far the largest nearby market. But Kosovo's closest and historic trading partners are its Balkan neighbors. Politics are interrupting trade with Serbia and Bosnia Herzegovina. Trade with Albania, Macedonia, Croatia, and Montenegro is growing, however, as is trade with Turkey and other Mediterranean countries that share cultural ties.

Kosovo's economic future is tied to its capacity to cooperate with its neighbors – it must either export to them or ship goods through them. The competitiveness of Kosovo and its neighbors together depends on the cost and speed of transit out of the Balkans. Thus, in addition to smooth transit at borders, the countries of the region need to integrate their overall trade and transport networks to compete globally. Recognizing this, the EU has made membership in the Central European Free Trade Agreement (CEFTA) and regional integration with Western Balkans a requirement of the EU accession process.

Kosovo is a potential candidate for EU enlargement and a member of CEFTA. The European Commission, through the Stabilization and Association Process (SAP), provides assistance to help Kosovo harmonize with EU laws and regulations. A regular policy and technical dialogue under the SAP provides advice and guidance to Kosovo on reform efforts.

But Kosovo is not using CEFTA effectively or any other institution of regional or international trade to remove barriers to export (or import) business. Within CEFTA, the GOK has missed opportunities to remove improper barriers imposed by other Balkan states. In addition to blocked trade with Serbia and Bosnia Herzegovina, nontariff barriers have been raised by even friendly neighbors. It is imperative that the GOK build the capacity to assert its rights and meet its obligations in CEFTA and all other bilateral, regional, and multilateral trade agreements that may come.

When and how Kosovo pursues World Trade Organization (WTO) membership is a political decision under discussion between the GOK and the EU. WTO membership would have major advantages for Kosovo. It would ensure access to the markets of the WTO's 153 members, non-discriminatory treatment of Kosovo's goods and services, and provide an effective dispute settlement mechanism especially useful to small countries like Kosovo that lack other means to protect their interests. The WTO accession process itself would be helpful in spurring domestic reform. However, accession is an intensive process that takes resources and years to complete.

While pursuit of formal WTO accession is a political matter, understanding WTO rules is not. The CEFTA is not a standalone agreement, for example. It references WTO rules explicitly to address many issues. It is also not a permanent arrangement, but intended as a temporary arrangement leading to EU accession. The EU's accession process requires both participation in CEFTA *and* compliance with WTO rules. In the long-term, therefore, Kosovo will need to comply with WTO trade laws if only as a member of the EU. A work program to build understanding and consistency with WTO agreements makes sense for Kosovo no matter what institutional trade arrangements it pursues in the short- and medium-term.

Financial Sector Gaps

Despite a competent Central Bank, well-intentioned ministries, and a plethora of reasonably good laws, there are gaps in the overall environment for credit that impede the start up and expansion of businesses. Interest rates are still high as a result of high risks regarding the likelihood of enforcement, and high costs stemming from inefficiencies in the credit market. To enable lenders to provide adequate funding at reasonable cost to borrowers, lenders (whether banks, NBFIs or trade creditors) need to be able to balance the costs and risks of lending against the revenues obtained through interest and fees. When the balance is wrong, lenders must charge higher rates and fees, which increase the risks of default while also limiting the number of those who can afford to borrow.

Fortunately for Kosovo, much of the regulatory framework is in place. In addition, there is a strong banking association that works well with the regulators and has a strong voice for advocating change, including necessary changes in banking practices. Indeed, the Kosovo Bankers Association once ran the pledge registry and much of the credit information system. Today, these functions have passed to others, but the competence of the association as a strong counterpart is undiminished.

Unfortunately, the Kosovo system of justice is dysfunctional, unable to provide either timely resolution of commercial disputes or to enforce, through the court system, commercial banks' rights regarding collateral pledged against defaulted loans. The problems of the legal system are systemic and will not be easily or quickly resolved. As a result, other approaches to expand finance are also needed. "Up front" measures that expand the information available about potential borrowers' creditworthiness can reduce lending risks and bring new businesses and individuals into the formal lending system. At the same time at the "back end," new alternative arrangements for enforcing the rules for loan default that have been developed elsewhere in the region, can lower the cost to lenders of enforcing the existing collateral system despite weaknesses in contract enforcement overall. This lowers banks' costs which allow them to reduce interest rates and reach a larger number of clients. Technical assistance is needed to bring Kosovo up to this standard and increase its competitiveness in the region.

Tender Irregularities

Irregularities in government procurement are among the most difficult problems in the business enabling environment. More than half the respondents to a 2006 World Bank business climate survey in Kosovo listed corruption as a key constraint and procurement appears to be the principal mechanism through which corruption takes place. Visitors to Kosovo are regaled with anecdotes of contracting irregularities at the local level. Irregularities in international tenders have also surfaced recently and send a negative message to the outside investors Kosovo needs to attract most. The problem in some cases begins with inadequate contract specifications – if there are no standards or specifications, any bid will do.

