

<b>2007 Project Fiche Kosovo</b> <b>IPA centralised programme</b>
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## 1. Basic information

**1.1 CRIS Number:**

**1.2 Title:** Meeting EU Standards in Public Procurement

**1.3 Sector:** 03.05

**1.4 Location:** Kosovo

Implementing arrangements:

**1.5 Contracting Authority:** The European Commission Office in Pristina.

**1.6 Implementing Agency:** The European Commission Office in Pristina.

**1.7 Beneficiary Institutions:**

Project activity/component	Beneficiary institution	Contact point responsible for project/activity coordination
Public Procurement	Public Procurement Regulatory Commission (PPRC); Procurement Review Body (PRB)	President of the Board of the PPRC

**1.8 Overall cost:** €1.5 million.

**1.9 EU contribution:** €1.5 million.

**1.10 Final date for contracting**

Three years after the signature of the financing agreement between the European Commission and the Kosovo Authorities.

**1.11 Final date for execution of contracts**

Two years after the final date for contracting.

**1.12 Final date for disbursements:**

One year after the final date for the execution of contracts.

## 2. Overall Objective and Project Purpose

**2.1 Overall Objective:**

Kosovo's institutions develop and implement sectoral policies and strategies that are compatible with European Standards (including gender, minorities and environmental standards), and which also enable Kosovo to effectively participate in regional initiatives.

**2.2 Project purpose:**

To put in place an effective public procurement system for Kosovo that is compatible with EU Standards and which promotes efficiency and effectiveness in the use of public funds, as well as reducing the potential opportunity for fraud, corruption and misappropriation of public monies.

### **2.3 Link with: European Partnership (and its action plan); SAP/STM**

The *European Partnership* calls for Kosovo to:

- Implement effectively the revised public procurement law, including related implementing legislation. Establish effective review procedures.
- Ensure that public procurement rules are effectively implemented by contracting authorities and entities at all levels, including through developing operational tools, providing training and strengthening the administrative capacity.

*Kosovo Progress Report 2006* on Public Procurement, states: ‘Overall, this remains a problematic area. While steps have been taken that may help to overcome certain difficulties in the future, no progress can be reported at this stage. Preparations for alignment with the *acquis* in this field are lagging behind.’

### **2.4 Link with the Multi-Annual Indicative Planning Document (2007-09) for Kosovo (MIPD)**

The “European Standards” section of the MIDP focuses on the need for capacity building and Kosovo’s gradual approximation of legislation along with implementing measures in the context of European standards, including public procurement standards.

The “Economic Requirements” section of the MIDP addresses wider socio-economic issues, including sound financial management and control at central and local level in public administration in order to ensure transparency, efficiency, sustainability and better control of public finances, including development of a modern public procurement framework and related legislation and institutions.

### **2.5 Link with National Development Plan**

The project links to the draft *Kosovo Development Strategy and Plan* (KDSP) 2007-2013. A priority under the chapter of EU Standards is ‘improving the legal framework, management and oversight of public procurement’.

### **2.6 Link with national/ sectoral investment plans**

The EC support for Kosovo’s public procurement system is in line with the *Strategy and Draft Action Plan for Public Administration Reform* which was approved by the Government in March 2007.

## **3. Description of project**

### **3.1 Background and justification:**

The previous Public Procurement Law (PPL) was recognised as cumbersome, difficult to implement and not fully EU compliant. The European Agency for Reconstruction, World Bank, and USAID in close consultation with PISG and other stakeholders negotiated and agreed an amended draft PPL. The amended Public Procurement Law was approved by the Government in May 2006. It was subsequently approved by the Kosovo Assembly in February 2007 and was promulgated by the UN Special Representative of the Secretary General to Kosovo (SRSG) in June 2007. However, the promulgated version of the law differs from the one approved by the Government and seems to be incompatible with the *acquis*. The European Commission and the European Agency for Reconstruction in cooperation with the World Bank are reviewing the new PLL and will take any necessary steps to ensure that the PPL is fully EU compliant.