Corrupt tenders inhibit growth in several ways. They lower the quality of goods or services delivered – poorly constructed or badly maintained roads, for example, raise the cost of transport to consumers and businesses. And instead of rewarding domestic firms for the competitive behavior they need to practice most to succeed beyond Kosovo's borders, corrupt tenders reward the opposite. Devolution will not affect international procurement but is expected to increase the procurement discretion of municipal governments with potentially negative results unless remedial steps are taken. Government procurement is a central concern of the EU. Any reform in this area must be consistent with EU requirements if it is to facilitate Kosovo's eventual EU accession.

Ineffective Policy Dialog on BEE Issues

The quality and pace of economic reform in many countries has been enhanced by dialog between the private sector and government over reform priorities. This is not yet happening in Kosovo but will need to accelerate BEE reform and sustain it over time. At the highest policy level, the GOK is committed to developing a full-fledged market economy. Prices are free, most state enterprises of value are being privatized, and the trade regime is open. But there are contradictory currents. As discussed above, many of the rules and regulations for implementing the framework of commercial law reflect an attitude toward the private sector of control rather than facilitation. When things go awry on the trade front, the tendency is to retreat to protectionism. Protectionist tendencies are strong in some private as well as government circles.

Given the contradictory currents in the attitudes of government and business, enabling environment reform must carefully align itself with the political factors that motivate change. Kosovo's strong desire to accede to the EU and WTO is the critical factor in the long-run. Statist and protectionist tendencies must ultimately give way to the greater market orientation of the EU and WTO systems. In any case, accession is not imminent, and there are many opportunities to detour along the way. CEFTA could be an important motivator for reform in the short run and is widely discussed in Kosovo. But it is misperceived by many to be an instrument to block rather than facilitate Kosovo's progress. The addition of Kosovo to the World Bank's Doing Business survey this year has added a new motivator. The country's low rank has drawn lots of attention and there are signs that it may spur changes.

Even determined reformers, however, can be undercut by weak coordination and fragmented policy-making in the government. Both open the door for non-market elements to surface. Public-private dialog is fragmented too, and inconsistent which means that the business community is not effective in promoting BEE reform. The government supports dialog with the private sector in principle, but there is no institutionalized way for it to happen and the private sector is frequently consulted too late in the policy-making process to make much difference. Business chambers and associations are still developing and have a tendency to react, often too late, rather than assert a proactive agenda of their own. They have varying capabilities to formulate an agenda in the first place. The main "chambers"¹, moreover, represent different constituencies and interests with the result that none can be treated as the sole voice of the business community. Several non-government groups are encouraging earlier involvement of the private sector in the policy process but the outcome of those efforts is not yet clear.

A regular and informed dialog between government and private sector groups is needed to encourage a market-friendly enabling environment now and in the long-run. Assistance is needed to:

- strengthen the ability of representative business groups to develop sound policy positions,
- help representative groups develop positive policy agendas rather than reactive ones, and
- develop a forum that helps government and responsible private sector groups look at the big picture of the enabling environment in Kosovo together and on a regular basis and develop strategies for improvement.

¹ Includes the Kosovo Chamber of Commerce, the American Chamber of Commerce, and the Alliance of Kosovar Businesses. A Turkey-Kosovo Chamber of Commerce is also becoming important.

Cross-Cutting Issues: Gender Equality and Minority Integration

USAID is committed to strengthening gender equality and the integration of minorities in all aspects of the economy and society. An enabling environment for business is a key precondition for creating economic opportunities for women and for minorities. At present, there is very little attention paid in Kosovo to how policies differently affect men and women and what is the impact on minorities. This program will also work to increase the understanding of gender and minority integration issues in private sector development and to improve the business environment for women- and minority-owned businesses.

2. STATEMENT OF WORK

The program will work with different combinations of national authorities and municipal governments depending on needs of the specific activity. Some BEE issues, such as trade barriers and gaps in financial information, are entirely national matters. The Contractor will work on trade issues, at least initially, with the Ministry of Trade and Industry (MTI) and other trade-related ministries. Work on credit will be based in the Central Bank.

The municipal BEE index and improved transparency in tenders will be implemented primarily at the local government level. But 75-80 per cent of Kosovo's population and economic activity is located in just five municipalities. The program will therefore focus most of its municipal-level resources for the reform of BEE rules and regulations on the largest five municipalities and engage fully with three smaller ones that volunteer to participate. Engagement with these smaller municipalities will allow lessons to be learned that can eventually be extended to the remaining, small jurisdictions in the country. The municipal BEE survey will be implemented in the first year in the five plus three municipalities but expand in as many as possible municipalities in year two and three. Transparency in tenders will be implemented in two or more municipalities that volunteer from among the five plus three, in consultation with the Public Procurement Regulatory Commission (PPRC).

Policy dialog will primarily be a national activity but the program will be open to opportunities to facilitate public-private dialog at the municipal level if it can be done on a cost-effective basis. Some effort to improve BEE rules and regulations will be at the national level with national authorities and ministries. The majority will be at the municipal level primarily with the five plus three target municipalities. BEE issues in Kosovo's remaining local jurisdictions will receive light attention using low cost means such as group seminars and newsletters to share lessons learned with a large number of municipal governments at one time. Given the diversity of local institutions and levels of government the program will work with, the Contractor will establish and operate out of an independent program office in Pristina, with a strong local professional in each of the eight target municipalities. Trade and credit consultants will be based in the MTI and Central Bank respectively.

(1) Improved Rules and Regulations

The program will work with national authorities, the five largest municipalities (plus three), and representative private sector groups to increase the awareness and understanding, by officials, lawyers, judges, and business, of commercial laws, regulations and procedures. It will work with the same partners to simplify and streamline regulations and procedures, and create clear and simple new regulations and procedures as needed. The program will assist both levels of government to assure that rules, procedures, fees and resources for business are well-publicized and readily available. Awareness campaigns and training will be implemented across Kosovo. In-depth work on business environment issues specific to individual municipalities will be concentrated in the largest five plus three municipalities. The program will emphasize the harmonization of procedures between municipalities, with other countries in the region, and with international practice, particularly that of the EU, whenever possible. It is important to emphasize that Kosovo ranked 176 (out of 183) just above Tajikistan in WB Doing Business 2010 in Dealing with Construction Permits.² This is an indicator that looks at the procedures, time and costs to build a warehouse, including obtaining necessary licenses and permits, completing required notifications and inspections, and obtaining utility connections. Improvements must be made in this important area in order to improve the investment climate.

² <http://www.doingbusiness.org/economyrankings/>

WB has designed a technical assistance activity to support the inventory of inspections and licensing regimes at both the national and municipal levels of government. It is anticipated that these WB-supported inventorying exercises will be completed on or about the time BEEP commences, enabling BEEP advisors to utilize these findings in crafting a reform action plans. In addition, the WB plans to support the establishment of several Municipal Business Centers as demonstration of the benefits of one-stop shops for business seeking services from their municipality. Currently, both of these WB activities (inventorying of inspections and licensing regimes and business center establishment) are significantly behind schedule. As the permit and inspection inventory is a critical input to the work under BEEP, it may become necessary for the Contractor to perform this task through BEEP.

Tasks:

- Develop and implement a long term informational program to help government officials, the legal profession, and business better understand commercial law, regulations and procedures. The campaign may need to develop and make use of printed and electronic materials, media spots, seminars, and academic or professional training curricula.
- Identify rules and regulations, administrative procedures, and informal practices that unnecessarily impede business.
- Assist municipal and national authorities to clarify and streamline rules, regulations and procedures and develop new ones as needed.
- Selectively strengthen enforcement capacity.
- Work with the national government, selected municipalities and business groups to develop websites and other media to assure local rules, regulations and procedures, fees and resources for business are clearly articulated and widely available.
- Work with minority and women's business associations, and national and local governments, to strengthen the entrepreneurial opportunities for women and minorities, both at the national and municipal/local level.

Expected Results:

- Government officials, the legal profession, and business have a dramatically increased understanding of the commercial laws and procedures affecting them.
- Market-friendly rules, regulations and procedures are in place nationally and in at least the eight targeted municipalities of Kosovo.
- The rules, regulations and procedures, fees and resources for business are readily available and accessible at the national and municipal government level.

Indicators of Success:

- Kosovo's scores improve in the World Bank's Doing Business survey.
- The performance of the eight targeted municipalities improves as measured by the index of municipal business enabling environment quality (see below).
- Clear and comprehensive websites and other BEE outreach material are readily accessible at the national level and in each of the targeted municipalities.

(2) Lower Trade Barriers

For businesses in Kosovo to trade successfully, the GOK needs to develop the expertise to address policy issues with trading partners on the basis of international trade disciplines. The program will help to lower barriers to trade and facilitate regional integration by building the capacity of the GOK's trade officials and selected private sector groups to understand and make use of international trade practices and conventions.

The skills to be built are the same as those Kosovo will ultimately need for WTO accession and membership in the EU. For now, they are most important for Kosovo to trade successfully within CEFTA. Overall, the program will take a "forum neutral" strategy. This will mean building an understanding of WTO rules but covering other protocols and conventions such as those of the World Customs Organization (WCO) and the World Intellectual Property Organization (WIPO). If a decision is taken by the GOK to pursue formal WTO membership, trade officials will already be aware of the rules of the game and have a strong start marshalling the required resources and knowledge. In the meantime, Kosovo's ability to work within CEFTA will be enhanced (which will become especially important when Kosovo assumes the CEFTA chairmanship in 2011).

Effective trade policy-making and negotiation depend on a government trade organization with expertise that crosses the subjects and sectors of many different ministries. This organization should coordinate the GOK's various agencies in addressing trade barriers and engaging foreign governments on trade issues. Currently, the Ministry of Trade and Industry (MTI) has this responsibility and struggles to carry it out. Some streamlining of GOK trade governance structures may be necessary. The GOK will decide how to best organize itself to accomplish this end. USAID will provide assistance and will build capacity for policy coordination through – as appropriate - the Prime Minister's office, MTI, and others involved with trade including the ministries of Economy and Finance (including Customs), Agriculture, and Transport.