The amended PPL requires the establishment of an independent Procurement Review Body (PRB) and the rationalisation of the functions of the Public Procurement Regulatory Commission (PPRC). This will ensure the separation of the administrative functions from the complaints system. These two bodies will be responsible for increasing transparency, strengthening competition, and offering equal non-discriminatory treatment to all economic operators involved in the tender and bid process for publicly procured goods, services and works. However, concerns remain on the nomination and appointment procedures of the PRB members which may hamper the independence of the institution. The PPRC is introducing a Kosovo wide IT system with public information on tenders and to furnish the newly established PRB with accurate information on which to base fair and valid decisions and fulfil public transparency requirements.

Since 2001, EC programmes have supported the establishment of a modern and transparent public procurement system in Kosovo, aligned with the EU *acquis Communautaire*. Further EC assistance is now required to consolidate previous reforms and to further review and ensure the effective implementation of the (much delayed) amended PPL, particularly through building the institutional capacities of the PPRC and PRB to meet their mandates under the PPL.

### **3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact**

This project aims to deliver significant positive impact through assisting the public procurement bodies to further review and ensure the effective implementation and enforcement of the EU compatible Public Procurement Law (PPL). This is essential to promoting efficiency and effectiveness in the use of public funds, as well as reducing the potential opportunity for fraud, corruption and misappropriation of public monies. However, sustainable impact cannot be achieved without a critical mass of properly qualified staff in Kosovo's institutions. Therefore, in addition to offering expert advice the project will also focus on coaching the beneficiary staff to enable them gradually to fulfil their responsibilities under the PPL.

### **3.3 Results and measurable indicators:**

#### *Expected Results:*

- a. Primary and secondary legislation and procedures related to the public procurement system are reviewed and have informed the further development and amendment of the legal framework, as necessary.
- b. Strategies and action plans for the implementation of the amended Public Procurement Law (PPL) are developed, in line with EU standards and the *acquis*, and which also reflect socio-economic factors as well as environmental impact requirements.
- c. Organisational and functional support provided to the public procurement institutions, in line with the amended PPL.
- d. The IT management system and the public procurement web site are further refined, including for the Procurement Register and/or Business Directory.
- e. A capacity building programme developed and an initial certification of all public procurement officials completed in cooperation with the Kosovo Institute of Public Administration (KIPA).

#### *Measurable indicators:*

- a. The legal framework for public procurement is in line with EU standards
- b. Success and failure rates for public tenders.
- c. Complaints are properly registered in relation to public procurements.
- d. Certification of all public procurement officials completed.

e. Action Plan, Procurement Register and/or Business Directory prepared and approved

### **3.4 Activities:**

This activity will indicatively cover the following:

- Assist the central Public Procurement institutions in assuming competencies in line with the amended Public Procurement Law (PPL), especially with regard to the Procurement Review Body.
- Design of and assist the implementation of specific strategies and accompanying action plans deriving from the amended PPL, such as skills development, IT systems, etc
- Review of and further development of the legislative framework, including the necessary secondary legislation for the practical implementation the PPL.
- Further improve the procurement electronic management system and the web site to enable publication of tenders in electronic format
- Prepare the staff for proficient application of the law, including professional coaching of staff in new concepts;
- Develop of a certification programme for public procurement officials and assist in its implementation
- Assist data collection and collation; and primary processing systems to enable the transfer of tender information between the contracting authorities and the wider business community

These activities, particularly those with a training focus, will be implemented in close collaboration with the Kosovo Institution of Public Administration, which is responsible for training civil servants.

#### ***Contracting arrangements***

As least one service contract is envisaged to implement the activities described above.

#### ***Project management and administration***

The European Commission Office in Pristina will manage the procurement, implementation, quality control, reporting and coordination with other donors of the development assistance and of the financial and technical cooperation related to the actions described in this project fiche, taking remedial actions if and when needed. The European Agency for Reconstruction's operational centre in Pristina will assist the Commission Office in preparing for the initial implementation phase of this project through such actions as the drafting of project Terms of References and helping to prepare the IPA tender dossiers.

The Team Leaders engaged through the contracts for this project will have the authority to run the project activities on a day-to-day basis under the supervision of the Commission Office. His/her primary responsibility shall be to ensure that the project produces the required outputs, to the required standards of quality and within the specified constraints of time and cost. The team leader and other will also address cross-cutting issues. A detailed description of the duties of the team leader and key experts will be elaborated in the Terms of Reference, in line with this project fiche.

Project Steering Committees will be responsible for the overall direction of the project and comprise of representatives from the beneficiary institutions and the Commission Office.