Private firms that export or import also need to understand international trade rules, though not necessarily to the same depth or detail as trade officials. Firms need this knowledge to develop their business strategies and provide knowledgeable input to government in the trade policy-making process. The program will extend selected training and information outreach to business associations and individual firms impacted by barriers to trade. It will facilitate and encourage dialog on trade governance issues and operations between representative groups from the private sector and government.

EU requirements play an especially important role for Kosovo in the area of trade. The program will communicate frequently and coordinate particularly closely with EU consultants working in this area to assure the best combined outcomes for Kosovo.

Tasks:

- Assemble a trade policy road map for Kosovo to clarify the trade regime and identify trade issues. The road map should contain a similar depth of information as a WTO Memorandum of Foreign Trade Regime.
- Conduct a human resources needs assessment that systematically collects information on the skill, capacities, and training requirements of MTI's trade staff and trade staff of other GOK agencies. Recommend training and staff strengthening as appropriate.

- Develop a multi-stakeholder training plan and implement a program to familiarize the GOK and private sector with Kosovo's current trade laws and a broad range of trade-related issues and best practices. Training will be tailored to MTI, other trade agencies and private groups e.g., customs brokers, traders, legal community and will include WIPO conventions, WTO agreements, TIR (transport agreement on containers in transit), International Standard-setting Organizations, international investment treaties, and WCO protocols. It should also include training in the analysis of international trade data and the use of trade data in government-to-government dialogue.
- Assist the GOK to reinvigorate its Inter-Ministerial Council for Trade Policy or to develop an effective alternate inter-ministerial organization.
- Develop regular issue-specific bulletins for trade officials that address topical trade issues and/or respond to GOK requests. Topics could include sector or product-specific trade problems, among many others.
- Assist to develop a regular, informed dialog between private sector groups and the government on issues of trade policy.
- Develop and implement an outreach strategy on Kosovo's trade issues. The strategy should explain the benefits of participation in border, regional, and international trade. Communications should be targeted to key audiences e.g., business, academia and the public and may include a multimedia campaign, newsletters, radio, TV, and/or the internet.
- Implement an internship program for students and/or recent higher education graduates to prepare the next generation of Kosovo's trade experts, and help meet the demand of extensive research that the program will undertake.

Expected Results:

- The GOK has increased capacity to identify and resolve trade issues bilaterally, regionally, and multilaterally.
- The skills and capacities of staff within MTI and the GOK's trade-related institutions improve. GOK officials understand international trade governance "best practice" better.
- The GOK has the capacity to analyze trade data and employ it effectively in trade discussions.

- The GOK's inter-ministerial policy development process for trade has been strengthened and includes MTI and all relevant agencies such as MOF, Customs, Transportation, and Agriculture.
- The private sector provides more regular, informed input to the trade policy making process.
- Kosovo's private sector and the general public appreciate more the benefits of trade and the value of participation in institutions such as CEFTA, bilateral Free Trade Agreements (FTAs), and the WTO.

Indicators of Success:

- The GOK has successfully reduced trade barriers affecting Kosovo's business community through unilateral action or with bilateral, regional, and multilateral engagement with trading partners.
- The GOK has implemented a number of international "best-practices" in trade-related disciplines, rules, conventions, agreements, standards, and protocols for good governance (such as CEFTA, EU/SAP, WTO Agreements, World Customs Organization, World Intellectual Property Organizations, International-Standard Setting Organizations.)
- Kosovo improves its score on the "trading across borders" indicator in the World Bank's Doing Business Report.

Kosovo's evolving political status means that new opportunities to remove trade barriers and build institutional capacity could arise quickly. For example, greater recognition of Kosovo's independent status could open the door to resolving issues with CEFTA. A decision to apply for WTO membership would create a multitude of new domestic reform opportunities. The Contractor will respond to GOK and private sector priorities for reform and to emerging opportunities to build capacity and undertake new trade initiatives.

(3) A More Efficient Financial Sector

The program will address priority gaps in the overall credit environment so that the costs and risks of extending credit are reduced by improved registry systems. The program will seek to add new innovations to existing registries in order to improve the timeliness, integrity and scope of the existing public credit registry.

*Credit information bureaus*³ provide information on the credit history and credit worthiness of existing and potential borrowers. Public credit bureaus tend to serve the banking community and track information required by the central bank for regulation. This helps banks to manage risks more effectively, but does not help other suppliers of credit, such as trade lenders, non-bank financial institutions, or even utility companies, because it neither provides credit information to them, nor does it collect information much beyond bank loan repayment behavior. It also restricts lenders from extending credit to smaller businesses or consumers who do not yet have formal loan histories. Private registries, on the other hand, gather information from a wide range of credit suppliers, from landlords and rental agencies to phone companies to credit card companies. They expand the number of potential providers and potential borrowers of funds.

The program will increase use of the registry by credit providers other than banks and expand the sources of credit-worthiness information included in the registry to a variety of non-bank institutions. As a result, businesses that supply trade credits, for example, should be able to secure their credits cheaply and efficiently with the credit registry. Non-bank organizations with debtor issues – such as utility companies – could file notices of claims in the credit registry against customers who don't pay their bills. Filings like this increase credit information about debtors and enhance the likelihood that debtors will pay. These, together, reduce the risk to lenders and the interest rates they charge which makes credit available at lower cost to more businesses and people.

Credit information bureau tasks:

- Assess the existing public credit information system
 - (A number of Kosovo banks have complained that the credit information system run by the Central Bank, although generally very well managed, is not always timely with its information tracking.)

³ Another critical information institution for banking in Kosovo is the pledge registry. Its modernization is envisioned to be performed under a WB activity, but it is significantly delayed. In the event that the WB activity is unable to modernize the pledge registry, the Contractor will likely be called upon to perform that work through BEEP.

- Work with the Bankers Association and the Central Bank to perform an assessment of the existing system.
 - The assessment should include benchmarking of the system against standards set by the International Finance Corporation (IFC), and may include use of the IFC standards for credit reporting.
- Improve the timeliness, integrity and scope of existing public credit information system
 - Based on the results of the assessment, design and implement a program of assistance to the Central Bank to improve the timeliness, trustworthiness and scope of the existing public credit information system.
- If relevant during the life of the program, assess the viability of a private credit information provider
 - It is understood that the Central Bank would like to transfer the operation of the existing public credit information system to the private sector.
 - The ability of private investors to mount a viable credit information system is affected by laws and regulations that restrict use of private information, market size and other business factors. To determine the viability of the Kosovo environment for a private credit information agency, the program will conduct a viability assessment.
 - The assessment should begin with a survey or study of credit information agencies in the region, as well as international credit information associations, to determine what they require before entering a new market.
 - The program will assess the situation in Kosovo against these standards and requirements, identifying any legal or regulatory constraints which preclude provision of private credit information services in Kosovo.
 - In close cooperation with public and private stakeholders, including likely users and key members of the international community, select the most appropriate institution to own and operate the credit information service in Kosovo.

Expected Results:

- The Central Bank is fully supportive of credit reporting reforms.
- The credit reporting system strikes an appropriate balance between access to data and reasonable expectations of confidentiality.
- The credit reporting system is inclusive of a wide range of both positive and negative source data.
- Objective credit ratings for individuals and businesses are available to authorized users contemplating financial relationships with them.

Indicators of Success:

- Expanded collection of data in the credit information system.
- Reduction in the interest rate spread, reflecting improvements in creditworthiness assessments by commercial banks (measured from 2009 baseline, may lag).
- Increase in lending to the private sector (measured from 2009 baseline, may lag).

(4) More Transparent Tenders

The program will assist two or more of the targeted municipalities to introduce on a pilot basis the use of electronic tenders for procurement of local goods and/or services. Introduction may be phased and is expected to include 1) publication of tender opportunities and contract award notification on a municipal website, 2) open access to all bid documents through the internet, and 3) fully transparent electronic bid submission including, as appropriate, online reverse auctions open to public view. The Contractor will assure that international best practice is followed for the introduction of electronic government tenders.

Tasks:

- In consultation with the PPRC, assess procurement processes, staffing, private sector capacities and concerns, and existing hard- and software for transition to electronic tenders.
- Develop and obtain approval of an electronic tender transition plan.
- Conduct training, provide public information, install any hard- or software, and test as needed.
- Support municipal officials and potential bidders in implementing all three stages of electronic tenders.

Expected Results:

- Two or more municipalities are using all three phases of electronic tendering to procure local goods and/or services.

Indicators of Success:

- Tenders completed without protest.
- Confidential feedback from private participants indicates satisfaction with openness of tender process.
- Transparency scores of Kosovo's at least two largest municipalities improve as measured by the index of municipal business enabling environment quality (see below).

Motivators:

1) An Index of Municipalities' Business Enabling Environment

To encourage and monitor BEE improvements at the municipal level, the program will develop and implement a survey and summary index of the business enabling environments in Kosovo's municipalities. The survey will address approximately 10 of the most relevant measures of the business enabling environment in Kosovo. It will build on the lessons learned in implementation of the Asia Foundation's Local Governance Index and the World Bank's sub-national Doing Business surveys.

The survey will cover a representative sample of enterprises of different sizes, may include informal as well as formal firms, and will cover commercial farms but not subsistence ones. Poor data and the inclusion of informal enterprises mean the survey will most likely have to be preceded by an inventory or informal census. The program focus on electronic tenders suggests that a measure of procurement transparency should be among the indicators.

The influence of the index will depend on the extent to which it is perceived as correct and legitimate and, thus, broadly accepted. For this reason, the Contractor must carefully guard the integrity of the survey methodology and data. The Contractor will pay particular attention to regional and/or ethnic sensitivities in implementing the survey.