Monitoring will be performed centrally by the Commission. The project may be evaluated at the interim or ex-post stages under the supervision of Commission's Evaluation Unit.

The project may be audited by Court of Auditors - in line with the standard European Commission procedures.

### 3.5 Conditionality and sequencing:

- The amended Public Procurement Law is EU compliant and enters into force
- The Public Procurement Review body is established.

### 3.6 Linked activities

World Bank and USAID experts have contributed to the development of the Public Procurement legislation through the provision of legal advice.

The project builds on previous EC assistance to reform Kosovo's public procurement system, including the most recent project described below.

Name of project (Amount)	Start End	Activities/Results
Public procurement – Phase II (€1.5 million)	Nov 2005 Oct 2007	Further support the reform of Kosovo's public procurement system, particularly the compatibility of its legislative and institutional framework with the <i>acquis</i> , thereby contributing to promote efficiency and effectiveness in the use of public funds, and to fight corruption.
Public procurement – Phase I (€1.5 million)	Mar 2004 Oct 2005	To contribute to the improvement of the effectiveness, efficiency and transparency of public finances in Kosovo

### 3.7 Lessons learned

- *Enforcement*: There has been large focus on establishing the legal frameworks in Kosovo. The capacity to enforce the law, however, has received insufficient attention. While legal reform has been advanced, law enforcement and implementation has not followed. This creates a widening gap between the formal legal situation and 'on-the-ground' practice. The capacity to enforce Public Procurement standards is dependant on the institutional and human capacities, which will be directly addressed by this project.
- *Coordination*: Efforts from all stakeholders in the area of public procurement are required to ensure that new public bodies such as the Public Procurement Regulatory Commission and Procurement Review Body assume effective leadership positions in managing donor assistance.
- *Legal Reform*: Initial timelines for the adoption of legal instruments are not always honoured, leading to delays in implementation and causing difficulties in project implementation. Proposed legal instruments are commonly subject to significant (and late) change by the government and/or the Assembly of Kosovo and/or the SRSG prior to adoption. This has been the case also with the Public Procurement law. The delays in the adoption of laws and regulations continue to have significant impact on the planning and practical delivery of EC funded reform projects.
- *Ownership*: Experience of previous public procurement reform projects in Kosovo have shown the importance of having counterpart 'ownership' of capacity building and reform projects. This project helps Kosovo Institutions on implementing sector reforms and builds further the capacity for a sustainable development of the sector.

#### 4. Indicative Budget (amounts in €)

Activities	TOTAL COST	SOURCES OF FUNDING										
		EU CONTRIBUTION				NATIONAL PUBLIC CONTRIBUTION					PRIVATE	
		Total	% *	IB	INV	Total	% *	Central	Regional	IFIs	Total	% *
Public procurement	1.5	1.5	100	1.5								

\* expressed in % of the Total Cost

#### 5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering (tender launch)	Signature of contract	Project Completion
Public procurement	Q2 2008	Q4 2008	Q2 2010

Q = quarter

#### 6. Cross cutting issues

##### 6.1 Equal Opportunity (gender mainstreaming)

Promoting a more diverse (gender and ethnic wise) workplace will be a strong element in strengthening the institutional capacity of the target institutions. The project will ensure mainstreaming of gender and minority issues both (i) within the target institutions and (ii) the outputs (services provided by these institutions):

- address the barriers in the workplace that prevent the achievement of gender equality and ethnic diversity; create a workplace culture supportive of gender equality and ethnic diversity to improve gender/ethnic balance within the organisation. Opening up new possibilities for minorities as well as opportunities for women to work in non-traditional areas will, in turn, contribute to change the policy, business and customer focus of these institutions.
- introduce concepts of equality and diversity in strategic planning and management, including the business case for equality and diversity so as to make the workforce more representative of/responsive to Kosovo customer base. A work culture that is respectful and accommodating of diversity will in turn contribute to the creation of a multi-ethnic public procurement service in Kosovo.

Terms of Reference will explicitly identify the project's intended effects /impact/ opportunities on/for women as well as minorities. Data systematically disaggregated by sex and ethnicity shall be produced to establish baseline and measure progress. Team of experts must possess relevant skills to ensure effective mainstreaming of gender equality and minorities inclusion/participation.

Equal opportunities in public procurements will be guaranteed through the effective implementation of an EU compatible public procurement system, as envisaged by this project.