The survey will be implemented up to three times during the life of the contract to measure BEE changes and encourage continued reform. The first iteration will cover the targeted five plus three municipalities. In Year 2 the index would be expanded to additional municipalities within the regions (5 main municipalities and the surrounding municipalities) and the work would continue with the same municipalities in Year 3.

The Contractor will work with government and private sector partners to publicize the survey results widely in Kosovo's media and in government and business circles. The Contractor will assist municipalities to follow up on the survey's findings by making BEE reforms. Success will be determined by the degree to which the survey and index catalyze improvements in the business environment at the municipal level.

The Contractor will partner with a local entity to develop sufficient local skills and a clearly defined methodology so that with financial support, the local entity will be able to continue periodic surveys and to publicize the results and index after the program's conclusion. The Contractor will work on building the capacity of the local partner organization to conduct the municipal doing business survey/index in the future, and to continue work on municipal reforms and public-private dialogue.

Tasks:

- Design and test a municipal BEE survey in partnership with one or more local parties, implementing it three times - in eight municipalities initially but ultimately across Kosovo.
- Collate survey results into easily understood index form.
- Disseminate and publicize results widely, in a form that assures broad attention from government, media and the business community.
- Assist affected municipalities to respond to survey findings with specific BEE reforms.
- Develop sufficient local skills and a defined methodology so that local entities, with financial support, will be able to continue periodic surveys and publicize the results and index after the program's conclusion.

Expected Results:

- A survey and index of the local business environment is implemented in eight municipalities and ultimately across Kosovo.
- Local governments improve the local enabling environment for business as a result of the index.
- Kosovo institutions have the capacity to continue the survey and index after the program is completed.

Indicators of Success:

- Significant increases in the index scores of assisted municipalities.
- Municipalities make identifiable improvements in response to the survey.
- A growing number of informal enterprises become formally registered.

2) Enhanced Policy Dialog

The program will increase the quality, consistency and visibility of public-private dialog on BEE issues in Kosovo. The goal is to spur interest in reform, establish sound reform priorities, and enhance the effectiveness of reform implementation during the program and on a sustained basis thereafter.

The program will help to develop regular, organized consultation between national and local levels of government on one hand and representative private sector groups on the other. The program will assist business groups to identify priority BEE concerns and develop and articulate policy options and recommendations. The program will not attempt to build research capacity within these groups but may make small grants (see special studies and programs below) to allow chambers, in turn, to commission research from local sources and undertake modest, discreet institutional strengthening programs.

The program will organize and implement a high profile annual BEE Summit to focus public and private sector leaders' attention on BEE challenges and potential solutions. The program will use the annual Doing Business report, the program's own municipal business climate survey, and other tools and institutions to elicit political attention to BEE issues and focus political will on priority reforms.

The Contractor will assist the government and the private sector to prepare for the annual summit to assure a focused, productive agenda and action-oriented results. The Contractor will organize publicity and media participation with the goal of making this a significant political and economic event for Kosovo every year. The Contractor will make all reasonable efforts to assure that the dialog is consistent with principles of competition and open markets. Success will be measured by the extent to which this component increases the coherence of policy dialog on BEE issues, and generates political commitment to change.

Tasks:

- Develop the ability of business associations or chambers to (procure) research and articulate their policy interests.
- Develop a regular and constructive consultative process between government and the private sector on enabling environment issues.
- Organize highly visible annual BEE Summits that bring public and private sector leaders together to identify reform priorities and actions.

Expected Results:

- Business associations and chambers are better able to research and formulate policy positions.
- A well-informed consultative process is in place between representative private sector groups and government (including municipalities) on issues of commercial law and regulation.
- Annual BEE Summits identify reform priorities and actions.

Indicators of Success:

- Regular constructive consultations take place between government and private sector on business climate issues.
- Specific recommendations of the business community are reflected in BEE reforms.

3) Special Studies and Projects

A total of \$1.5 million will be set aside for carrying out special studies and projects.

Many BEE problems are poorly understood and will require substantial research to clarify issues, and identify solutions. The size and causes of the informal sector in Kosovo, for example, are largely unknown. Abnormally high costs of business, such as truck transport, also need to be analyzed. The status of property rights and options for improving them need to be better understood as well. In the trade area, improving Kosovo's standing in the Doing Business border trade indicator and/or an analysis of Kosovo's trade corridors might be considered. The program will implement up to 15 special studies in priority BEE subjects. It is anticipated that special studies will be implemented by the Contractor or through sub-contracts. It is also anticipated that any sub-contract(s) to help implement the municipal survey will be funded from this component. A budget of \$1,000,000 will be made available for special studies. Special studies will be approved in advance by the USAID Contracting Officer's Technical Representative (COTR).

There will be \$500,000 reserved for separate special projects. The Contractor will propose up to 15 well-defined projects that have the potential to increase the chances of BEE reforms in Kosovo and build local capacity at the same time. It is anticipated these will be implemented principally by local institutions (think tanks, universities, associations and/or chambers of commerce, for example) and largely through grants but a minority may be implemented by the Contractor as pilot efforts that advance the objectives of the program. The Contractor will obtain USAID approval in advance of all special projects. For those conducted by local institutions, the Contractor will prepare scopes of work for each project, conduct and document a selection process, and conclude grants or sub-contracts with the selected party. A final report will be prepared after each project's completion summarizing what was done and accomplished. Grants may not exceed \$50,000 without COTR approval.

The implementation of the fund for special studies and projects should have clear and transparent procedures. Criteria and procedures under which funding decisions are made must be clear and transparent so as to make sure that all of the program participants have the opportunity to access these funds, and to avoid the appearance that awards are being made in a biased and closed manner.

3. **COORDINATION WITH OTHER EFFORTS**

A completely new political and legal regime has been developed in Kosovo in a very short time, virtually from scratch, and with the involvement of a plethora of foreign organizations and international donors. For many this has created a dizzying array and rate of change. It is particularly important in this environment for donors to coordinate their efforts and work toward common objectives. A number of donor efforts are underway that significantly affect the business enabling environment in Kosovo. The Contractor of the BEEP program will coordinate closely with them and actively seek opportunities to promote consistent policy messages and common reform agendas. The principal other BEE initiatives are described below.

Related USAID Efforts:

Contract enforcement is a major weakness in the enabling environment in Kosovo. Kosovo ranked 157 out of the 183 countries surveyed by Doing Business this year in terms of the ease of enforcing a contract. Yet timely enforcement of contracts and alternative resolution of business disputes are essential to trade, investment and economic growth. USAID has just launched a three-year program (Systems for Enforcing Agreements and Decisions - SEAD) to strengthen the drafting of contracts in Kosovo, the means and mechanisms for enforcing obligations, contracts and judgments, and to develop and implement an effective alternative dispute system.

The Kosovo Private Enterprise Program (KPEP) seeks to stimulate private sector growth and competitiveness. It supports targeted sectors with the potential for growth and competitiveness, strengthens business services and sector-specific business associations, and supports workforce development in the targeted sectors. A growing component of the program identifies and helps resolve business enabling environment constraints specific to the supported sectors. KPEP addresses a few systemic business enabling environment issues and there is tremendous potential complementarities between efforts to address sector-specific and economy-wide constraints – so coordination between KPEP and BEEP will be critical. The Contractor will build on these complementarities for the mutual benefit of both efforts.

An activity currently under development, Democratic and Effective Municipalities Initiative (DEMI), will work on improving municipal services, promote local economic development, strengthen municipal administrations, empower municipal assemblies and support civil society. Coordination between BEEP and DEMI will be crucial.

Another activity under development is the Growth and Fiscal Stability Initiative (GFSI). This program will work on strengthening the ability and capacity of central and local institutions to identify, develop and implement Public-Private-Partnership (PPP) projects as an important private sector funding mechanism for meeting Kosovo's public infrastructure investment priorities and strengthen municipalities' abilities in public financial management. In addition, GFSI will assist in development and implementation of an action-oriented strategy for profitable private sector growth and the attraction of foreign direct investment through economic and legal assistance.

The Contractor will propose how they will coordinate with SEAD, KPEP, DEMI and GFSI programs.

Related Efforts of Other Donors

The World Bank is the principal other donor working on business enabling environment issues in Kosovo. A Business Environment Technical Assistance (BETA) Program started in 2005 and runs till 2011. BETA is working with up to 30 municipalities to introduce one-stop, electronic business registration systems at the municipal level by the end of the program. It also helps in property registration and cadastre reconstruction in up to 30 municipalities to enhance the mortgage market and the market for land.

The World Bank recently launched a Sustainable Employment Development Policy Program (SEDPP) that will disburse about \$100 million in three annual tranches to the Government of Kosovo (GOK) as the GOK makes reforms in public financial management and conditions for sustainable employment. The latter consists primarily of measures by the Government to improve the investment climate, specifically to dramatically reduce the number of business licenses, limit inspections, define maximum periods of time for approval of applications by local officials, reduce business fees, clarify and strengthen procedures for businesses to appeal (licensing and permit) decisions, and strengthen penalties on businesses for illegal operation. Implementation by the GOK is expected to include, in year one, analysis of the current system of inspections, development of a simplification plan, amendments of laws and regulations to reflect the plan, and introduction of a one-stop shop for business services in eight municipalities in the second year, and an additional 12 in year three.

Through SEDPP, the World Bank also hopes to improve inter-ministerial coordination of policies to promote economic growth and employment. SEDPP has helped establish such an inter-ministerial committee comprised of at least the Ministers of Finance, Trade and Industry, Labor and Social Welfare, and Education and headed by a Deputy Prime Minister. The committee will be supported by technical working groups as needed. SEDPP also proposes modernization of Kosovo's pledge registry, including approval to collateralize moveable assets. Implementation may be a condition for the release of the second and third year tranches.