##### 6.2 Environment

As a result of EC assistance, environmental considerations are expected to be appropriately reflected in all procurement processes.

##### 6.3 Minorities

The project will promote the participation of minority communities the public procurement processes. Terms of Reference will explicitly identify the project's intended effects /impact/ opportunities on and for minorities.

## **ANNEXES**

- 1 Log frame in Standard Format
- 2 Amounts contracted and Disbursed per Quarter over the full duration of Programme



## ANNEX 1: Logical framework matrix in standard format

Project Title: Meeting EU Standards in Public Procurement		Programme name and number	
Sector: European Standards		Contracting period ) expires	Disbursement period expires
		<b>Total budget:</b> €1.5 million	<b>IPA budget:</b> €1.5million
<b>Overall objective</b>	<b>Objectively verifiable indicators</b>	<b>Sources of Verification</b>	
Kosovo's institutions develop and implement sectoral policies and strategies that are compatible with European Standards (including gender, minorities and environmental standards), and which also enable Kosovo to effectively participate in regional initiatives.	Public procurement system in Kosovo enables fair competition and equal treatment of tenderers	Monitoring reports Progress reports	
<b>Project purpose</b>	<b>Objectively verifiable indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
To put in place an effective public procurement system for Kosovo that is compatible with EU Standards and which promotes efficiency and effectiveness in the use of public funds, as well as reducing the potential opportunity for fraud, corruption and misappropriation of public monies.	The compatible EU standards strategies and action plans are in place for public procurement system	Monitoring Project reports Monitoring Project reports Government strategies and action plans Conclusions of STM meetings; and Commission's regular progress report on Kosovo	Public institutions have the capacity to respond to the requirements of the amended Public Procurement Law and public procurement institutions
<b>Results:</b>	<b>Objectively verifiable indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
<ul style="list-style-type: none"> <li>Primary and secondary legislation and procedures related to the public procurement system are reviewed and have informed the further development and amendment of the legal framework, as necessary.</li> <li>Strategies and action plans for the implementation of the amended Public Procurement Law (PPL) are developed, in line with EU standards and the acquis, and which also reflect socio-economic factors as well as environmental impact requirements.</li> <li>Organisational and functional support provided to the public procurement institutions, in line with the amended PPL.</li> <li>The IT management system and the public procurement web site are further refined, including for the Procurement Register and/or Business Directory.</li> </ul>	<p>The legal framework is in line with EU standards</p> <p>Success and failure rates for public tenders.</p> <p>Complaints registered in relation to public procurements.</p> <p>Certification of all public procurement officials completed.</p> <p>Action Plan, Procurement Register and/or Business Directory prepared and</p>	<p>Monitoring of the specific project outputs and monitoring reports</p> <p>Data published in the website of the PPRC,</p> <p>reports of the PRB</p>	<p>Depoliticised public procurement institutions</p> <p>The amended Public Procurement Law entered into force and the Public Procurement Review body is established.</p> <p>Cooperation between PPRC, PPA, PRB as well as KIPA</p> <p>IT capacities within PPRC strengthened</p> <p>No significant staff turnover</p>

<ul style="list-style-type: none"> <li>A capacity building programme developed and an initial certification of all public procurement officials completed in cooperation with the Kosovo Institute of Public Administration (KIPA).</li> </ul>	approved		
<b>Activities</b>	<b>Means</b>	<b>Costs</b>	<b>Assumptions</b>
Activities related to capacity building, training and review of the legislative framework	As least one service contract	<b>€15million</b>	Beneficiary allocates sufficient staff for the project and provides office space

**Pre conditions:**

- The amended Public Procurement Law is EU compliant and enters into force
- The Public Procurement Review body is established.

**ANNEX II: Indicative planning of the amounts (in EUR million) contracted and disbursed by quarter for the project (cumulated)**

	2007	2008				2009				2010				2011			
<b>Contracted</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>
Public Procurement				1.5													
<b>Cumulated Total</b>				<b>1.5</b>													
<b>Disbursed</b>																	
Public Procurement				0.15	0.15	0.2	0.2	0.2	0.2	0.2	0.2						
<b>Cumulated Total</b>				<b>0.15</b>	<b>0.3</b>	<b>0.5</b>	<b>0.7</b>	<b>0.9</b>	<b>1.1</b>	<b>1.3</b>	<b>1.5</b>						