From Brussels, in the area of trade, the European Union (EU) is managing a regional program to build the capacities of the CEFTA secretariat. The European Community Liaison Office (ECLO) office in Kosovo launched a new technical assistance program with Kosovo's customs authority in September, 2009. ECLO is also planning to begin a trade assistance program with the MTI in June, 2010 that focuses on enhancing Kosovo's participation in CEFTA. It will be particularly important to coordinate closely with the EU on this latter effort to assure that the roles played by implementers are complementary and mutual objectives are reinforced. ECLO is also heavily engaged in reform of the public procurement system. BEEP will need to coordinate its work on tendering processes at the local level with ECLO to ensure EU-compliant methodologies.

4. PERFORMANCE-BASED MANAGEMENT SYSTEM

Monitoring and evaluation are viewed as a critical element of this program. The Offerors shall include a draft Performance-Based Monitoring System (PBMS) with the proposal. The Offerors should propose a comprehensive PBMS with qualitative and quantitative indicators that will allow for monitoring of progress in meeting the project goal and objectives. The PBMS will include indicators, baselines, targets, and methods of contract performance measurement. Indicators will include, but not be limited to, those U.S. Government Foreign Assistance Framework indicators that USAID/Kosovo has selected for reporting in their annual Operational Plan.

Some illustrative Foreign Assistance Framework indicators as well as some common indicators that may be included are listed below. The Offeror should evaluate and select which of these are relevant, in addition to developing other customized indicators as needed to reflect progress on the specific activities included in their proposal:

- Progress on the World Bank Doing Business Index.
- Progress on the policy/regulatory index.

- Number of municipalities receiving United States Government (USG) assistance with regulatory/administrative simplification.
- Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements due to support from USG-assisted organizations.

5. REPORTING AND DELIVERABLES

Work Plan

Within 45 days of the effective date of the Award, the Contractor shall submit a draft Work Plan that will provide detailed information for the first year and summary information for subsequent years. The Work Plan will provide a detailed plan for activities to be undertaken and will incorporate cross-cutting themes including gender and minorities; identification of critical completion milestones; and financial, budget and administrative procedures. The Work Plan shall be subject for review at Contractor review meetings. A final Work Plan will be submitted no later than two weeks after receiving comments from USAID. The Work Plan will be approved in writing by the COTR. The Final Performance- Based Monitoring System (PBMS) will be attached to the Work Plan.

The Contractor will submit annual work plans to be approved by the COTR in not less than one month prior to the end of the preceding year.

As a part of the initial Work Plan, the Contractor shall provide a PBMS that allows for tracking progress against performance indicators and related targets and benchmarks. The Contractor shall develop performance indicators to measure the results for each program component and establish baseline measurements to assess the impact of proposed interventions of each component as well as data sources and collection methods.

Special Studies and Projects

The Contractor shall submit an operations manual that details the operations of the program funds for special studies and projects. The operations manual should detail the selection criteria for awards, process for allocating the grants and sub-contracts, management oversight and approval process, procurement procedures, and M&E mechanisms. The operations manual is due within thirty (30) days following approval of the Work Plan.

Weekly Status Reports

The Contractor shall submit Weekly Status Reports with highlights, activities of the past week, anticipated work planned for the next week, upcoming events, and visitors and short-term staff. The reports will be submitted to the COTR each week.

Quarterly Performance Reports

Quarterly reports will summarize progress during the prior quarter by program component and in reference to work plan objectives, accrued expenditure by program activity, and any major issues pending. These performance reports are to be reviewed in person with the COTR and USAID/Kosovo for the purpose of considering corrections or changes in the scope of Work Plan. The reports will be submitted to the COTR fifteen (15) business days after the end of each month.

Annual Performance Reports

Annual Performance Reports shall be submitted each year for the activity within thirty (30) days after the completion of the Award year. Annual reports will cover the same topics as quarterly reports but report component progress and accruals on a cumulative basis for the contract to date.

The Completion Report will serve as the Annual Report for the last year of the Activity. These reports shall be comprehensive, providing details on accomplishments, results and activity financial information including monthly budget forecasts.

Demobilization Plan

Six months prior to estimated completion date of the Award, the Contractor shall submit a draft Demobilization Plan to the COTR and the Regional Contracting Officer for review and approval. The Demobilization Plan shall have a realistic time frame with a detailed schedule breakdown by task and work site, demonstrating compliance with the Award terms and requirements. The Demobilization Plan shall have three parts:

- **Equipment, Furniture, and Vehicles:** The plan for transfer of custody and if necessary, transfer of vehicle registration will be tied to the work required under the Award.
- **Staff:** Demobilization of staff must be tied to the Award Work Plan.
- **Programmatic:** The Demobilization Plan tracks the services to be provided under the Award, indicating when the services will be completed or at what stage of completion they will be when the staff departs post.

Completion Report

Not less than 15 days prior to the expiration of the Award, the Contractor shall submit a Final Report which highlights accomplishments against the Work Plans, gives the final status of the objectives, benchmarks and performance indicators, addresses the lessons learned during implementation, and suggests ways to resolve any constraints identified and any opportunities for further refinement. A summary of all expenditures will be included.

- END OF ATTACHMENT I -